

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) FRIDAY, THE 29th
)
MR. JUSTICE HAINEY) OF JANUARY, 2021



IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CANTRUST HOLDINGS INC., CANTRUST INC., CTI HOLDINGS (OSOYOOS)
INC. AND ELMCLIFFE INVESTMENTS INC.

Applicants

ORDER

**(CCAA Representatives and
CCAA Representative Counsel Appointment Order)**

THIS MOTION made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for, among other things, an order appointing representatives and representative counsel for Securities Claimants (as defined below), was heard this day by way of Zoom judicial video conference due to the COVID-19 pandemic.

ON READING (i) the Notice of Motion of the Applicants dated January 20, 2021, (ii) the affidavit of Greg Guyatt sworn January 20, 2021 (the "**Guyatt Affidavit**") and the exhibits thereto, (iii) the affidavit of Serge Kalloghlian sworn January 20, 2021 and the exhibits thereto, (iv) the affidavit of James W. Johnson sworn January 20, 2021 and the exhibits thereto, and (v) the Sixth Report of Ernst & Young Inc. in its capacity as the monitor of the Applicants (the "**Monitor**") dated January 25, 2021 (the "**Sixth Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and such other counsel as were present as listed on the counsel slip, no one else appearing although duly served as appears from the Affidavit of Service of Alexander Steele sworn January 27, 2021:

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record of the Applicants in support of this motion and the Sixth Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that, in addition to the capitalized terms defined elsewhere in this Order, the capitalized terms set out in Schedule "A" have the meanings given to them in that schedule.

APPOINTMENT OF CCAA REPRESENTATIVES AND CCAA REPRESENTATIVE COUNSEL

3. **THIS COURT ORDERS** that, subject to paragraph 7, Dharambir Singh and Patrick Hrusa (the "**CCAA Canadian Representatives**") are hereby appointed to represent the interests of all Canadian and Non-U.S. Securities Claimants in these proceedings in relation to their Securities Claims and any related claims, including in relation to any negotiations with respect to the settlement of Securities Claims and the prosecution or settlement of any related claims and the development of the CCAA Plan and any related definitive documentation.

4. **THIS COURT ORDERS** that, subject to paragraph 7, Granite Point Master Fund, LP and Granite Point Capital Scorpion Focused Ideas Fund (the "**CCAA U.S. Representatives**", and collectively with the CCAA Canadian Representatives, the "**CCAA Representatives**") are hereby appointed to represent the interests of the U.S. Securities Claimants in these proceedings in relation to their Securities Claims and any related claims, including in relation to any negotiations with respect to the settlement of Securities Claims and the prosecution or settlement of any related claims and the development of the CCAA Plan and any related definitive documentation.

5. **THIS COURT ORDERS** that, subject to paragraph 7, A. Dimitri Lascaris Law Professional Corporation, Henein Hutchinson LLP, Kalloghlian Myers LLP and

Strosberg Sasso Sutts LLP ("**CCAA Canadian Representative Counsel**") are hereby appointed as counsel for the Canadian and Non-U.S. Securities Claimants in these proceedings in relation to their Securities Claims and any related claims, and are authorized and directed to take instructions from the CCAA Canadian Representatives, when and to the extent instructions are provided by them on matters from time to time, and otherwise are authorized to act on behalf of the Canadian and Non-U.S. Securities Claimants from time to time in these proceedings in relation to their Securities Claims and any related claims.

6. **THIS COURT ORDERS** that, subject to paragraph 7, Weisz Fell Kour LLP in association with U.S. Class Action counsel Labaton Sucharow LLP, ("**CCAA U.S. Representative Counsel**") and collectively with CCAA Canadian Representative Counsel, ("**CCAA Representative Counsel**") are hereby appointed as counsel for the U.S. Securities Claimants in these proceedings in relation to their Securities Claims and any related claims, and are authorized and directed to take instructions from the CCAA U.S. Representatives, when and to the extent instructions are provided by them on matters from time to time, and otherwise are authorized to act on behalf of the U.S. Securities Claimants from time to time in these proceedings in relation to their Securities Claims and any related claims.

7. **THIS COURT ORDERS** that: Zola Finance Holdings Ltd and Igor Gimelshtein; 1604070 Alberta Ltd., Jeff Dyck, and Diran Avedian; and Shmuel Farhi and their respective counsel are not subject to paragraphs 3, 4, 5, and 6 of this Order (collectively, together with any other person who this Court orders is not subject to paragraphs 3, 4, 5, or 6 of this Order, the "**Excluded Securities Claimants**").

8. **THIS COURT ORDERS** that, without limiting the scope of the authorizations granted in paragraphs 3, 4, 5, 6 and 9:

- (a) the CCAA Representatives and CCAA Representative Counsel shall be at liberty to consult with each other, the Monitor and its counsel, the Applicants and their counsel, and other stakeholders and their respective counsel, including in relation to any negotiations with respect to the

settlement of Securities Claims and the prosecution or settlement of any related claims and the development of the CCAA Plan and any related definitive documentation;

- (b) the CCAA Representatives and CCAA Representative Counsel shall be at liberty to consult with and obtain input from Securities Claimants in relation to their activities in their respective roles under this Order;
- (c) the CCAA Representatives and CCAA Representative Counsel, in their respective capacities as such, shall be at liberty to enter into one or more non-disclosure agreements with the Applicants in relation to confidential information of, or relating to, the Applicants or relating to the Securities Claims;
- (d) the CCAA Representatives and CCAA Representative Counsel, in their capacities as such, shall be at liberty to agree to become parties to, and be bound by, the Restructuring Support Agreement (provided that nothing in this Order constitutes approval of the Restructuring Support Agreement or the transactions contemplated thereby); and
- (e) the CCAA Representatives and CCAA Representative Counsel shall be at liberty to apply to this Court, on notice to the Monitor and the Applicants, for advice and directions at such times as they may so require.

9. **THIS COURT ORDERS** that the CCAA Representatives and CCAA Representative Counsel are authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any other court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental hereto.

NOTICE PROCEDURE

10. **THIS COURT ORDERS** that each of the Applicants and CCAA Representative Counsel are authorized and directed to provide to the Monitor without delay and without charge, the names, last known addresses and last known e-mail addresses (if any) of all Securities Claimants of which they are specifically aware currently or from whom they have received written notice, including the plaintiffs named in any of the Actions (“**Known Securities Claimants**”), and the Applicants and CCAA Representative Counsel are hereby permitted to do so pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, as amended.
11. **THIS COURT ORDERS** that the Monitor shall not disclose the names of any Securities Claimants or Known Securities Claimants, other than to the Applicants, without prior written notice from CCAA Representative Counsel.
12. **THIS COURT ORDERS** that notice of the granting of this Order shall be provided as follows:
 - (a) notice in substantially the form set out in Schedule "B" hereto (the “**Notice**”) shall be published by the Applicants in *The Globe and Mail* (National Edition) and the Wall Street Journal on at least one occasion within five (5) Business Days of the date of this Order;
 - (b) the Applicants shall issue a press release consisting of, or that includes, the Notice, in form and content satisfactory to the Monitor, and make a corresponding filing on SEDAR, within five (5) Business Days of the date of this Order;
 - (c) the Monitor shall send a copy of the Notice to each of the Known Securities Claimants within three (3) Business Days of this Order by email (if known) or by first class mail, addressed to the Known Securities Claimants at the addresses provided by the Applicants and CCAA Representative Counsel pursuant to paragraph 10; and

(d) the Monitor shall post a copy of the Notice to the Monitor's Website.

13. **THIS COURT ORDERS** that treatment of the Securities Claims of the Excluded Securities Claimants pursuant to any CCAA Plan proposed by the Applicants or any further Order of the Court in these proceedings is not changed, limited, or otherwise affected by their status as Excluded Securities Claimants under this Order.

PROTECTIONS

14. **THIS COURT ORDERS** that the CCAA Representatives and CCAA Representative Counsel shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order or any further Order of the Court in these proceedings, save and except for any gross negligence or wilful misconduct on their part.

15. **THIS COURT ORDERS** that the appointment of CCAA Representative Counsel pursuant to this Order shall not prevent any of the individual lawyers from the firms that comprise CCAA Representative Counsel from acting as trustee(s) of any trust established for the benefit of Securities Claimants pursuant to the CCAA Plan.

MISCELLANEOUS

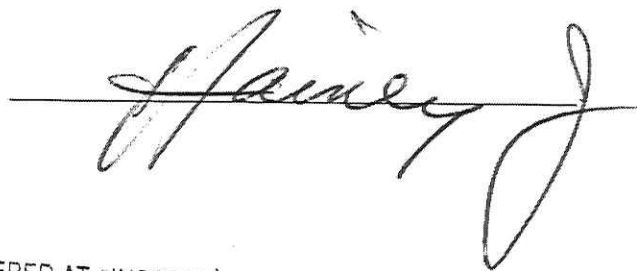
16. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all persons against whom it may be enforceable.

17. **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, or abroad, to give effect to this Order and to assist the Applicants, the Monitor, the CCAA Representatives and CCAA Representative Counsel in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the

Applicants, the Monitor, the CCAA Representatives and CCAA Representative Counsel as may be necessary or desirable to give effect to this Order, or to assist the Applicants, the Monitor, the CCAA Representatives and CCAA Representative Counsel in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that each of the Applicants, the Monitor, the CCAA Representatives and CCAA Representative Counsel be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

A handwritten signature in black ink, appearing to read "J. Haimy", written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

FEB 01 2021

PER / PAR: 

SCHEDULE "A"

DEFINITIONS

"Actions" means the actions and other litigation set out in Schedule "D".

"Business Day" means a day other than a Saturday or Sunday on which banks are generally open for business in Toronto, Ontario.

"Canadian and Non-U.S. Securities Claimants" means all Persons having Securities Claims, excluding U.S. Securities Claimants.

"CannTrust Holdings" means CannTrust Holdings Inc.

"CCAA Plan" means the plan of compromise, arrangement and reorganization of the Applicants to be filed in these proceedings to effect, among other things, a settlement of Securities Claims (as such plan may be amended from time to time in accordance with its terms).

"Claim" means any right or claim of any Person that may be asserted or made in whole or in part against CannTrust Holdings, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive, or otherwise), and whether or not any such indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not such right or claim is executory or anticipatory in nature (including any right or claim in connection with the sale of any securities by CannTrust Holdings or others pursuant to the public distribution of its securities or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future), which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts existing prior to the Filing Date, (B) relates to a time period prior to the Filing Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* (Canada) had CannTrust Holdings become bankrupt on the Filing Date.

"Filing Date" means March 31, 2020.

“Person” means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government or any agency, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status.

“Restructuring Support Agreement” means the restructuring support agreement dated January 18, 2021 between, among others, CannTrust Holdings and CCAA Representative Counsel.

“Securities Claim” means:

- (i) any Claim against CannTrust Holdings asserted by a plaintiff or putative plaintiff in an Action; and
- (ii) any other Claim against CannTrust Holdings that has been or could be asserted by or on behalf of a current or former shareholder of CannTrust Holdings or another Person in relation to the purchase, sale or ownership by such Person (including as a legal, registered or beneficial purchaser, seller or owner) on or before the Filing Date of an equity interest (as defined in the CCAA) in CannTrust Holdings,

other than a Securities-Related Indemnity Claim.

“Securities Claimants” means the holders of Securities Claims.

“Securities-Related Indemnity Claim” means any claim of any Person that has been or may be asserted against CannTrust Holdings (whether pursuant to an agreement, under applicable law or otherwise) for indemnity, advancement, contribution, reimbursement, set-off or otherwise, arising from or in connection with any Securities Claim or securities-related claim asserted against such Person or arising from or in connection with any other claim asserted by a co-defendant in an Action against such Person.

“U.S. Securities Claimants” means all Securities Claimants who purchased the publicly traded common shares of CannTrust Holdings on the New York Stock Exchange or on any other U.S. based trading platform.

SCHEDULE "B"

NOTICE

**IN THE MATTER OF THE *COMPANIES' CREDITORS*.
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS
(OSOYOOS) INC. AND ELMCLIFFE INVESTMENTS INC. (the "Applicants")**

NOTICE OF CCAA REPRESENTATION ORDER

On March 31, 2020, the Applicants commenced proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* ("**CCAA**") pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). Ernst & Young Inc. has been appointed as the monitor of the Applicants (the "**Monitor**") by the Court.

On January 29, 2021, the Court issued an order (the "**CCAA Representation Order**") appointing certain representatives and representative counsel, as detailed further below. All capitalized terms used but not defined in this Notice have the meaning given to them in the CCAA Representation Order.

TAKE NOTICE THAT, pursuant to the CCAA Representation Order, subject to certain limited exceptions set out therein:

1. the CCAA Canadian Representatives have been appointed to represent the interests of all Canadian and Non-U.S. Securities Claimants in the CCAA Proceedings in relation to their Securities Claims and any related claims;
2. the CCAA U.S. Representatives have been appointed to represent the interests of the U.S. Securities Claimants in the CCAA Proceedings in relation to their Securities Claims and any related claims;
3. A. Dimitri Lascaris Law Professional Corporation, Henein Hutchinson LLP, Kalloghlian Myers LLP and Strosberg Sasso Sutts LLP ("**CCAA Canadian Representative Counsel**") have been appointed as counsel for the Canadian and Non-U.S. Securities Claimants in the CCAA Proceedings in relation to their Securities Claims and any related claims, and are authorized and directed to take instructions from the CCAA Canadian Representatives;
4. Weisz Fell Kour LLP in association with Labaton Sucharow LLP ("**CCAA U.S. Representative Counsel**") and collectively with CCAA Canadian Representative Counsel, "**CCAA Representative Counsel**") have been appointed as counsel for the U.S. Securities Claimants in the CCAA Proceedings in relation to their

Securities Claims and any related claims, and are authorized and directed to take instructions from the CCAA U.S. Representatives; and

5. the CCAA Representatives and CCAA Representative Counsel are authorized to, among other things, negotiate with respect to the settlement of Securities Claims and the prosecution or settlement of any related claims and the development of the CCAA Plan and any related definitive documentation.

Copies of the CCAA Representation Order and other documents related to the CCAA Proceedings may be obtained from the case website maintained by the Monitor at <http://www.ey.com/ca/canntrust>.

If you have any questions regarding these matters, you may contact CCAA Canadian Representative Counsel, CCAA U.S. Representative Counsel and/or the Monitor as follows:

CCAA Canadian Representative Counsel:

A. Dimitri Lascaris Law Professional Corporation, Henein Hutchinson LLP, Kalloghlian Myers LLP and Strosberg Sasso Sutts LLP

Email: canntrust@strosbergco.com
Tel: 519-561-6296

CCAA U.S. Representative Counsel:

Weisz Fell Kour LLP

Email: sweisz@wfklaw.ca
Tel: 416-613-8281

Labaton Sucharow LLP

Email: jjohnson@labaton.com
Tel: 212-907-0859

Monitor:

Ernst & Young Inc.
Telephone: 1-855-224-0800 or 416-943-2091
Fax: 416-943-3300
Email: CannTrust.Monitor@ca.ey.com

SCHEDULE "C"

**EMAIL ADDRESSES FOR NOTIFICATION
OF MONITOR AND CCAA REPRESENTATIVE COUNSEL**

The Monitor (Ernst & Young Inc.)	cantrust.monitor@ca.ev.com
A. Dimitri Lascaris Law Professional Corporation	alexander.lascaris@gmail.com
Henein Hutchinson LLP	mhenein@hhllp.ca shutchison@hhllp.ca
Kalloghlian Myers LLP	serge@kalloghlianmyers.com
Strosberg Sasso Sutts LLP	dwingfield@strosbergco.com
Labaton Sucharow LLP Weisz Fell Kour LLP	jjohnson@labaton.com MRogers@labaton.com sweisz@wfklaw.ca skour@wfklaw.ca

SCHEDULE "D"

ACTIONS

Hrusa et al. v. CannTrust Holdings Inc. et al., Court File No. CV-19-00623567-00CP (ON SC)

Webb v. CannTrust Holdings Inc. et al., Court File No. CV-19-1554 (ON SC)

Jeff Dyck v. CannTrust Holdings Inc. et al., Court File No. 217559 (BC SC)

Selanders v. CannTrust Holdings Inc. et al., Court File No. 1910983 (AB QB)

Diran Avedian v. CannTrust Holdings Inc. et al., Court File No. 500-06-001011-192 (QC CS)

Zola Finance Holdings Ltd. v. CannTrust Holdings Inc. et al., Court File No. CV-19-00002329-00CP (ON SC)

In Re: CannTrust Holdings Inc. Securities Litigation, No. 1:19-cv-06396 (JPO)

Alvarado v. CannTrust Holdings Inc. et al., 1:19-cv-6438 (JPO)

Jones v. CannTrust Holdings Inc. et al., 1:19-cv-6883 (JPO)

Justiss v. CannTrust Holdings Inc. et al., 1:19-cv-7164 (JPO)

Huang v. CannTrust Holdings Inc. et al., 1:19-cv-6396 (JPO)

Owens v. CannTrust Holdings Inc. et al., Court File No. 19CV352374 (California Superior Court, Santa Clara County)

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ORDER
(CCAA Representative and CCAA
Representative Counsel Appointment Order)

McCarthy Tétrault LLP
Suite 5300, TD Bank Tower
Toronto ON M5K 1E6
Fax: 416-868-0673

James Gage LSO#: 34676I
Tel: 416-601-7539
Email: jgage@mccarthy.ca

Paul Steep LSO#: 21869L
Tel: 416-601-7998
Email: psteep@mccarthy.ca

Trevor Courtis LSO#: 67715A
Tel: 416-601-7643
Email: tcourtis@mccarthy.ca

Alexander Steele LSO#: 475719P
Tel: 416-601-8370
Email: asteele@mccarthy.ca

Lawyers for the Applicants
MT DOCS 20931508