

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**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 ORIGINAL TRADERS ENERGY LTD.
AND 2496750 ONTARIO INC. (each, an "Applicant" and
collectively, the "Applicants")**

**FACTUM OF THE MONITOR
(Motion for Stay Extension and Activity Approval Order)**

October 20, 2026

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TO: THE SERVICE LIST

PART I: OVERVIEW

1. KPMG Inc. (“**KPMG**”), in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”)¹ of the OTE Group (as defined below) in these proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”, and these proceedings, the “**CCAA Proceedings**”), brings this motion for an Order (the “**Stay Extension and Activity Approval Order**”), among other things:

- (a) extending the Stay Period (as defined below) until and including May 2, 2027; and
- (b) approving the Sixteenth Report of the Monitor dated May 14, 2026 (the “**Sixteenth Report**”), the Supplement to the Sixteenth Report of the Monitor dated May 21, 2026 (the “**Supplement to the Sixteenth Report**”), the Seventeenth Report of the Monitor dated October 15, 2026 (the “**Seventeenth Report**”) and the activities and conduct of the Monitor described therein.

2. The relief sought in the Stay Extension and Activity Approval Order is in the best interests of the OTE Group and its creditors. In particular, the extension of the Stay Period will allow the Monitor to, among other things, continue its investigation, advance ongoing asset recovery efforts, and advance the Court-approved Claims Process, all for the benefit of the OTE Group and its stakeholders. The Monitor does not expect any opposition to the relief sought in the Stay Extension and Activity Approval Order.

¹ KPMG Inc. is also the trustee in bankruptcy of OTE Logistics LP and Original Traders Energy LP. References herein to the Monitor shall include, where appropriately applicable, KPMG’s capacity as trustee in bankruptcy of such entities, *mutatis mutandis*.

PART II: FACTS

3. The facts underlying this motion are more fully set out in the Seventeenth Report of the Monitor. Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Seventeenth Report.

A. Background on CCAA Proceedings

4. On January 30, 2023, Original Traders Energy Ltd. and 2496750 Ontario Inc. (together, the “**Applicants**”) were granted relief under the CCAA by Order (the “**Initial Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).² While not Applicants in the CCAA Proceedings, OTE Logistics LP and Original Traders Energy LP (together, the “**Limited Partnerships**”, and with the Applicants, the “**OTE Group**”), were extended the same protections as the Applicants on the basis that the Limited Partnerships are related to and carry on operations that are integral to the business of the Applicants.³ At the time of its filing, the OTE Group was engaged in the business of purchasing, blending, supplying and transporting fuel to petroleum stations and First Nations communities across Ontario.

5. Pursuant to the Initial Order, KPMG was appointed by the Court as the Monitor of the OTE Group, and was granted certain investigatory powers in connection therewith. The protections provided to the OTE Group in the Initial Order were extended pursuant to an Amended and Restated Initial Order dated February 9, 2023, and have been extended from time-to-time by this Court throughout the CCAA Proceedings.⁴ In particular, the stay of proceedings granted by the Court under the Initial Order, as extended under the Amended and Restated Initial Order, has been

² Seventeenth Report of KPMG Inc., in its capacity as the Monitor, dated October 15, 2026 [Seventeenth Report] at para 1, Motion Record of the Monitor [Motion Record] at Tab 2.

³ Seventeenth Report at para 2, Motion Record at Tab 2.

⁴ Seventeenth Report at para 1, Motion Record at Tab 2.

extended from time-to-time by Order of this Court, including most recently (with the exception of the Director Stay, as defined below) to and including October 25, 2026 (the “**Stay Period**”).⁵

6. Shortly after these proceedings commenced, and as discussed in further detail below, on March 15, 2023, the Court granted a Mareva injunction as part of an Order (the “**Injunctive Order**”) which restrained Glenn Page (“**Page**”), Mandy Cox and 2658658 Ontario Inc. (“**265**”, and collectively, the “**Mareva Respondents**”) from selling, removing, dissipating, alienating, transferring, assigning, encumbering or similarly dealing with a seventy-foot yacht from the Italian shipbuilder Azimut Benetti (the “**Italian Yacht**”), more particularly described in Schedule “A” of the Injunctive Order.⁶

7. On July 17, 2023, this Court granted an Order (the “**Yacht Sale and AirSprint Proceeds Order**”), among other things: (a) authorizing and directing the Monitor to conduct a sale process for the Italian Yacht (the “**Yacht Sale Process**”); and (b) directing AirSprint Inc. to remit to the Monitor US\$5,482,779.85 and any accrued interest thereon that was then held in trust by AirSprint on account of net proceeds and receipts from the sale of property including aircraft interests that were purchased or financed from funds sent to AirSprint by any OTE Group entity or affiliate thereof.⁷

⁵ Seventeenth Report at para 18, Motion Record at Tab 2, *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Stay Extension and Activity Approval Order](#) of Justice Steele dated April 22, 2026.

⁶ Seventeenth Report at para 8, Motion Record at Tab 2.

⁷ Seventeenth Report at para 10, Motion Record at Tab 2; *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. And 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Yacht Sale Process and AirSprint Proceeds Order](#) of Justice Kimmel dated July 17, 2023.

8. On October 12, 2023, following the adjournment of several motions that were previously brought before the Court, this Court issued the following Orders (which were ultimately unopposed or consented to by the relevant stakeholders):

- (a) an Order (the “**Monitor’s Enhanced Powers Order**”), among other things, providing the Monitor with enhanced powers in connection with the business and property of the OTE Group, and approving an amended bid process for the sale of the chattels of the OTE Group to be carried out by the Monitor; and
- (b) an Order, among other things, approving certain amendments to the Claims Process (as defined therein), and approving the activities of the Monitor.⁸

9. Since the issuance of the Monitor’s Enhanced Powers Order, the Monitor has, among other things, worked to monetize the assets of the OTE Group, advance the Claims Process (which was approved by the Court pursuant to an Order granted on April 27, 2023), wind-up the OTE Group’s business, and continue its investigation. In connection therewith, this Court has approved certain asset sales and lease termination agreements, and has approved related distributions to capital lessors and the OTE Group’s secured lender, the Royal Bank of Canada.

10. The Monitor also filed assignments in bankruptcy for OTE Logistics LP and Original Traders Energy LP (the “**OTE Bankrupt Entities**”) on December 30, 2024, and KPMG has subsequently been appointed as the trustee in bankruptcy over the estates of the Limited Partnerships.⁹ Notwithstanding the bankruptcy assignments, in accordance with an Order granted

⁸ Seventeenth Report at para 11, Motion Record at Tab 2; *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Monitor’s Enhanced Powers and Amended Bid Process Approval Order](#) of Justice Kimmel dated October 12, 2023.

⁹ Seventeenth Report at para 3, Motion Record at Tab 2.

by this Court on December 5, 2024, following notice to the Office of the Superintendent of Bankruptcy, the CCAA Proceedings remain ongoing, and KPMG is concurrently the Monitor in the CCAA Proceedings and the trustee in bankruptcy of the OTE Bankrupt Entities.¹⁰

11. As noted above, the Stay Period has been extended from time-to-time in these proceedings. On October 22, 2025, the Monitor sought and obtained an Order that extended the Stay Period with the exception of the stay of proceedings provided for in paragraph 24 of the Amended and Restated Initial Order in favour of the former, current or future directors or officers of the OTE Group (the “**Director Stay**”).¹¹ The Director Stay therefore expired on October 25, 2025.

12. In conjunction with its efforts to monetize the assets of the OTE Group and to assist in the wind-up of its business, the Monitor has conducted an investigation into apparent wrongdoing by certain principals of the OTE Group. The Monitor ultimately obtained a broad Mareva injunction against Page and 265 pursuant to a decision issued by Justice Kimmel of this Court on January 16, 2024.¹² In accordance therewith, the Monitor has conducted several examinations of Page, and, on April 22, 2026, the Monitor obtained an Order setting out a deadline for the completion of various undertakings, advisements and refusals delivered in connection therewith.¹³

13. On May 22, 2026, the Monitor sought and obtained an approval and vesting Order (the “**Yacht Sale AVO**”) approving the sale of the Italian Yacht to a third-party purchaser (the “**Yacht Transaction**”) for US\$1,300,000.¹⁴ The Yacht Sale AVO and the Yacht Transaction were

¹⁰ Seventeenth Report at para 3, Motion Record at Tab 2.

¹¹ Seventeenth Report at paras 17-18; Motion Record at Tab 2; *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Stay Extension and Activity Approval Order](#) of Justice Steele dated October 22, 2025.

¹² *Original Traders Energy Ltd.*, (Re), [2024 ONSC 325](#).

¹³ Seventeenth Report at para 13, Motion Record at Tab 2.

¹⁴ Seventeenth Report at para 22, Motion Record at Tab 2; *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Yacht Sale Approval and Vesting Order](#) of Justice Myers dated May 22, 2026.

consented to by the Mareva Respondents.¹⁵ Following delays (which stemmed principally from issues related to an incorrectly registered mortgage in the Cayman Islands Shipping Registry), the Yacht Transaction ultimately closed on August 31, 2026. In order to preserve the transaction in light of the delays, the Monitor, in consultation with the Mareva Respondents and with the consent of CWC International, Inc. (the registered owner), agreed to apply a US\$75,000 credit to the purchase price.¹⁶ In accordance with the Yacht Sale and AirSprint Proceeds Order and the Yacht Sale AVO, the Monitor is currently holding the net proceeds from the Yacht Transaction (the “**Yacht Proceeds**”).¹⁷

14. The Monitor remains of the view that the Yacht Proceeds are properly the property of the OTE Group. The Monitor understands from Page’s counsel that Page intends to assert an interest in the Yacht Proceeds, and the Monitor intends to work with Page’s counsel to develop a timetable for a motion for determination of entitlement to be held before this Court.¹⁸

B. Activities of the Monitor

15. Since its activities were last approved in April 2026, the Monitor, with the support of its legal advisors, has engaged in various activities for the benefit of the OTE Group and its creditors and other stakeholders. Those activities have included:

- (a) negotiating the Yacht Purchase Agreement, seeking and obtaining the Yacht Sale AVO, and attending to various matters in connection with the closing of the Yacht Transaction;

¹⁵ Seventeenth Report at para 22, Motion Record at Tab 2.

¹⁶ Seventeenth Report at para 25, Motion Record at Tab 2.

¹⁷ Seventeenth Report at para 27, Motion Record at Tab 2.

¹⁸ Seventeenth Report at para 29, Motion Record at Tab 2.

- (b) continuing additional asset monetization efforts, including: (i) liaising with U.S. counsel and other advisors regarding outstanding U.S. tax refunds and related matters; and (ii) considering consensual monetization of certain trucks located on Six Nations land and discussing same with counsel to Page;
- (c) progressing its (necessarily confidential) investigation, including reviewing the further disclosures by Page and reviewing information received from various of Page's banks;
- (d) continuing to advance the Claims Process, including: (i) progressing the reconciliation of the material claims submitted by the Canada Revenue Agency and the Ministry of Finance of Ontario and (ii) issuing notices of revision or disallowance to Page and various related parties;
- (e) monitoring cash flows and preparing the Ninth Extended Cash Flow Forecast (as defined below);
- (f) preparing the Sixteenth Report, the Supplement to the Sixteenth Report, the Seventeenth Report, and the related motion materials; and
- (g) generally engaging with stakeholders and continuing to deal with day-to-day issues that arise in the course of these CCAA Proceedings.¹⁹

¹⁹ Seventeenth Report at paras 35, 38-39, 40, Motion Record at Tab 2.

C. Stay Extension

16. Absent further relief from this Court, the Stay Period will expire on October 25, 2026. The Monitor seeks an extension of the Stay Period until and including May 2, 2027, to, among other things, continue to advance the Claims Process, seek a determination regarding entitlement to the Yacht Proceeds, continue to advance remaining asset monetization efforts, and continue its investigation, all for the benefit of the creditors of the OTE Group.²⁰ As noted above, the Director Stay has expired, and would not be extended pursuant to the Stay Extension and Activity Approval Order.

PART III: ISSUES

17. The issues to be considered on this motion are whether:

- (a) the Stay Period should be extended; and
- (b) the Sixteenth Report, the Supplement to the Sixteenth Report, the Seventeenth Report, and the Monitor's activities described therein should be approved.

PART IV: LAW

A. The Stay Period Should be Extended

18. Section 11.02(2) of the CCAA enables this Court to extend the stay of proceedings granted to a debtor company for “any period the court considers necessary”.²¹ In order to do so, the Court

²⁰ Seventeenth Report at para 54, Motion Record at Tab 2.

²¹ *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, [section 11.02\(2\)](#) [[“CCAA”](#)]; *Nordstrom Canada Retail, Inc.*, [2023 ONSC 1631](#), at para [7](#) [[“Nordstrom”](#)]; *Harte Gold Corp (Re)*, [2022 ONSC 653](#) at para [87](#).

must be satisfied that: (i) the order sought is appropriate in the circumstances; and (ii) the applicant has acted and is acting in good faith and with due diligence.²²

19. The jurisdiction vested in Courts under section 11.02 “should be construed broadly to accomplish the legislative purposes of the CCAA”.²³ These purposes include facilitating a value-maximizing restructuring.²⁴ Accordingly, a stay of proceedings will be appropriate where it gives a debtor the breathing room required to restructure with a view to maximizing recoveries, whether as a going concern or as an orderly liquidation or wind-down.²⁵

20. The Monitor submits that the proposed extension of the Stay Period is appropriate in the circumstances given that:

- (a) the Monitor is authorized to bring this motion pursuant to the Monitor’s Enhanced Powers Order;
- (b) the OTE Group, under the supervision of the Monitor and this Court, and the Monitor have been acting and continue to act in good faith and with due diligence;
- (c) the extended Stay Period is necessary to allow the Monitor, on behalf of the OTE Group, to advance and complete activities authorized by prior Orders of this Court, including: (i) seeking a determination with respect to the Yacht Proceeds, and attending to remaining asset monetization matters; (ii) advancing the Claims

²² *CCAA*, *ibid*, section 11.02(3); *Nordstrom*, *ibid*, at para 7.

²³ *Canwest Global Communications Corp*, 2011 ONSC 2215, at para 24 [“*Canwest*”].

²⁴ *Canwest*, *ibid* at para 24; *Century Services Inc. v Canada (Attorney General)*, 2010 SCC 60, at para 18 [“*Century Services*”]; *Target Canada Co. (Re)*, 2015 ONSC 303, at para 8 [“*Target*”]; *Timminco Limited (Re)*, 2012 ONSC 2515, at para 15.

²⁵ *Target*, *ibid* at para 8.

Process; (iii) continuing the Monitor's ongoing investigation; and (iv) working towards returning to Court to seek approval of an interim distribution;

- (d) the extended Stay Period will not materially prejudice any creditor, as the OTE Group is projected to have sufficient funds to fund the costs of the CCAA Proceedings as contemplated in the cash flow forecast prepared by the Monitor, on behalf of the OTE Group, through and including May 2, 2027 (the “**Ninth Extended Cash Flow Forecast**”).²⁶

B. The Sixteenth Report, Supplement to the Sixteenth Report, the Seventeenth Report and the Activities of the Monitor Should be Approved

21. The approval of a monitor's reports and the corresponding activities set out therein is a standard and ordinary course request in insolvency proceedings.²⁷

22. This Court has previously noted that there are good policy and practical reasons why such a request should be granted. These include: (a) allowing a monitor to bring its activities before the Court; (b) allowing an opportunity for stakeholders' concerns to be addressed; (c) enabling the Court to satisfy itself that a monitor's activities have been conducted in a prudent and diligent manner; (d) providing protection for a monitor not otherwise provided by the CCAA; and (e) protecting creditors from delay that may be caused by re-litigation of steps or potential indemnity claims by a monitor.²⁸

²⁶ Seventeenth Report at para 51, Motion Record at Tab 2.

²⁷ *Target Canada Co. (Re)*, 2015 ONSC 7574, at para 2 [“*Target Canada*”]. See also: *In Re Hudson's Bay Company*, 2025 ONSC 4535 at para 22.

²⁸ *Target Canada*, *ibid* at paras 2, 22–23; see also *Laurentian University of Sudbury*, 2022 ONSC 5850 at para 17.

23. The Monitor respectfully submits that the Sixteenth Report, the Supplement to the Sixteenth Report, and the Seventeenth Report should be approved, as the Monitor has acted reasonably, prudently and diligently in carrying out its mandate as described therein. As has previously been noted by the Ontario Court of Appeal, the Monitor acts as the Court's "eyes, ears and sometimes nose".²⁹ The Monitor believes that the activities taken were reasonable and conducted in the best interests of the OTE Group and its stakeholders under the supervision of this Court.³⁰

C. RELIEF REQUESTED

24. The Monitor submits that all of the qualifications required to obtain the requested relief are met and respectfully requests that this Court grant the proposed form of Stay Extension and Activity Approval Order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of October, 2026

Bennett Jones LLP

BENNETT JONES LLP

²⁹ *Ernst & Young Inc. v Essar Global Fund Limited*, [2017 ONCA 1014](#) at para [109](#).

³⁰ Seventeenth Report at para 41, Motion Record at Tab 2.

SCHEDULE A – LIST OF AUTHORITIES

Cases Cited

1. *Canwest Global Communications Corp.*, [2011 ONSC 2215](#).
2. *Century Services Inc. v Canada (Attorney General)*, [2010 SCC 60](#).
3. *Ernst & Young Inc. v Essar Global Fund Limited*, [2017 ONCA 1014](#).
4. *Harte Gold Corp (Re)*, [2022 ONSC 653](#).
5. *In Re Hudson's Bay Company*, [2025 ONSC 4535](#).
6. *Laurentian University of Sudbury*, [2022 ONSC 5850](#).
7. *Nordstrom Canada Retail, Inc.*, [2023 ONSC 1631](#).
8. *Original Traders Energy Ltd., (Re)*, [2024 ONSC 325](#).
9. *Target Canada Co. (Re)*, [2015 ONSC 303](#).
10. *Target Canada Co. (Re)*, [2015 ONSC 7574](#).
11. *Timminco Limited (Re)*, [2012 ONSC 2515](#).

Orders Cited

1. *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, Monitor's Enhanced Powers and Amended Bid Process Approval Order of Justice Kimmel dated October 12, 2023.
2. *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Stay Extension and Activity Approval Order](#) of Justice Steele dated April 22, 2026.
3. *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Stay Extension and Activity Approval Order](#) of Justice Steele dated October 22, 2025.
4. *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Yacht Sale Approval and Vesting Order](#) of Justice Myers dated May 22, 2026.
5. *In the Matter of a Plan of Compromise or Arrangement of Original Traders Energy Ltd. and 2496750 Ontario Inc.*, Toronto, CV-23-00693758-00CL, [Yacht Sale Process and AirSprint Proceeds Order](#) of Justice Kimmel dated July 17, 2023.

I certify that I am satisfied as to the authenticity of every authority and that every quotation cited herein accurately reproduces the text of such authority.

Dated: October 20, 2026

Thomas Gray

Thomas Gray

SCHEDULE B – STATUTES RELIED ON

Companies' Creditors Arrangement Act, R.S.C. 1985, c C-36

Section 11.02

Stays, etc. — initial application

11.02 (1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 10 days,

- (a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act;
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Stays, etc. — other than initial application

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

(3) The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

Restriction

(4) Orders doing anything referred to in subsection (1) or (2) may only be made under this section.

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 ORIGINAL TRADERS ENERGY LTD. AND 2496750
ONTARIO INC.

Court File No. CV-23-00693758-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceedings commenced in Toronto

**Factum of the Monitor
(Motion Returnable October 22, 2026)**

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