

Vancouver

22-Jun-20

REGISTRY

Court File No.B-200208
Estate No. 11-2638450
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF TBA
BEVERAGE INC.**

NOTICE OF APPLICATION

Name of applicant: TBA Beverage Inc.

To: Service List, attached as **Schedule "A"**

TAKE NOTICE that an application will be made (via teleconference) by the Applicant, TBA Beverage Inc. ("TBA"), to the presiding Master at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on Wednesday the 24th day of June 2020 at 10:00 a.m. for the Orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order, substantially in the form attached hereto as **Schedule "B"**:
 - a. abridging the time for service of this Notice of Application, such that the application is properly returnable on June 24, 2020;
 - b. extending the time for filing a proposal to August 12, 2020 pursuant to s. 50.4(9) of the *Bankruptcy and Insolvency Act*, R.S.C. 1983 c. B-3 (the "**BIA**");
 - c. extending the stay of proceedings to August 12, 2020;
 - d. approving an amendment to the Line of Credit Agreement (as defined herein) to increase the authorized limit by \$500,000 from \$1,200,000 to \$1,700,000 (the "Extension to the Line of Credit Limit");
 - e. granting a priority charge in favour of 1241393 B.C. Ltd ("124") to secure the Extension to the Line of Credit Limit, limited to the \$500,000 (Five Hundred Thousand Dollars) increase ("LOC Charge"), to rank behind the Administrative Charge granted by Order made May 8, 2020 but in priority to all other claims; and
2. such further and other relief as this Honourable Court may deem just.

Part 2: FACTUAL BASIS**TBA's operations**

3. TBA is a portfolio beverage company which produces a range of alcoholic products, including beers, wines, and spirits. It operates out of a production facility located at 1575 Vernon Drive, Vancouver, British Columbia.
4. TBA is federally and provincially licensed to produce and store alcoholic beverages and makes:
 - a. its own brands of beer; and
 - b. alcoholic beverages on a contract basis for third parties.
5. In 2019 TBA had gross revenues of approximately \$9.3M.
6. TBA has faced challenges in its business resulting from the rapid expansion of its operations which grew quickly in a manner out of step with its cash flow requirements. Prior to filing, TBA underwent a management change which refocused its business primarily on its own branded products which has assisted in streamlining its operations.
7. TBA's cashflow difficulties have been caused by:
 - a. customer contracts that were aggressively quoted by management and resulted in low profit margins;
 - b. contract customers paying invoices after 90 days past due;
 - c. lost productivity due to equipment and production line issues;
 - d. loss of draft beer sales to restaurant and bar customers due to COVID – 19. Draft beer sales have historically accounted for approximately 60% of TBA's revenue;
 - e. delays in receiving payments from the BC Liquor Distribution Board ("BCLDB"); and
 - f. net losses carried over from prior fiscal years.
8. TBA has applied for and is receiving the federal wage subsidy

Creditors

9. As at April 14, 2020 TBA had creditors with claims of in excess of \$9 million.
10. TBA's day-to-day operations have primarily been funded by the following loan facilities:

- a. loan agreement dated October 11, 2016 which was amended on November 5, 2019 and further amended on March 16, 2020 (the “**Loan Agreement**”); and
- b. line of credit agreement dated December 11, 2019 (the “**Line of Credit Agreement**”).

(together referred to as the “**Facilities**”)

- 11. The Facilities are secured by way of a general security agreement entered into on October 11, 2016 (the “**GSA**”) pursuant to which TBA granted a security interest over all of its present and after acquired property to secure its obligations under the Loan Agreement and the Line of Credit Agreement.
- 12. As a result of various assignments, 124 is the secured lender under the Facilities and the GSA. As at the date of filing 124 was owed approximately \$6M.
- 13. 124 is related to certain shareholders and management of TBA.
- 14. On April 13, 2020 124 delivered to TBA:
 - a. Notice of Default and Demand for Payment under the Loan Agreement, the Line of Credit Agreement and the GSA; and
 - b. Notice of Intention to Enforce Security, pursuant to s. 244 of the BIA
- 15. On the same day, TBA and 124 entered into a forbearance agreement the terms of which included that TBA would make reasonable best efforts to position itself for the sale of its assets and/or business during the forbearance period.

NOI filing and post-filing activities

- 16. On April 14, 2020 TBA filed a Notice of Intention to File a Proposal (the “**NOI**”) pursuant to section 50.4 of the BIA. Bowra was appointed as Proposal Trustee.
- 17. Management, with the assistance of its advisors, the Proposal Trustee and input from 124, has reviewed its restructuring options. TBA is continuing to operate its business but given the potential for continued losses and funding requirements, the proposal is likely to be one that results from an investment or a sale of its business as a going concern, in which case it may be a liquidating proposal.
- 18. TBA has been actively reducing its costs and overhead since the filing of the NOI. For example, since filing the NOI TBA has:
 - a. disclaimed four contracts, which have reduced its monthly cash outflows by approximately \$5,000; and
 - b. cut back on other costs, including design and marketing consultants and storage costs.

19. On May 13, 2020, Justice Fitzpatrick granted orders:
- a. extending the deadline by which TBA was required to file a proposal, and the stay of proceedings, to June 28, 2020;
 - b. approving a process for the sale of TBA's business as a going concern to be conducted by the Proposal Trustee (the "Sales Process"); and
 - c. granting a priority charge in favour of the administrative professionals (the "Administration Charge").
20. TBA will not be in a position to make a proposal to its creditors by the time the current stay of proceedings expires on June 28, 2020. The Sales Process approved by the court specifically contemplated a timeframe which extended past the June 28, 2020 extension including the following steps:
- a. the delivery of qualified bids no later than 4:00 p.m. July 14, 2020;
 - b. identification of the highest or otherwise best qualified bid by July 22, 2020;
 - c. the negotiation of a definitive agreement; and
 - d. an application to court by July 27, 2020 or such other date proposed by the Proposal Trustee in consultation with TBA, to authorize TBA to enter into and complete an agreement with the successful bidder.

First Report to Court of the Proposal Trustee, paragraph 18(e)

21. To date, the proposed timeline for the sales process has been complied with.

Increased LOC Facility Limit

22. Despite the cost reductions, TBA requires additional funding to maintain operations through the proposed extension. The liquidity crisis which TBA is presently facing has been exacerbated by COVID 19 and the delays experienced in receiving payments from the BCLDB. Although it appears as though the BCLDB payments (which have not been received since the end of April 2020) should be received soon, in the absence of further funding TBA faces significant uncertainty relating to its ability to fund operations over the period required to complete the Sales Process and maintain the value of its going concern business.
23. TBA has currently drawn down \$1.15 million of the \$1.2 million authorized under the Line of Credit Agreement. TBA has reached an agreement with 124 to increase the credit limit under the Line of Credit Agreement from \$1.2 million to \$1.7 million. The terms of that agreement provide that the extension is subject to:
- a. the court approving, in these proceedings, the extension to the credit limit; and

- b. the court granting security and/or a charge in favour of 124 securing the \$500,000 increase in the credit limit.

Affidavit #1 of Alex Milne sworn June 22, 2020, Exhibit "E"

24. In addition to the delays in receiving BCLDB payments the increased borrowings are required to fund increased production and the associated wages to assist with the increased production. The increased production is required for product as a result of the easing of Covid-19 restrictions as restaurants and bars begin opening up.
25. TBA expects the increased production volumes to continue to the end of the summer and anticipates that will result in increased revenues that will begin to be collected at the end of July 2020.
26. Both the Proposal Trustee and 124 support the increase to the limit of the authorized line of credit.
27. Without the increase to the Line of Credit Agreement, TBA will be unable to continue to finance its operations, maintain the value of the going concern business, or continue its restructuring efforts.

Extension of Time for Filing Proposal

28. Since the date of filing the Proposal Trustee has been monitoring the business and financial affairs of TBA.
29. TBA has worked cooperatively with the Proposal Trustee in updating its creditor list, providing information on its financial affairs, maintaining cash flow records and financial reporting, compiling information for the purposes of the proposed Sales Process and assisting the Proposal Trustee where required with the Sales Process.
30. TBA has also continued to conduct operations and has kept the Proposal Trustee apprised of developments.
31. The Proposal Trustee is not aware of any material negative changes to the cash-flow statements (other than described herein) since filing.
32. The Proposal Trustee is satisfied that:
- a. TBA has acted, and is acting, in good faith and with due diligence;
 - b. TBA's ability to make a viable proposal will be maximized if the orders being applied for are granted; and
 - c. no creditor will be materially prejudiced if the extension being applied for is granted.

Part 3:LEGAL BASIS

33. TBA relies on:
- a. Part III, Division I and s. 183 of the BIA; and
 - b. the BIA Rules.

Extension of Time for Filing Proposal

34. An insolvent person may, before the expiry of the 30-day period after the day the NOI was filed, apply to the court for an extension of that period, and the court, on notice to any interested persons that the court may direct, may grant an extension not exceeding 45 days for any individual extension, if satisfied that:
- a. the insolvent person has acted, and is acting, in good faith and with due diligence;
 - b. the insolvent person will likely be able to make a viable proposal if the extension being applied for is granted; and
 - c. no creditor will be materially prejudiced if the extension being applied for is granted.

BIA, Section 50.4(9)

35. TBA bears the onus, on the balance of probabilities, of demonstrating that it satisfies each of those elements before an extension is justified.

Re H &H Fisheries Limited, Re, 2005 NSSC 346, paras 12 & 13

36. TBA has acted, and continues to act, in good faith and with due diligence and continues to seek the completion of a sale transaction or investment (through the Sales Process) that will lead to a proposal being filed and submitted to the creditors.

37. The court must be satisfied that TBA would likely be in a position to put forward a viable proposal. The Proposal Trustee's report clearly demonstrates that TBA has made reasonable efforts, as dictated by the circumstances, which indicate that it is moving towards that goal.

Re H &H Fisheries Limited, ibid, paras 22 & 33

38. The Sales Process is a necessary step in determining TBA's ability to make a proposal and the alternative, in the event that an extension is not granted, will be the bankruptcy of TBA, the loss of jobs for its employees and the inevitable reduction in recovery to the creditors. Such a result would not serve the interests of TBA, its stakeholders or the public interest in facilitating the survival of companies supplying goods, preserving jobs and avoiding the social and economic costs of liquidating assets.

Century Services Inc. v. Canada (Attorney General), 2010 SCC 60, paras 12-25

39. TBA is not aware of any creditor which would be materially prejudiced if the extension being applied for is granted.
40. There is a difference between 'prejudice' and 'material prejudice' and there must be evidence that a creditor will be substantially or considerably prejudiced if the extension being applied for is granted.

Cantrail Coach Lines Ltd. 2005 BCSC 351, para 21 & 22

41. TBA submits that, the extension sought is appropriate and necessary.

Extension to the Line of Credit Limit

42. The court may, in respect of a debtor who has filed a notice of intention under section 50.4 and on notice to the secured creditors who are likely to be affected by the security or charge, make an order declaring that all or part of the debtor's property is subject to a security or charge.
43. The amount of such security is at the discretion of the court in an amount that the court considers appropriate. Security may be granted to a person specified in the order who agrees to lend to the debtor an amount approved by the court as being required by the debtor, having regard to the debtor's cash flow statement referred to in paragraph 50(6)(a) or 50.4(2)(a).
44. The security or charge may not secure an obligation that exists before the order is made.
45. Here, approval is sought for the Extension to the Line of Credit Limit and the security, by way of charge, is restricted to the proposed \$500,000 increase to the credit limit.
46. The Court may only order that the security or charge rank in priority over the claim of any secured creditor or any security or charge arising from a previous order made with the consent of the person in whose favour the previous order was made.
47. TBA seeks an order that the charge in favour of 124 rank behind the Administrative Charge granted by Order made May 13, 2020 but in priority to all other claims. The only secured creditor is 124.
48. In deciding whether to make an order, the court is to consider, amongst other things:
 - a. the period during which the debtor is expected to be subject to proceedings under this Act;
 - b. how the debtor's business and financial affairs are to be managed during the proceedings;
 - c. whether the debtor's management has the confidence of its major creditors;

- d. whether the loan would enhance the prospects of a viable proposal being made in respect of the debtor;
- e. the nature and value of the debtor's property;
- f. whether any creditor would be materially prejudiced as a result of the security or charge; and

the Proposal Trustee's report referred to in s.50(6)(b) or 50.4(2)(b) of the BIA.

BIA Section 50.6(5)

- 49. Without the Extension to the Line of Credit Limit TBA will be unable to fund its ongoing business operations and restructuring efforts and take advantage of the reopening of businesses brought about by the relaxation of COVID 19 restrictions.
- 50. Continuing operations as proposed will aid the Sales Process and the going concern viability of TBA.
- 51. No creditor will be materially prejudiced as a result of Extension to the Line of Credit Limit and 124, the sole secured creditor, is the proposed funder. The Trustee supports the Extension to the Line of Credit Limit and has confirmed in the Trustee's Report that it is necessary for the restructuring.

BIA, Section 50.6(1), Section 50.6(3), Section 50.6(4), Section 50.6(5) Re P.J. Wallbank Manufacturing Co., [2011] CarswellOnt 15300.

Part 4: MATERIAL TO BE RELIED ON

- 52. Affidavit #1 of Alex Milne sworn June 22, 2020.
- 53. First Report of the Proposal Trustee dated May 8, 2020.
- 54. Second Report of the Proposal Trustee dated June 22, 2020; and
- 55. Such further and other material as counsel may advise and this Honourable Court permits.

The Applicant estimates that the application will take 30 minutes.

This matter is within the jurisdiction of a master.

This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of

application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application:

- (a) file an application response in Form 33;
- (b) file the original of every affidavit, and of every other document, that:
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: June 22, 2020



Signature of Jeremy D. West
Counsel for the TBA Beverage Inc.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this notice of application

with the following variations and additional terms:

Date: _____

Signature of Judge Master

APPENDIX**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

Schedule "A"

Court File No.B-200208
Estate No. 11-2638450
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF TBA
BEVERAGE INC.

SERVICE LIST

Updated: May 8, 2020

<p>The Bowra Group Inc. PO Box 72, Bentall One #430 - 505 Burrard St Vancouver, BC V7X 1M3</p> <p>Attention: Mario Mainella & Chris Bowra</p> <p>Emails: mmainella@bowragroup.com & cbowra@bowragroup.com</p> <p><i>Proposal Trustee</i></p>	<p>Watson Goepel LLP 1200 - 1075 West Georgia Street Vancouver, BC V6E 3C9</p> <p>Attention: Jeremy West Assistant: Chelsey Cochrane</p> <p>Emails: jwest@watsongoepel.com & ccochrane@watsongoepel.com</p> <p><i>Counsel for TBA Beverage Inc.</i></p>
<p>1241393 B.C. Ltd. 201-803 East Hastings Street Vancouver, BC V5A 1R8</p> <p>Attention:</p> <p>Email:</p> <p><i>Secured Creditor</i></p>	<p>Office of the Superintendent of Bankruptcy 300 Georgia Street W, Suite 2000 Vancouver, BC V6B 6E1</p> <p>Attention:</p> <p>Email:</p> <p><i>Superintendent of Bankruptcy</i></p>

Schedule "B"

Court File No.B-200208
Estate No. 11-2638450
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF TBA
BEVERAGE INC.

ORDER MADE AFTER APPLICATION

BEFORE) THE 24th DAY OF JUNE, 2020
)
)

ON THE APPLICATION of TBA Beverage Inc. ("**TBA**"), coming on for hearing by telephone at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on the 24th day of June, 2020 and on hearing Jeremy West, counsel for TBA Beverage Inc. and those other counsel listed on **Schedule "A"** hereto, AND UPON READING the materials filed herein; AND PURSUANT TO the *Bankruptcy and Insolvency Act*, R.S.C. 1983 c. 8-3 (the "**BIA**");

THIS COURT ORDERS that:

1. The time for service of the Notice of Application dated June 22, 2020 is hereby abridged such that it is properly returnable today and service thereof on any interested party is hereby dispensed with.
2. Except as specifically provided herein the definitions utilized in the Order Made after Application on May 13, 2020 (the "May 13, 2020 Order") shall have the same meanings for the purposes of this Order.

Extension of time to file a Proposal and Stay

3. The time for the filing of a Proposal by TBA be extended from June 28, 2020 to 11:59 p.m. August 12, 2020.
4. The stay of proceedings be extended from June 28, 2020 to 11:59 p.m., August 12, 2020.

Extension to Line of Credit and Charge

5. TBA is hereby authorized and empowered to enter into, execute and deliver the Amendment to the Line of Credit Agreement dated June 19, 2020 between the TBA and 1241393 B.C. Ltd (“124”) (the “**Amendment to the Line of Credit Agreement**”) in order to finance its working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings do not exceed the principal amount of \$1,700,000 (ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS) unless permitted by further Order of this court.
6. 124 shall be entitled to the benefit of and is hereby granted a charge (the "**Extension to the Line of Credit Limit Charge**") for the increase to the line of credit provided for in the Amendment to the Line of Credit Agreement dated limited to \$500,000 (Five Hundred Thousand Dollars) and for greater certainty the Extension to the Line of Credit Limit Charge shall not secure an obligation owing to 124 that exists before this Order is made. The Extension to the Line of Credit Limit Charge shall have the priority set out in paragraphs 12-13 hereof.
7. The filing, registration or perfection of the Extension to the Line of Credit Limit Charge shall not be required, and the Extension to the Line of Credit Limit Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Extension to the Line of Credit Limit Charge coming into existence, notwithstanding any such failure to file, register, record or perfect, and that the Extension to the Line of Credit Limit Charge shall immediately attach to all of the TBA’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**Property**”).
8. Notwithstanding any other provision of this Order:
 - a. 124 may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Extension to the Line of Credit Limit Charge or the Amendment to the Line of Credit Agreement;
 - b. upon the occurrence of an event of default under the Amendment to the Line of Credit Agreement or the Extension to the Line of Credit Limit Charge, 124, upon seven (7) days' notice to TBA and the Proposal Trustee, may exercise any and all of its rights and remedies against TBA or the Property under or pursuant to the Amendment to the Line of Credit Agreement or the Extension to the Line of Credit Limit Charge including, without limitation, to cease making advances to TBA, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against TBA; and
 - c. the foregoing rights and remedies of 124 shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of TBA or the Property.

9. Notwithstanding the foregoing or any other provision of this Order, 124 shall not enforce any security (or exercise any right of set-off or combination of accounts) under or pursuant to the Amendment to the Line of Credit Agreement or the Extension to the Line of Credit Limit Charge against TBA or its Property without the prior leave of this Court, provided that the 124 may deliver to TBA demand and notice and exercise acceleration rights without leave of the Court.
10. The Extension to the Line of Credit Limit Charge is in addition to any existing security granted by TBA or any other person or entity to 124 (collectively, the "**Existing Security**"), which existing security is not restricted by paragraph 6 hereof. All liabilities and obligations of 124 under the Amendment to the Line of Credit Agreement shall be secured by the Existing Security and the Extension to the Line of Credit Limit Charge.
11. 124 shall be treated as unaffected in the proposal filed by TBA under the BIA, or any plan filed by TBA under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), with respect to any advances made under the Amendment to the Line of Credit Agreement. The stay of proceedings provided for in this proceeding shall not apply to the 124 or its rights under or in respect of the Amendment to the Line of Credit Agreement.

Priority of the Charges

12. The Extension to the Line of Credit Limit Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Extension to the Line of Credit Limit Charge coming into existence, notwithstanding any such failure to file, register, record or perfect, and that the Extension to the Line of Credit Limit Charge shall immediately attach to the Property.
13. The Extension to the Line of Credit Limit Charge shall constitute a charge on the Property and such charge shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, or other secured claims (collectively, "**Encumbrances**") in favour of any person or entity (a "**Person**") other than:
 - a. the Administrative Charge; and
 - b. the following registrations:
 - i. PPSA Base Reg. #389647K in favour of Jim Pattison Industries Ltd.;
 - ii. PPSA Base Reg. #389717K in favour of Jim Pattison Industries Ltd.;
 - iii. PPSA Base Reg. #466238K in favour of Jim Pattison Industries Ltd.
 - iv. PPSA Base Reg. #861812K in favour of Jim Pattison Industries Ltd.;

- v. PPSA Base Reg. #140851K in favour of First West Leasing Ltd.;
 - vi. PPSA Base Reg. #242517K in favour of First West Leasing Ltd.;
 - vii. PPSA Base Reg. #983350K in favour of First West Leasing Ltd.;
 - viii. PPSA Base Reg. #640756K in favour of Blueshore Leasing Ltd.; and
 - ix. PPSA Base Reg. #184431L in favour of G.N. Johnston Equipment Co. Ltd..
14. Except as otherwise expressly provided for herein, or as may be approved by this Court, TBA shall not grant any Encumbrances over any Property that ranks in priority to, or *pari passu* with the Extension to the Line of Credit Limit Charge.
15. The Amendment to the Line of Credit Agreement or the Extension to the Line of Credit Limit Charge shall not be rendered invalid or unenforceable and the rights and remedies of 124 thereunder shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application for bankruptcy order issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the initiation of any other proceedings under the BIA; (e) the initiation of any proceedings under the CCAA(f) the provisions of any federal or provincial statutes; or (g) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds TBA, and notwithstanding any provision to the contrary in any Agreement.
16. Neither the creation of the Extension to the Line of Credit Limit Charge nor the execution, delivery, perfection, registration or performance of the Amendment to the Line of Credit Agreement shall create or be deemed to constitute a breach by TBA of any Agreement to which any of it is a party.
17. 124 shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from TBA entering into the Amendment to the Line of Credit Agreement, the creation of the Extension to the Line of Credit Limit Charge; and payments made by the TBA pursuant to this Order, the Amendment to the Line of Credit Agreement and the Extension to the Line of Credit Limit Charge, does not and will not constitute a preference, fraudulent conveyance, transfer at undervalue, oppressive conduct, a settlement or other challengeable or voidable transaction under any applicable law.
18. Endorsement of this Order by counsel appearing on this application, other than counsel for TBA, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Jeremy D West
Solicitor for TBA Beverage Inc.

By the Court.

Registrar

Schedule "A"- List of Counsel Appearing

Jeremy D. West	Counsel for TBA Beverage Inc.