

Court File No. BK-22-02802344-0035
Estate No. BK-22-02802344-0035

AYANDA CANNABIS CORPORATION

**SUPPLEMENTARY THIRD REPORT OF RICHTER INC. (FORMERLY, RICHTER ADVISORY GROUP INC.)
IN ITS CAPACITY AS TRUSTEE UNDER THE PROPOSAL OF
AYANDA CANNABIS CORPORATION**

August 23, 2023

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Court File No. BK-22-02802344-0035
Estate No. BK-22-02802344-0035

ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)
COMMERCIAL LIST

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED

AND IN THE MATTER OF THE PROPOSAL OF
AYANDA CANNABIS CORPORATION
OF THE COUNTY OF NORFOLK, IN THE PROVINCE OF ONTARIO

SUPPLEMENTARY THIRD REPORT OF RICHTER INC. (FORMERLY, RICHTER ADVISORY GROUP INC.)
IN ITS CAPACITY AS TRUSTEE UNDER THE PROPOSAL OF
AYANDA CANNABIS CORPORATION

AUGUST 23, 2023

I. INTRODUCTION

1. On February 4, 2022 (the “**NOI Filing Date**”), Ayanda Cannabis Corporation (“**Ayanda**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.-3, as amended (the “**BIA**”). Richter Inc. (formerly, Richter Advisory Group Inc., “**Richter**”) consented to act as trustee under the Company’s NOI (the “**Proposal Trustee**”).
2. Prior to the NOI proceedings, the Company completed a sale and investment solicitation process (the “**SISP**”) that culminated in a transaction (the “**Transaction**”) for the sale of all of Ayanda’s issued and outstanding shares pursuant to a share purchase agreement dated February 2, 2022 (the “**SPA**”) between Ayanda, as vendor, and 12830353 Canada Inc., or its assignee (the “**Purchaser**”), as purchaser. The Transaction was approved by Ayanda’s Class A (voting) shareholders.
3. Faced with a looming liquidity crisis and the threat of various contingent claims from certain former employees and shareholders (the “**Contingent Claims**”), the Class A (voting) shareholders of the Company determined it was appropriate to commence the NOI proceedings to, among other things: (i) create a stabilized environment to allow the Company to complete the Transaction, (ii) present a proposal to the Company’s creditors, and (iii) provide a forum to address the Contingent Claims in the context of a court-supervised insolvency process.
4. On March 1, 2022, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted two Orders, including an Order (the “**Approval and Vesting Order**”) that, among other things, approved the Transaction that was to be completed by way of a “reverse” vesting order.
5. Also on March 1, 2022, the Court granted an Order (the “**DIP Facility and Stay Extension Order**”) that, among other things:
 - (a) authorized the Company to obtain interim financing up to the maximum principal amount of \$400,000 (the “**DIP Facility**”) pursuant to an interim facility term sheet dated February 16, 2022 between Ayanda and Cardinal Advisory Limited (the “**DIP Lender**”);
 - (b) approved the following super-priority charges over all of the Company’s property, assets and undertakings:
 - (i) a charge in the amount of \$300,000 to secure the fees and disbursements of the Proposal Trustee, legal counsel to the Proposal Trustee, and the Company’s legal counsel (the “**Administration Charge**”); and

- (ii) a charge in the amount of \$400,000 in favour of the DIP Lender to secure advances made to the Company under the DIP Facility (the “**DIP Charge**”, and together with the Administration Charge, the “**Charges**”); and
 - (c) extending the deadline by which Ayanda was required to file its proposal up to and including April 20, 2022.
6. On April 19, 2022, the Company filed a proposal pursuant to Part III of the BIA, which was amended (as amended, the “**Proposal**”) at the meeting of creditors held on May 9, 2022 (the “**Creditors’ Meeting**”). Subject to closing the Transaction, it was expected that the Proposal would provide full recoveries (less any levies payable to the Superintendent) to unsecured creditors with proven claims against the Company, and to provide a meaningful recovery to the Company’s Class B (non-voting) shareholders. The Proposal was unanimously approved by the Company’s creditors who voted at the Creditors’ Meeting.
 7. On June 3, 2022, the Court granted an Order (the “**Proposal Approval Order**”) approving, among other things, the Proposal.
 8. The SPA provided a Transaction closing date of on or before June 30, 2022, or such later date as Ayanda and the Purchaser agreed in writing. Following a series of correspondence among the Company, the Purchaser and their respective counsel, at the request of the Purchaser, the parties entered into successive extension agreements amending the SPA such that the closing date/outside date (the “**Closing Date**”) for the Transaction was extended to May 19, 2023 in exchange for, among other things, an increase to the non-refundable deposit paid by the Purchaser.
 9. Unfortunately, the Closing Date under the SPA (as amended) has lapsed and it has become clear that the Purchaser does not have the necessary funds to close the Transaction. In addition, following the expiration of the SPA (as amended), the Purchaser ceased making payments pursuant to an agreement dated March 1, 2022 (the “**Services Agreement**”) setting out the terms upon which Ayanda would continue operations, pending closing of the Transaction, for the benefit and expense of the Purchaser. This, in turn, led to the resignation of the Company’s last remaining employee.
 10. In the Trustee’s view, failure to close the Transaction and the effective termination of the Services Agreement represented a material adverse change in the Company’s financial circumstances and its ability to implement its Proposal (which was conditional on, among other things, closing the Transaction).
 11. On July 18, 2023, the Proposal Trustee issued a material adverse change report pursuant to section 50(1) of the BIA (the “**MAC Report**”).

12. On August 4, 2023, the Proposal Trustee filed its third report (the “**Third Report**”) in support of the Proposal Trustee’s motion returnable on August 14, 2023 (the “**August 14 Motion**”), and adjourned to August 25, 2023 (the “**August 25 Hearing**”), for an Order (the “**Proposal Annulment Order**”) that, among other things:
 - (a) annuls the Proposal pursuant to section 63(1) of the BIA;
 - (b) deems Ayanda bankrupt and appoints Richter as trustee of Ayanda’s bankrupt estate, subject to affirmation by the Company’s creditors;
 - (c) amends the DIP Facility and Stay Extension Order to remove Miller Thomson LLP as a beneficiary of the Administration Charge and add Aird & Berlis LLP (“**Aird & Berlis**”) as a beneficiary to the Administration Charge;
 - (d) terminates the DIP Charge;
 - (e) approves the Third Report and the actions, activities and conduct of the Proposal Trustee described therein, and
 - (f) approves the fees and disbursements of the Proposal Trustee and its counsel, Thornton Grout Finnigan LLP (“**TGF**”), in the amounts set out in the Third Report.
13. The Proposal Trustee has established a website (the “**Proposal Trustee’s Website**”) for the purposes of these proceedings at: <https://www.richter.ca/insolvencycase/ayanda-cannabis-corporation/>. Copies of the court materials filed in the NOI proceedings, the Orders made by the Court, the Proposal, and other relevant documents are posted to and available for review at the Proposal Trustee’s Website.

II. PURPOSE OF REPORT

14. This supplementary report (the “**Supplementary Third Report**”) is filed by the Proposal Trustee to provide Ayanda’s various stakeholders and the Court with an update on various matters, including (i) the Company and the Proposal Trustee’s actions/activities after the issuance of the Third Report and, in particular, following the adjournment of the August 14 Motion, including communications with interested parties, (ii) the availability for recourse against the Purchaser for breach of the SPA, and (iii) the proposed realization strategy for the Company’s assets should the Court grant the relief requested by the Proposal Trustee.

III. TERMS OF REFERENCE

15. In preparing this Supplementary Third Report, the Proposal Trustee has relied upon certain unaudited, draft, and / or internal financial information prepared by representatives of the Company, the Company's books and records, and discussions with representatives of the Company and the Company's current legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in this Supplementary Third Report, the Proposal Trustee has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, the Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Canadian Auditing Standards ("**CAS**") pursuant to the *Chartered Professional Accountants of Canada Handbook* and, as such, the Proposal Trustee expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.
16. Parties using this Supplementary Third Report other than for the purposes outlined herein are cautioned that it may not be appropriate for such purposes, and, consequently, should not use this Supplementary Third Report for any other purpose.
17. Unless otherwise noted, all monetary amounts contained in this Supplementary Third Report are expressed in Canadian dollars.
18. Capitalized terms not otherwise defined in this Supplementary Third Report have the meanings given to them in the Proposal.

IV. THE AUGUST 14 MOTION

19. At the August 14 Motion, certain self-represented interested stakeholders expressed concerns that they were not provided sufficient information to properly consider the relief sought by the Proposal Trustee. In the circumstances and given the irreversible nature of the bankruptcy of the Company, the Court adjourned the August 14 Motion to August 25, 2023, to provide interested parties with additional time to review the materials filed in support of the motion and an opportunity to request additional information from the Proposal Trustee related to the relief sought by the Proposal Trustee and other related matters.

V. COMPANY STATUS

20. As noted in the Third Report, Ayanda has no remaining employees or business operations. The Company has limited, if any, liquidity, and no prospect of generating or borrowing funds. Further, as the Company was non-compliant with the *Cannabis Act*, Ayanda took steps to destroy all cannabis-related product located at the Facility (as defined below) and surrender its cannabis licenses. Accordingly, the business is no longer operating as a going concern.

21. On August 15, 2023, Health Canada wrote to Ayanda to confirm the Company's request to surrender its cannabis licenses and Health Canada's corresponding intention to revoke the Company's cannabis licenses (the "**Health Canada Letter**"). A copy of the Health Canada Letter is attached hereto as **Appendix "A"**.
22. Given the Company's current financial circumstances, including the failed Transaction and the effective termination of the Services Agreement, the Proposal Trustee remains of the view that Ayanda is unable to implement the Proposal or present a viable amended Proposal to its creditors without injustice or undue delay to the creditors of Ayanda.

VI. ACTIVITIES OF THE PROPOSAL TRUSTEE

23. The Proposal Trustee's activities since the Third Report and, in particular, following the hearing/adjournment of the August 14 Motion include, *inter alia*:
 - (a) communicating and corresponding with the two remaining directors of Ayanda (the only remaining representatives of Ayanda) and its legal counsel;
 - (b) through the Proposal Trustee's counsel, corresponding with two Class B shareholders, one of whom attended the August 14 Motion. The Proposal Trustee provided both shareholders with a link to the Proposal Trustee's Website and invited both shareholders to contact the Proposal Trustee should they have any questions in respect of the relief sought following a review of the materials posted on the Proposal Trustee's Website. Copies of the email correspondence are attached hereto at **Appendix "B"**. As at the date of this Supplemental Third Report, the Proposal Trustee and its counsel have not received any further questions or information requests from the Class B shareholders;
 - (c) corresponding extensively with a former employee and creditor of Ayanda, Natalie Cain. Attached hereto as **Appendix "C"** is a series of email correspondence between the creditor and the Proposal Trustee following the August 14 Motion (the "**Cain Emails**"). Ms. Cain sought a variety of information regarding Ayanda's prior business activities including, among other things, historical financial information and Cannabis Tracking and Licensing System ("**CTLS**") reports detailing the Company's cannabis-related activities. Ms. Cain also expressed her concerns that the bankruptcy of Ayanda "should be the last resort". In response to the information requests in the Cain Emails, the Proposal Trustee provided Ms. Cain with, among other things: (i) profit and loss statements for the period from January 1, 2019 to July 31, 2023, and (ii) CTLS reports for the period from February 2022 to July 2023 (including destruction reports for the period from January 2022 to July 2023). The Proposal Trustee also reiterated to Ms. Cain that it shares her desire to maximize recoveries from Ayanda's assets and that the Proposal Trustee has been considering various means to achieve that objective should the Court grant the relief requested by the Proposal Trustee, including the possibility of including the land underlying the lease for Ayanda's premises in any future potential sale process (discussed further below);

- (d) corresponding with representatives of Hyde Advisory & Investments Ltd. in connection with certain information requested by Ms. Cain and other matters in respect of Ayanda;
- (e) corresponding with representatives of CannaNavigators Inc. in connection with certain information requested by Ms. Cain and other matters in respect of Ayanda;
- (f) corresponding with the Company's former Chief Financial Officer in connection with certain information requested by Ms. Cain and other matters in respect of Ayanda;
- (g) communicating with representatives of Health Canada who are familiar with Ayanda's cannabis licenses in respect of certain information requested by Ms. Cain and other matters in respect of Ayanda, including the surrendered cannabis licenses. Unfortunately, as at the date of this Supplementary Third Report, the Proposal Trustee has not received a response from Health Canada to its enquiries;
- (h) responding to calls and enquiries from creditors and other stakeholders;
- (i) communicating with insurance brokers to assist the Company in securing new insurance coverage;
- (j) communicating with the Land Owner (as defined below) in respect of the Ground Lease (as defined below), the real property on which Ayanda's facility sits, and related matters;
- (k) corresponding extensively with its legal counsel;
- (l) considering any potential action that Ayanda may commence against the Purchaser related to the failure by the Purchaser to close the Transaction; and
- (m) preparing this Supplementary Third Report.

VII. RECOURSE AGAINST THE PURCHASER

24. The Proposal Trustee commenced preliminary investigations regarding possible recourse that Ayanda or its stakeholders may have against the Purchaser for the failure to close the Transaction. Pursuant to the SPA, the SPA may be terminated by the Corporation with written notice to the Purchaser if: (a) there has been a material breach of a covenant by the Purchaser that is not cured by the Outside Date (as defined in the SPA), or (b) any of the closing conditions set out in the SPA have not been fulfilled by the Outside Date. The Proposal Trustee notes that the failure to pay the cash purchase price under the SPA is a material breach of a covenant and is one of the closing deliverables under the SPA.
25. Although the Proposal Trustee is not aware of any written notice of termination of the SPA from Ayanda to the Purchaser, Ayanda appears to be within its rights to terminate the SPA. Section 9.2 of the SPA governs the effect of such termination.

The SPA provides that all obligations of the parties under the SPA will terminate and no party will have liability or further obligation except, among other things: (a) parties are not relieved of any liability for an intentional breach of the provisions of the SPA, and (b) if the SPA is validly terminated by Ayanda, it is entitled to keep the Deposit (as defined in the SPA).

26. The Proposal Trustee does not have sufficient information at this time to determine if the Purchaser intentionally breached the SPA, which may result in liability of the Purchaser. However, the Proposal Trustee notes that Ayanda is permitted under the SPA to retain the Deposit, which it has done.
27. If Ayanda or its stakeholders decide to pursue litigation against the Purchaser, it is not clear if the Purchaser has any assets that may be used to satisfy a judgment. The Proposal Trustee notes that the Purchaser was incorporated on March 15, 2021, which may have been for the sole purpose of pursuing the Transaction with Ayanda. Attached hereto as **Appendix “D”** is a copy of the Federal Corporate Profile Report of the Purchaser.
28. The Proposal Trustee notes that should the Court grant the relief sought by the Proposal Trustee, the property that vests in the bankruptcy trustee includes “things in action”, and that the assignment of Ayanda into bankruptcy does not preclude pursuing a potential claim against the Purchaser should any estate inspectors appointed request that the bankruptcy trustee take such steps.

VIII. UPDATE ON PROPOSED REALIZATION STRATEGY FOR AYANDA’S ASSETS

29. As noted in the Third Report, following the destruction of the cannabis products/plant material at the Company’s premises (the “**Facility**”), it appears that Ayanda’s only remaining realizable assets are the Company’s lease for the Facility (the “**Ground Lease**”), the Facility itself, and the Company’s equipment.
30. The Facility, and the approximately two acres of land upon which the Facility is situated, is leased from Luke & Blanche Sioen Farms Ltd. (the “**Land Owner**”), a company controlled by Mike Sioen, a director and the Chief Executive Officer of Ayanda. The Ground Lease dated June 1, 2022, has a ten-year term with an option to extend for two additional five-year terms. Annual rent payable is \$400 (plus HST). The tenant is also responsible for payment of utilities and property taxes, and all other costs and expenses associated with the Facility. When the term of the Ground Lease expires, the Building and Improvements (each as defined in the Ground Lease) become the property of the tenant.
31. The Proposal Trustee has communicated with representatives of Richter’s real estate team and other real estate professionals in respect of the Ground Lease. These parties have provided a preliminary view that the rent payable under the Ground Lease is less than market. Further, the acquisition of the Building and Improvements at the expiration or termination of the Ground Lease is an additional attractive feature of the Ground Lease.

32. Notwithstanding any standalone value to the Ground Lease, the Proposal Trustee (and other interested parties) are of the view that the value of the Ground Lease, including the Building and Improvements, would be maximized by the inclusion of the approximately two acres of land upon which the Facility is situated as part of any sale process undertaken in respect of the Ground Lease. In this regard, and as verbally submitted by counsel to the Proposal Trustee during the August 14 Motion, the Proposal Trustee has corresponded with the Land Owner in an effort to gain the Land Owner's consent to include the lands underlying the Ground Lease in any sales process for the Ground Lease.
33. The Land Owner has provided its consent and authorization to marketing the real property underlying the Ground Lease as available for sale to a *bona fide* third party interested in purchasing the Facility (the "**Land Owner Consent**"). A copy of the Land Owner Consent is attached hereto as **Appendix "E"**.
34. In the view of the Proposal Trustee, inclusion of the underlying lands in any sale process for the Ground Lease (i.e., the Facility) will provide the best opportunity to maximize recoveries from Ayanda's remaining assets for the benefit of the stakeholders of Ayanda.

All of which is respectfully submitted this 23rd day of August, 2023.

**Richter Inc. (formerly, Richter Advisory Group Inc.)
in its capacity as Trustee *in re* the Proposal of
Ayanda Cannabis Corporation
and not in its personal capacity**

Per:



**Adam Sherman, MBA, CIRP, LIT
Senior Vice President**



**Adam Zeldin, CPA, CA, CIRP, LIT
Vice President**

Appendix “A”

Address Locator 0300A
Ottawa, ON K1A 0K9

LIC-7XU9IV6IQY-2023
LIC-J95QDE5BCV-2020

August 15, 2023

Ayanda Cannabis Corporation
c/o Michael Sioen (Responsible Person)
324 Burford Delhi Townline Road
Norwich, ON N0J 1P0

Subject: Notice of Intent to revoke a licence under the *Cannabis Act*

Michael Sioen,

This notice is to advise you that Health Canada intends to revoke Ayanda Cannabis Corporation's standard cultivation, standard processing sale for medical purposes and research licences pursuant to paragraph 65(h) of the *Cannabis Act* and subsection 31(a) of the *Cannabis Regulations*.

This action is being taken following Ayanda Cannabis Corporation's request for licence revocation and the submission of a notice of cessation of activities forms for both the commercial and research licences received on, August 3, 2023, and August 8, 2023, respectively.

Procedurally, the *Cannabis Act* requires Health Canada to provide all licence holders with an opportunity to make representations before a final action is taken to revoke their licence. In this case, revocation is occurring at your request. However, if you have given any further consideration to this decision and do not want to proceed with this action, we ask that you provide representations with your reasons, **by or before close of business 10 days after the date of this letter**. If you do not intend to submit comments, we ask that you advise us at your earliest convenience. In that case, Health Canada may proceed to revoke the licence before the deadline provided.

Please direct your response by email at licensing-cannabis-licences@hc-sc.gc.ca, and do not hesitate to contact us if you have further questions.

Sincerely,



David Pellmann
A/Director General
Licensing and Medical Access Directorate
Controlled Substances and Cannabis Branch
Health Canada

Appendix “B”

Zeldin, Adam

From: Mitch Grossell <MGrossell@tgf.ca>
Sent: Monday, August 14, 2023 4:33 PM
To: john couwenberg
Cc: Sherman, Adam; Zeldin, Adam; Robert Thornton
Subject: RE: Ayanda bankruptcy [IMAN-CLIENT.FID163882]
Attachments: (7)_ PROPOSAL AYANDA CANNABIS CORP_ Endorsement_BK-22-02802344-0035_ AUGUST 14-23_ Conway J.pdf

Attention! Courriel externe | External Email

Mr. Couwenberg,

Further to the direction of Justice Conway at the hearing today and the attached Endorsement, once you have had a chance to review the case website of the Proposal Trustee, please let us know if you have any additional questions related to the Proposal Trustee's motion.

Thanks,
Mitch



Mitch W. Grossell | | MGrossell@tgf.ca | Direct Line +1 416 304 7978 | | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

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-----Original Message-----

From: Mitch Grossell
Sent: Friday, August 11, 2023 5:06 PM
To: john couwenberg <couwenbergconcrete@outlook.com>
Cc: Adam Sherman <ASherman@Richter.ca>; Adam Zeldin <AZeldin@Richter.ca>; Robert Thornton <RThornton@tgf.ca>
Subject: RE: Ayanda bankruptcy [IMAN-CLIENT.FID163882]

Hi John,

Thank you for the call earlier. As I advised on the phone, I am counsel to Richter Inc., in its capacity as the Proposal Trustee of Ayanda. To that extend, I have copied Adam Sherman and Adam Zeldin on this email.

As we discussed, you may want to consider retaining independent legal advice with respect to the concerns you raised about Ayanda. In the meantime, all of the documents filed with the Court, including the Motion Record for the hearing on Monday, can be accessed at the following link: <https://www.richter.ca/insolvencycase/ayanda-cannabis-corporation/>. You may consider reviewing the Third Report of Richter Inc. dated August 4, 2023, which provides the background leading to the relief sought by the Proposal Trustee on Monday.

The hearing on Monday is scheduled to begin in front of Justice Conway at 12:00 p.m. (noon). It is a virtual hearing. The link to the hearing is as follows:

<https://ca01web.zoom.us/j/61474879934?pwd=NDQvb3ZKRkN0b3hpTWNPu1RaaWt0QT09#success>.

I will advise Justice Conway that you intend to make submissions to Her Honour for approximately 5 minutes.

Best regards,
Mitch

-----Original Message-----

From: john couwenberg <couwenbergconcrete@outlook.com>
Sent: Friday, August 11, 2023 3:43 PM
To: Mitch Grossell <MGrossell@tgf.ca>
Subject: Ayanda bankruptcy

Sent from my iPad I would like to attend the bankruptcy and have five minutes to speak at the proceedings

Zeldin, Adam

From: Mitch Grossell <MGrossell@tgf.ca>
Sent: Thursday, August 17, 2023 11:51 AM
To: nphfarms@hotmail.com
Cc: Sherman, Adam; Zeldin, Adam
Subject: RE: Ayanda [IMAN-CLIENT.FID163882]
Attachments: Endorsement of Justice Conway dated August 14, 2023.pdf

Attention! Courriel externe | External Email

Ms. Hanson,

I was provided with a copy of your email below. My firm is counsel to Richter Inc., in its capacity as Proposal Trustee of Ayanda.

Thank you for your email. I attach the Endorsement of Justice Conway dated August 14, 2023 for your ease of reference. In her Endorsement, Justice Conway advised that the August 14 motion was adjourned to permit the Proposal Trustee to engage with Ayanda's stakeholders regarding the concerns expressed at the motion. Justice Conway did not direct the Proposal Trustee or Ayanda to specifically provide information in respect of Ayanda's financials within two days of the hearing.

The Proposal Trustee's case website contains information related to Ayanda's insolvency proceedings, including historical and current financial information. The link to the case website is:

<https://www.richter.ca/insolvencycase/ayanda-cannabis-corporation/>.

Should you have any specific questions with respect to Ayanda, we would be happy to make inquiries and respond to any questions. To provide us with sufficient time to respond to any questions, please let us know if you have further questions by August 22.

Best,
Mitch



Mitch W. Grossell | | MGrossell@tgf.ca | Direct Line +1 416 304 7978 | | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | www.tgf.ca

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From: Patricia Hanson <nphfarms@hotmail.com>
Sent: Thursday, August 17, 2023 7:02 AM
To: Sherman, Adam <ASherman@Richter.ca>
Subject: Ayanda

Attention! Courriel externe | External Email

You don't often get email from nphfarms@hotmail.com. [Learn why this is important](#)

Good Morning Mr. Sherman,

On Friday Judge Conway had explained that B Shareholders were to have information as to date with details with Ayanda financials, we have not received a response. Can you please forward this to who is responsible and have it sent out to all B Shareholders today. Judge Conway had conveyed 2 days and it was agreed upon on Friday at noon.

Thank you in advance,

Patricia Hanson.

Appendix “C”

Zeldin, Adam

From: Zeldin, Adam
Sent: Wednesday, August 23, 2023 10:23 AM
To: 'Natalie Cain'
Cc: Sherman, Adam; 'Mitch Grossell'
Subject: RE: Ayanda - Adjourned Trustee Engagement
Attachments: CTLS March 2022 CSV file.csv; CTLS report Feb 2022 CVS file.csv; CTLS Report April 2022 csv.csv; CTLS Report May2022 csv file.csv; CTLS Report June 2022csv.csv; CTLS Report July 2022 csv.csv; CTLS Report Aug 2022 csv.csv; CTLS Report Sept 2022 csv file.csv

Hi Natalie,

Attached are Ayanda's CTLS reports for the period February 2022 to September 2022, as provided to the Proposal Trustee.

We believe that the attached reports are the final items to satisfy your information requests as set out in your below emails.

Should you have any further questions/information requests, please let us know.

Thanks,
Adam

From: Zeldin, Adam
Sent: Saturday, August 19, 2023 12:20 PM
To: Natalie Cain <natalieca0@gmail.com>
Cc: Sherman, Adam <ASherman@Richter.ca>; Mitch Grossell <MGrossell@tgf.ca>
Subject: RE: Ayanda - Adjourned Trustee Engagement

Hi Natalie,

As requested, attached please find the following reporting documents provided by Ayanda Cannabis Corporation ("**Ayanda**" or the "**Company**"):

- CTLS reporting for the period October 2022 to July 2023 (we will provide the remaining reports for the period February 2022 to September 2022 once received); and
- Destruction reports for the period January 2022 to July 2023.

Regarding your query about the seed to sale system used by Ayanda, we have been advised that Ayanda historically used a system provided by Ample Organics ("**Ample**"). The Proposal Trustee has been further advised that, as the cost to operate the Ample software was significant, following the filing of Ayanda Notice of Intention to Make a Proposal, the Company, with the approval of Health Canada, ceased using the Ample software. Ayanda noted that, as the Company did not have or expect any cannabis sales, Health Canada permitted Ayanda to track its limited production activities manually. The Proposal Trustee has reached out to representatives of Health Canada familiar with the Ayanda matter to confirm the above. The Proposal Trustee has not yet to connected with a representative of Heath Canada. We will provide a further update on this matter after speaking with Health Canada.

Thanks,
Adam

Zeldin, Adam

From: Zeldin, Adam
Sent: Monday, August 21, 2023 1:38 PM
To: Nataliecain0@gmail.com
Cc: Sherman, Adam; Mitch Grossell
Subject: RE: Ayanda - Adjourned Trustee Engagement
Attachments: Ayanda - Hyde Advisory Invoice - 337 - Oct 22, 2021.pdf; Ayanda - Hyde Advisory Invoice - 341 - Nov 12, 2021.pdf; Ayanda - CannaNavigators - Invoice 669.pdf

Hi Natalie,

Please see below for an update regarding your request for information/supporting documents concerning payments to Hyde Advisory and CannaNavigators:

1. Hyde Advisory – Based on a review of the Company’s records, the total amount paid to Hyde Advisory by Ayanda was \$8,475.00, comprising two payments of \$4,237.50 (\$3,750 plus HST) made on October 29, 2021 and November 25, 2021. Supporting invoices are attached here as requested.
2. CannaNavigators – as noted in my prior email, on July 24, 2023, \$1,412.50 was paid to CannaNavigators. As requested, the supporting invoice is attached and the scope of work is as follows:

PROPOSED SCOPE OF WORK

1. Strategic Advisory Services (5-hour block)

- Provide ongoing advisory services regarding the revocation of the license
- provide guidance and expert consultation and advice during the process
- back and forth communications via email, phone, and conference calls

Furthermore, we have been advised by CannaNavigators that no other amounts have been paid to them by Ayanda.

Please let us know if you have any questions.

Thanks,
Adam

Zeldin, Adam

From: Zeldin, Adam
Sent: Saturday, August 19, 2023 12:17 PM
To: Natalie Cain
Cc: Sherman, Adam; Mitch Grossell
Subject: RE: Ayanda - Adjourned Trustee Engagement
Attachments: Ayanda - PL - FY19.pdf; Ayanda - PL - FY20.pdf; Ayanda - PL - FY21.pdf; Ayanda - PL - FY22.pdf; Ayanda - PL - FY23 (Jan 1, 2023 to July 31, 2023).pdf

Hi Natalie,

As requested, please find attached the unaudited Profit and Loss Statements of Ayanda Cannabis Corporation (“**Ayanda**” or the “**Company**”) for the fiscal years ended December 31, 2019, 2020, 2021 and 2022 and the 7-month period ending July 31, 2023 (collectively, the “**Statements**”). The Proposal Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Statements and, as such, the Proposal Trustee expresses no opinion or other form of assurance as to the accuracy, reliability or completeness of same.

What is clear from the Statements is that the Ayanda has incurred significant losses since 2019. It does not have sufficient funds to continue operations of any sort and, as you have been previously advised, the Company currently has no employees and no prospect of generating or borrowing funds. Further, as the Company was not compliant with the *Cannabis Act*, Ayanda has taken steps to destroy all cannabis related product located at its premises and surrender its cannabis licenses. In the circumstances, the Proposal Trustee is of the view that Ayanda is not in a position to either successfully complete its Proposal, as approved by its creditors and the Court, or submit an amended Proposal capable of acceptance by its creditors that satisfies the requirements of the *Bankruptcy and Insolvency Act* (the “**BIA**”). The Proposal Trustee remains of the view, as stated in its Third Report to the Court dated August 4, 2023, that Ayanda’s Proposal should be annulled and the Company be deemed bankrupt. As noted in our prior communications to you, the Proposal Trustee is considering all means of maximizing recoveries to Ayanda’s stakeholders should the Court grant the relief requested by the Proposal Trustee.

With respect to your review of the Statements, we wish to remind you that, as part of the Proposal Trustee’s report to creditors providing the Proposal Trustee’s views on the Proposal presented by Ayanda to its creditors (the Report of the Proposal Trustee on the Financial Situation of the Debtor and Proposal dated April 29, 2022, the “**Proposal Report**”, a copy of which is available at the Proposal Trustee’s website), the Proposal Trustee reported on its preliminary review of the Company’s financial records, including bank statements for the 12-month period immediately preceding the filing of Ayanda’s Notice of Intention to Make a Proposal (February 4, 2022). The purpose of this review was to identify: (i) any disbursements greater than \$25,000 that may be considered preferences pursuant to the BIA, and (ii) any transactions that may be considered transfers at undervalue pursuant to the BIA. As part of this review, the Proposal Trustee made inquiries of certain members of Ayanda’s management, including individuals with knowledge of the Company’s day-to-day financial transactions, to discuss the potential existence of any such transactions. As noted in the Proposal Report, based on its review, the Proposal Trustee did not identify any transactions that appeared to be at undervalue or that would otherwise be reviewable in accordance with sections 95 to 101 of the BIA.

Should you have any questions following your review of the Statements, please let us know.

With respect to your other information/documentation requests, we have received certain of the requested information/documentation and will provide you with copies under separate email.

Regards,

Adam

From: Natalie Cain <nataliecain0@gmail.com>
Sent: Friday, August 18, 2023 2:34 PM
To: Zeldin, Adam <AZeldin@Richter.ca>

Cc: Sherman, Adam <ASherman@Richter.ca>; Mitch Grossell <MGrossell@tgf.ca>

Subject: Re: Ayanda - Adjourned Trustee Engagement

Attention! Courriel externe | External Email

Hello,

I intend to address the responses above, urgently I request any **P&L Statements** Richter has in your records, my aim is to review this weekend.

Thanks,

Natalie

On Thu, Aug 17, 2023 at 10:44 PM Zeldin, Adam <AZeldin@richter.ca> wrote:

Hi Natalie,

We confirm receipt of your below email. For purposes of addressing the various questions raised in your email, we have summarized your queries and our responses as follows:

- Status of CTLS Reports** – Following receipt of your email dated August 15, 2023, the Proposal Trustee reached out to Ayanda’s directors to assist with gathering/compiling the requested documentation. As noted in the Proposal Trustee’s Third Report dated August 4, 2023 (a copy of which, without appendices, is attached here for reference. A copy with appendices is available on the case website here: <https://www.richter.ca/insolvencycase/ayanda-cannabis-corporation/>) (the “**Third Report**”), Ayanda has no remaining employees or business operations. The only individuals available to assist with the retrieval of Company records are Ayanda’s two remaining directors, one of which we understand is currently on vacation. The Proposal Trustee continues to follow up with Ayanda regarding the requested CTLS Reports and we will provide you with copies of the reports following our receipt of same.
- P&L Statements** – Please clarify the fiscal year(s) that you would like to review the P&L statements. In the Third Report, the Proposal Trustee reported on all Ayanda’s receipts and disbursements for the period from February 4, 2022 (the day it filed its notice of intention to make a proposal, “**NOI**”) to July 31, 2023. If you have any specific questions regarding the schedule of receipts and disbursements in the Third Report, please let us know.
- Shareholders and the Service List** – The Proposal Trustee understands that Ayanda has provided communication to the Class B Shareholders throughout the insolvency proceedings, including access to the case website maintained by the Proposal Trustee. The purpose of the case website is to allow easy and inexpensive access of court documents to stakeholders involved in Commercial List proceedings, and to parties with a potential interest in the proceedings, including providing a mechanism to facilitate the dissemination of information to larger groups of interested parties, such as general unsecured creditors and shareholders. The Class B shareholders were notified of the case website’s existence at the onset of Ayanda’s NOI proceedings – a copy of the Proposal Trustee’s statutory notice advising Ayanda’s known creditors of its NOI filing (and included the URL to the case website), which was issued on February 11, 2022, was sent to Class B shareholders.
- Link on David Hyde’s Website re: Sale Listing** – Based on discussions with Mr. David Hyde, the Proposal Trustee understands that the listing attached to the link in your email is related to Ayanda and that it is the original listing associated with the prior sale process conducted by his firm. Mr. Hyde also informed the Proposal

Trustee that the listing was not removed from the website because the transaction did not close - the listing, however, has been revised to indicate that the listing was "UNDER OFFER". Mr. Hyde further advised that his firm has not been actively engaged in any marketing of Ayanda since the LOI between Ayanda and the purchaser was executed.

5. **Amounts Paid to Hyde Advisory** – No amounts were paid to Hyde Advisory since the NOI filing date (February 4, 2022). The Proposal Trustee will communicate with Ayanda's directors to determine what, if any, amounts were paid to Hyde Advisory prior to that date and request supporting documentation for any amounts paid. We note that part of Hyde Advisory's compensation was payable upon the closing of the contemplated transaction. Since the transaction did not close, these amounts were not paid. The fee arrangement was described in the Affidavit of David Hyde sworn February 22, 2022.

6. **Amounts paid to CannaNavigators** – On July 24, 2023, \$1,412.50 was paid to CannaNavigators. We will request copies of any supporting documentation and provide you with copies following our receipt of same. The Proposal Trustee is not aware of any further payments made to CannaNavigators but will seek confirmation from Ayanda.

7. **Can the Listing for the Sale of Ayanda's Business be Explored** – As noted above and in the Third Report, Ayanda has no remaining employees or business activities. It also has limited cash and no prospects to either generate cash or borrow further funds. In addition, based on discussions with Mr. Hyde, it was his view that for a variety of reasons Ayanda's cannabis licenses held little, if any, value. In the circumstances, and for the reasons summarized in the Third Report, Ayanda has taken steps to destroy all cannabis related product located at its premises and surrender its cannabis licenses. In response to Ayanda's actions, on August 15, 2023, Health Canada provided written notice to Ayanda of its intention to revoke Ayanda's cannabis licenses. Taking all the foregoing into consideration, the Proposal Trustee is of the view that Ayanda's Proposal to its creditors (in its current or an amended form) cannot continue without injustice or undue delay to Ayanda's creditors.

The Proposal Trustee shares your desire to maximize recoveries from Ayanda's assets. In this regard, and as noted during our counsel's submissions before Justice Conway, should the Court grant the relief requested by the Proposal Trustee, the Proposal Trustee has been considering various means to maximize recoveries to Ayanda's stakeholders in such scenario, including the possibility of including the land encompassing the lease for Ayanda's premises in any future potential sale process. We hope to be in a position to provide the Court with an update on this possibility during our next Court attendance.

As noted above, we will provide you with copies of the CTLS Reports and other requested documents following our receipt of such documentation. In the interim, should you have any additional questions or require any further information, please let us know.

Thanks,

Adam

RICHTER

BUSINESS | FAMILY OFFICE

ADAM
ZELDIN
CPA, CA, CIRP, LIT
VICE-PRESIDENT

AZeldin@Richter.ca
D 416.646.7390



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From: Natalie Cain <nataliecain0@gmail.com>
Sent: Thursday, August 17, 2023 11:49 AM
To: Zeldin, Adam <AZeldin@Richter.ca>
Cc: Sherman, Adam <ASherman@Richter.ca>
Subject: Re: Ayanda - Adjourned Trustee Engagement

Attention! Courriel externe | External Email

Hello,
Can you please update me on providing Ayanda's CTLS documents? It should be less than two dozen already completed excel documents that should be readily available to share.

As referred to in the Endorsement of Justice Conway (14-AUG-2023)

"Various stakeholders attended today to express their concerns about the company, how it was operated, and what information is available to them. In particular, Mr. Couwenberg, a Class B shareholder, told the court that he only obtained access to the Proposal Trustee's website last Friday."

John Couwenburg also expressed his concerns of not having access to Ayanda's "books." I would also like to review Ayanda's P&L statements.

As per Justice Conway's query during the last proceedings, why are all shareholders not being invited to attend/added to the service lists of these proceedings?

I've emailed David Hyde to confirm Ayanda's listing on Hyde Advisory's listing website. I have yet to hear back, can you confirm this link is for Ayanda's listing: <https://www.hydeadvisory.com/listing/6682104214>

I would like to know how much Hyde Advisory has been paid, please provide all invoices.

I would like to know how much David Hyde's licensing and regulatory consulting company, CannaNavigators, was paid including scope of work. Please provide all invoices.

Note: Hyde has a listing on Hyde Advisory (<https://www.hydeadvisory.com/cannabis-business-listing-1/9164062700>) stating,

%Z h0ixqgghg ex | huv vhn lqj dfhqvhg sur fhvvlqj exvlg hvvhv2idflwlv iurp 8n 083n . vt iwlg wkh JWD
+6uhihuuhg , ruVZ R Q

- Serious, experienced buyer groups with existing brands, contracts and solid business plans
- Seeking licensed processing businesses/facilities from 5k - 50k+ sq ft in the GTA (preferred) or SW-ON
- Well funded groups and cash buyers willing to purchase licenced businesses, with or without real estate
- Operating facilities preferred but open to newly licenced and pre-revenue options
- Seeking outright acquisition; will consider merger or partnership"

As bankruptcy should be the last resort, can this listing be explored?

Thanks,

Natalie

On Wed, Aug 16, 2023 at 9:42 AM Zeldin, Adam <AZeldin@richter.ca> wrote:

Hi Natalie,

We are working on your request and will get back to you. In the meantime, if you have any further questions, please let us know.

Thanks,

Adam

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BUSINESS | FAMILY OFFICE

ADAM
ZELDIN

CPA, CA, CIRP, LIT
VICE-PRESIDENT

AZeldin@Richter.ca
D 416.646.7390



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From: Natalie Cain <nataliecain0@gmail.com>
Sent: Tuesday, August 15, 2023 2:28 PM
To: Zeldin, Adam <AZeldin@Richter.ca>; Sherman, Adam <ASherman@Richter.ca>
Subject: Ayanda - Adjourned Trustee Engagement

Attention! Courriel externe | External Email

Hello,

Following Justice Conway's adjournment of the Proposal Trustee's motion (if granted, that would result in an automatic bankruptcy of the company) I seek clarification from Richter, as Proposal Trustee, on issues expressed during the motion before the matter returns for adjudication.

I would like to review CTLS monthly reports of Ayanda Cannabis Corporation, particularly those reporting inventory during the insolvency proceedings.

I would also like to know which Health Canada Approved cannabis tracking system/systems (e.g. Seed to Sale system) was used by Ayanda.

Thank you,

Natalie

Appendix “D”



Corporate Profile / Profil corporatif

Date and time of Corporate Profile (YYYY-MM-DD)	2023-08-21 5:03 PM	(AAAA-MM-JJ) Date et heure du Profil corporatif
--	--------------------	--

CORPORATE INFORMATION		RENSEIGNEMENTS CORPORATIFS	
Corporate name			Dénomination
	12830353 CANADA INCORPORATED		
Corporation number	1283035-3	Numéro de société ou d'organisation	
Business number	773462940RC0001	Numéro d'entreprise	
Governing legislation			Régime législatif
	Canada Business Corporations Act (CBCA) - 2021-03-15 Loi canadienne sur les sociétés par actions (LCSA) - 2021-03-15		
Status			Statut
	Active Active		

REGISTERED OFFICE ADDRESS	ADRESSE DU SIÈGE
	87 Dunrobin Crescent Vaughan ON L4H 4A9 Canada

ANNUAL FILINGS		DÉPÔTS ANNUELS	
Anniversary date (MM-DD)	03-15	(MM-JJ) Date anniversaire	
Filing period (MM-DD)	03-15 to/au 05-14	(MM-JJ) Période de dépôt	
Status of annual filings			Statut des dépôts annuels
	Filed	2023	Déposé
	Filed	2022	Déposé
Date of last annual meeting (YYYY-MM-DD)	2023-03-14	(AAAA-MM-JJ) Date de la dernière assemblée annuelle	
Type	Non-distributing corporation with 50 or fewer shareholders Société n'ayant pas fait appel au public et comptant 50 actionnaires ou moins		Type

DIRECTORS		ADMINISTRATEURS
Minimum number	1	Nombre minimal
Maximum number	10	Nombre maximal
Current number	2	Nombre actuel
Pankaj Sharma	87 DUNROBIN CRES, KLEINBURG ON L4H 4A9, Canada	
Nafiseh Moosayebi	89 ROSSHAVEN CRESENT, WOODBRIDGE ON L4L 1A6, Canada	

CORPORATE HISTORY		HISTORIQUE CORPORATIF
Corporate name history (YYYY-MM-DD)		(AAAA-MM-JJ) Historique de la dénomination
2021-03-15 to present / à maintenant	12830353 CANADA INCORPORATED	
Certificates issued (YYYY-MM-DD)		(AAAA-MM-JJ) Certificats émis
Certificate of Incorporation	2021-03-15 Certificat de constitution en société	
Amendments details are only available for amendments effected after 2010-03-20. Some certificates issued prior to 2000 may not be listed.	Seuls les renseignements concernant les modifications effectuées après 2010-03-20 sont disponibles. Certains certificats émis avant 2000 pourraient ne pas être listés.	
Documents filed (YYYY-MM-DD)		(AAAA-MM-JJ) Documents déposés

The Corporate Profile sets out the most recent information filed with and accepted by Corporations Canada as of the date and time set out on the Profile.	Le Profil corporatif fait état des renseignements fournis et acceptés par Corporations Canada à la date et à l'heure indiquées dans le profil.
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Appendix “E”

CONSENT

RECITALS

- A. On February 2, 2022, Ayanda Cannabis Corporation (“**Ayanda**”) and 12830353 Canada Inc. (the “**Purchaser**”) entered into a share purchase agreement whereby the Purchaser agreed to acquire all of the issued and outstanding shares of Ayanda (the “**Share Transaction**”);
- B. On February 4, 2022, Ayanda filed a Notice of Intention to Make a Proposal (“**NOI**”) under the *Bankruptcy and Insolvency Act* (the “**BIA**”) and initiated a proceeding under Court File No. 35-2802344 (the “**NOI Proceeding**”);
- C. On April 19, 2022, Ayanda filed a proposal (as amended, the “**Proposal**”) pursuant to Part III of the BIA, which was subsequently amended at a meeting of creditors held on May 9, 2022. The Proposal was conditional upon closing of the Share Transaction and contemplated payment in full of all amounts owed by Ayanda to its creditors and a meaningful distribution to the Class B shareholders of Ayanda;
- D. The Proposal was approved by the Ontario Superior Court of Justice (Commercial List (the “**Court**”) on June 3, 2022;
- E. The Purchaser has failed to close the Share Transaction, and due to a change in circumstances, including the resignation of Ayanda’s last remaining employee and the cessation of operating activities, on June 18, 2023, the Proposal Trustee issued a Material Adverse Change Report with respect to the change in Ayanda’s circumstances (the “**Material Adverse Change Report**”);
- F. Prior to the NOI Proceeding, Ayanda constructed a 55,000 square foot facility (the “**Facility**”) located on a two-acre parcel (the “**Facility Land**”) of approximately 100 acres of land in Norfolk County, Ontario (the “**Land**”);
- G. Luke & Blanche Sioen Farms Ltd. (the “**Land Owner**”) is the owner of the Land;
- H. On June 1, 2022, Ayanda and the Land Owner entered into a lease agreement that, among other things, leased the Facility Land to Ayanda for a term of ten years, with two five-year extension options;
- I. Due to the change in circumstances of Ayanda leading to the issuance of the Material Adverse Change Report, on August 4, 2023, the Proposal Trustee brought a motion to, among other things, deem the Proposal annulled and assign Ayanda into bankruptcy;
- J. In a proposed liquidation of the remaining assets of Ayanda, including the Facility, it may maximize value for the stakeholders of Ayanda to market the sale of the Facility and the Facility Land; and
- K. The Land Owner is willing to consider the sale of the Facility Land to a third party purchaser.

Consent

1. The Land Owner provides its consent and authorization to Ayanda to market the Facility Land as being available for sale to a third party purchaser that is interested in purchasing the Facility.
2. Subject to agreement on purchase price, including the allocation of same, and at the direction of any such purchaser of the Facility Land, the Land Owner shall cooperate and assist with the severance of the Facility Land from the Land on a best efforts basis, including with respect to any applications, consents or registrations necessary with the applicable land registry authority.

This Consent is provided as of the *21* day of [August], 2023

LUKE & BLANCHE SIOEN FARMS LTD.

Per:

Name: *Michael Sioen*

Title: *President*