

COURT FILE NO. 2201-11627
COURT COURT OF KING'S BENCH OF ALBERTA
(IN BANKRUPTCY & INSOLVENCY)
JUDICIAL CENTRE CALGARY



APPLICANTS IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
RSC 1985, C C-8, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF BR CAPITAL LP, BR CAPITAL INC.,
ICE HEALTH SYSTEMS LP, ICE HEALTH SYSTEMS GP LP, ICE
HEALTH SYSTEMS INC., HEALTH EDUCATION LP, HEALTH
EDUCATION GP LP, HELP INC., FIRST RESPONSE
INTERNATIONAL LP, FIRST RESPONSE INTERNATIONAL GP
LP, FIRST RESPONSE INTERNATIONAL INC., ICE HEALTH
SYSTEMS LTD AND SESCO HEALTH SERVICES INC.

AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF
HEALTH SYSTEMS INC., HELP INC., FIRST RESPONSE
INTERNATIONAL INC., ICE HEALTH SYSTEMS LTD AND
SESCO HEALTH SERVICES INC. UNDER THE *BUSINESS
CORPORATIONS ACT*, RSA 2000, CH B-9, AS AMENDED

DOCUMENT **ORDER (Procedural Consolidation, Administration Charge,
Interim Financing, Interim Financing Charge, D&O Charge and
Stay Extension)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attn: **Tom Cumming / Stephen Kroeger**
Phone: 403.298.1938 / 403.298.1018
Fax: 403.263.9193
Email: tom.cumming@gowlingwlg.com / stephen.kroeger@gowlingwlg.com
File No.: A167833

DATE ON WHICH ORDER WAS PRONOUNCED: October 14, 2022

LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta

JUSTICE WHO MADE THIS ORDER: The Honourable Justice C. Dario in
Commercial Chambers

UPON THE APPLICATION of BR Capital LP (“**BR LP**”), BR Capital Inc. (“**BR GP**”), Ice Health Systems LP (“**ICE LP**”), Ice Health Systems GP LP (“**ICE GP LP**”), Ice Health Systems Inc. (“**ICE AB Inc.**”), Health Education LP (“**HE LP**”), Health Education GP LP (“**HE GP LP**”), Help Inc. (“**HE Inc.**”), First Response International LP (“**FRI LP**”), First Response International GP LP (“**FRI GP LP**”), First Response International Inc. (“**FRI Inc.**”), Ice Health Systems Ltd. (“**ICE Ltd.**”) and SESCO Health Services Inc. (“**SECSI**”) (collectively, the “**Applicants**”), filed October 5, 2022; **AND UPON** reading Affidavit of Mark Genuis, sworn October 5, 2022 (the “**Genuis Affidavit**”), the supplemental Affidavit of Mark Genuis, sworn October 6, 2022, and the Affidavit of Kristy DeLure, sworn October 14, 2022; **AND UPON** reading the Report of KPMG Inc. in its capacity as proposal trustee of the Applicants (in such capacity, the “**Proposal Trustee**”); **AND UPON** hearing submissions by counsel for the Applicants, counsel for the Proposal Trustee and any other counsel or other interested parties present,

IT IS HEREBY ORDERED THAT:

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today, and no other than those persons served is entitled to service of the notice of application.

PROCEDURAL CONSOLIDATION

2. The bankruptcy estates of the Applicants BR LP (Estate No. 25-095315), BR GP (Estate No. 25-2865866), ICE LP (Estate No. 25-095322), ICE GP LP (Estate No. 25-095321), ICE AB Inc. (Estate No. 25-2865872), HE LP (Estate No. 25-095320), HE GP LP (Estate No. 25-095318), HE Inc. (Estate No. 25-2865870), FRI LP (Estate No. 25-095317), FRI GP LP (Estate No. 25-095316), FRI Inc. (Estate No. 25-2865869), ICE Ltd. (Estate No.25-2866171) and SESCO (Estate No. 25-2865873) (each individually an “**Estate**”) shall, subject to further order of the Court, be procedurally consolidated into one estate (the “**Consolidated Estate**”) and shall continue under Estate No. 25-095315 (with the proceeding in respect thereof being the “**Consolidated Proposal Proceeding**”).
3. Without limiting the generality of the foregoing, the Proposal Trustee is hereby authorized and directed to administer the Consolidated Estates on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as proposal trustee under

the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the “*BIA*”) as if the Consolidated Estate were a single estate and the Consolidated Proposal Proceeding were a single proceeding under the *BIA*, including without limitation:

- (a) the meeting of creditors of the Applicants may be convened and conducted jointly, and the votes of creditors at such meeting shall be calculated on a consolidated basis;
 - (b) the Proposal Trustee is authorized to issue consolidated reports in respect of the Applicants; and
 - (c) the Proposal Trustee is authorized to deal with all filings and notices relating to the proposal proceedings of the Applicants, each as required under the *BIA*, on a consolidated basis.
4. Any pleadings or other documents served or filed in the Consolidated Proposal Proceeding by any party shall be deemed to have been served or filed in each of the proceedings comprising the Consolidated Proposal Proceeding.
5. A copy of this Order shall be filed by the Applicants in the Court file for each of the Estates but any subsequent document required to be filed will be hereafter only be required to be filed in the Consolidated Estate (Estate No. 25-095315).
6. The procedural consolidation of the Estates pursuant to this Order shall not:
 - (a) affect the legal status or corporate structure of the Applicants; or
 - (b) cause any Applicant to be liable for any claim for which it is otherwise not liable, or cause any Applicant to have an interest in an asset to which it otherwise would not have.
7. The Estates are not substantively consolidated, and nothing in this Order shall be construed to that effect.

8. The Proposal Trustee may apply to this Court for advice and directions with respect to the implementation of this Order or with respect to any other matter relating to the procedural consolidation of the Consolidated Estate.

ADMINISTRATION CHARGE

9. Legal counsel to the Applicants, the Proposal Trustee and Osler, Hoskin & Harcourt LLP, legal counsel to the Proposal Trustee, as security for their respective professional fees and disbursements incurred at up to their normal rates and charges in preparing for and during these Consolidated Proposal Proceedings, and both before and after the granting of this Order, shall be entitled to the benefit of, and are hereby granted, a security and charge (the “**Administration Charge**”) on all of the Applicants’ present and after-acquired assets, property and undertakings (the “**Property**”), which charge shall not exceed \$350,000.

INTERIM FINANCING

10. The Applicants are hereby authorized and empowered to obtain and borrow under an interim financing facility (the “**Interim Financing Facility**”) pursuant to the interim financing facility commitment letter dated July 26, 2022 (the “**Interim Financing Commitment Letter**”), among the Applicants as borrowers and 2443970 Alberta Inc. (“**244**”) as administrative agent for and on behalf of a group of lenders (244, in such capacity, the “**Interim Agent**”, and such lenders, together with the Interim Agent, the “**Interim Lenders**”), provided that borrowings under the Interim Financing Facility shall not exceed the principal amount of \$430,010 unless permitted by further order of this Court and agreed to by the Interim Lenders.
11. The Interim Financing Facility shall be on the terms and subject to the conditions set forth in the Interim Financing Commitment Letter attached as Exhibit “Y” to the Genuis Affidavit, as such Interim Financing Commitment Letter may be amended in accordance with its terms.
12. The Interim Lenders shall be entitled to the benefit of and are hereby granted a security and charge on the Property (the “**Interim Lenders’ Charge**”) as security for the payment and performance of the indebtedness, liabilities and obligations of the Applicants to the Interim Lenders under the Interim Financing Commitment Letter and the Interim Financing Facility created thereby in the principal amount of \$430,010 together with any interest accrued thereon or costs and expenses incurred thereunder.

D&O INDEMNIFICATION AND CHARGE

13. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers after the filing of the Applicants' notices of intention to file a proposal, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director or officer's gross negligence, willful misconduct or fraud.
14. Each of the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on all of the Property, which shall not exceed an aggregate amount of \$300,000, as security for the indemnity provided in this Order.

PRIORITY OF CHARGES

15. The filing, registration or perfection of the Administration Charge, the Interim Lenders' Charge and the D&O Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
16. Subject to paragraph 16.1, below, the Charges shall constitute a security and charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, deemed trusts, encumbrances and claims of secured creditors, statutory or otherwise in favour of any person, including liens and trusts created by federal and provincial legislation (collectively, the "**Encumbrances**"). The ranking as between the Charges shall be as follows:
 - (a) first, the Administration Charge;
 - (b) second, the Interim Lenders' Charge; and
 - (c) third, the D&O Charge.
- 16.1 With respect only to the property of SESCO HEALTH SERVICES INC. and not the property of any of the other Applicants, the Charges are subject to the claims (if any) of

His Majesty the King in right of Canada, as represented by the Minister of National Revenue pursuant to subsection 227(4.1) of the *Income Tax Act* (RSC 1985 c. 1 (5th Supplement), subsection 23(4) of the *Canada Pension Plan* (RSC 1985 c. C-8), subsection 86(2.1) of the *Employment Insurance Act* (S.C. 1996, c. 23), and section 76 of the *Alberta Personal Income Tax Act* (RSA 2000 c. A-30) against only SESCO HEALTH SERVICES INC.

17. Except as otherwise provided herein, or as may be approved by this Honourable Court, the Applicants shall not grant any Encumbrances over the Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants obtain the prior written consent of the beneficiaries of the Charges (the “**Chargees**”) or further order of this Court.
18. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) 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 provisions of any federal or provincial statutes; or
 - (e) 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**”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, shall create or be deemed to constitute a new breach by the Applicants of any Agreement to which they, or any one of them, is a party;
 - (ii) none of the Chargees shall have any liability to any person whatsoever as a result of any breach of any Agreement caused by or resulting from

the creation of the Charges, or the execution, delivery or performance of the Interim Financing Facility; and

- (iii) the payments made by the Applicants pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

EXTENSION OF TIME TO FILE A PROPOSAL

- 20. The time within which the Applicants are required to file a proposal to their creditors with the Official Receiver, under section 50.4 of the *BIA* is hereby extended to November 29, 2022.
- 21. Any interested party (including the Proposal Trustee and the Applicants) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.
- 22. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



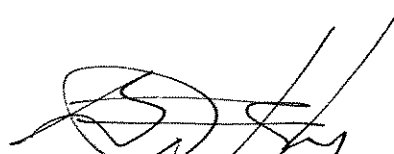
~~J.C.Q.B.A.~~
J.C.K.B.A.

Approved as to Form and Content
this ___ day of October, 2022 by Legal
Counsel for KPMG Inc., in its capacity as
Proposal Trustee for the Applicants



Randal Van de Mosselaer
Osler, Hoskin & Harcourt LLP

Approved as to Form and Content
this 19th day of October, 2022 by Counsel
for the Canada Revenue Agency



George F. Body
Department of Justice Canada