



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE
NO.:

BK-23-02946534-0031

DATE: 3 October 2023

NO. ON LIST: ² _____

TITLE OF PROCEEDING: **Proposal of Nanopay Corporation**

BEFORE JUSTICE: **Steele J.**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
Kenneth Kraft	Nanopay Corporation	kenneth.kraft@dentons.com
Sara- Ann Wilson	Nanopay Corporation	sara.wilson@dentons.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Shahrazad Hamraz	The Proposal Trustee (Dodick Landau Inc.)	shamraz@loonix.com
R. Graham Phoenix	The Proposal Trustee (Dodick Landau Inc.)	gphoenix@loonix.com
Rahn Dodick	The Proposal Trustee (Nanopay Corporation)	rahn.dodick@dodick.ca

ENDORSEMENT OF JUSTICE STEELE:

1. The proposal trustee brings a motion for, among other things, an order approving the amended proposal of Nanopay.
2. No one opposes the relief sought.
3. The meeting of creditors to vote on the proposal was held on September 11, 2023. Quorum was present. The proposal was accepted by the requisite number of unsecured creditors in number and value, as required by the *Bankruptcy and Insolvency Act*. Specifically, 92.31% of voting creditors voted for the proposal, representing 98.38% in value of the voting debt. The only creditor in the secured creditor class voted in favour of the proposal.

Should the Court approve the Proposal?

4. In determining whether to approve a proposal, s. 59(2) of the *Bankruptcy and Insolvency Act* provides:

(2) **Court may refuse to approve the proposal** - Where the court is of the opinion that the terms of the proposal are not reasonable or not calculated to benefit the general body of creditors, the court shall refuse to approve the proposal, and the court may refuse to approve the proposal whenever it is established that the debtor has committed any one of the offences mention in section 198 to 200.
5. To satisfy the test in s. 59(2) of the BIA, the following test must be satisfied:
 - a) the terms of the proposal are reasonable;
 - b) the proposal is calculated to benefit the general body of creditors;
 - c) the proposal is made in good faith.
6. The proposal trustee notes that the Court must consider the following general principles when considering BIA proposals:
 - a) the interests of the debtor, the creditors, and the public: *Kitchener Frame Limited (Re)*, 2012 ONSC 234, para. 20;
 - b) whether the proposal is more advantageous to creditors than a bankruptcy, and the proportion of creditors that have approved the proposal: *Kitchener Frame*, para. 21;
 - c) the interests of all stakeholders, and weigh effects of the proposal versus those of a bankruptcy: *Magi (Syndic de)*, 2006 QCCS 5129, para. 19b.
7. The terms of the proposal provide for the continuation of the company's business operations. Employment of the company's employees also continues under the proposal. The proposal trustee states that in a bankruptcy it is expected that no funds would be available for distribution to the unsecured creditors. Further, in a bankruptcy the business would cease to operate.
8. As noted above, the creditors have overwhelmingly voted in favour of the proposal.

9. The proposal trustee states that the proposal offers the creditors substantially more than they would receive upon a bankruptcy. The company has no cash on hand and its assets have limited realizable value.
10. The proposal provides for the payment of all Crown statutory priority claims, as required under the BIA. The Ontario Ministry of Finance has agreed to a proposed compromise of its secured claim under the proposal. Unsecured creditors may either elect to be part of a “convenience class” and take \$500, or receive their pro rata share of 1% of the new common shares of the company under the proposal.
11. I am satisfied that the terms of the proposal are reasonable and the proposal has been calculated to benefit the general body of creditors.
12. The company is acting in good faith. There is no evidence to the contrary. The proposal trustee states that the company made full disclosure of its assets and liabilities to the proposal trustee.
13. The requested relief also includes certain ancillary relief, including authorizing the cancellation of all existing common shares and the issuance of new common shares. The company is to be empowered to take the necessary corporate steps, including amending its articles. The court has the authority to make such an order under section 59(4) of the BIA, which provides:

If a court approves a proposal, it may order that the debtor’s constating instrument be amended in accordance with the proposal to reflect any change that may lawfully be made under federal or provincial law.

14. Order to go in accordance with the attached.

A handwritten signature in blue ink, appearing to be 'J. Lee' or similar, written in a cursive style.