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December 7, 2008

To Attached Service List

**RE: Mintz & Partners Limited Re: D'Angelo Brands Ltd.
and 1540633 Ontario Inc. O/A Steelback Breweries
Our File No.: 81165**

Please find enclosed our Responding Motion Record of the Monitor, for the motion returnable December 10, 2008, served upon you pursuant to the *Rules of Civil Procedure*.

Yours very truly,

KRONIS, ROTSZTAIN, MARGLES, CAPPEL

Per:



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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF AN APPLICATION BY WASANDA ENTERPRISES INC.
UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED AND BUSINESS CORPORATIONS ACT,
R.S.O. 1990, c.B-16, AS AMENDED**

**AND IN THE MATTER OF A PLAN OR PLANS OF COMPROMISE
OR ARRANGEMENT TO BE PROPOSED IN RESPECT OF
D'ANGELO BRANDS LTD. AND 1540633 ONTARIO INC.
O/A STEELBACK BREWERIES**

**RESPONDING MOTION RECORD
OF THE MONITOR, MINTZ & PARTNERS LIMITED
(Brewster sale approval and other relief)
(returnable December 10, 2008)**

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TAB 1

Court File No. 07-CL-7283

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF AN APPLICATION BY WASANDA ENTERPRISES INC.
UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36,
AS AMENDED AND *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B-16, AS
AMENDED**

**AND IN THE MATTER OF A PLAN OR PLANS OF COMPROMISE OR
ARRANGEMENT
TO BE PROPOSED IN RESPECT OF D'ANGELO BRANDS LTD. AND
1540633 ONTARIO INC. O/A STEELBACK BREWERIES**

**TENTH COURT REPORT OF MINTZ & PARTNERS LIMITED
IN ITS CAPACITY AS MONITOR OF THE DEBTORS
DECEMBER 5, 2008**

Court File No. 07-CL-7283

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF AN APPLICATION BY WASANDA ENTERPRISES INC.
UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36,
AS AMENDED AND *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, C. B-16, AS
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**AND IN THE MATTER OF A PLAN OR PLANS OF COMPROMISE OR
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TO BE PROPOSED IN RESPECT OF D'ANGELO BRANDS LTD. AND
1540633 ONTARIO INC. O/A STEELBACK BREWERIES**

**TENTH COURT REPORT OF MINTZ & PARTNERS LIMITED
IN ITS CAPACITY AS MONITOR OF THE DEBTORS
DECEMBER 5, 2008**

BACKGROUND AND PROCEEDINGS

1. Pursuant to an order (the "Initial Order") dated November 15, 2007 of the Honourable Madam Justice Pepall of the Ontario Superior Court of Justice, Commercial List (the "Court") made on the application of Wasanda Enterprises Inc. ("Wasanda" or the "Applicant"), a creditor, Mintz & Partners Limited was appointed monitor (the "Monitor") under the *Companies' Creditors Arrangement Act* ("CCAA") of D'Angelo Brands Ltd. ("D'Angelo Brands") and 1540633 Ontario Inc. o/a Steelback Breweries ("154") (each, a "Debtor" or collectively, the "Debtors").
2. Pursuant to the terms of the Initial Order, a stay of proceedings was granted until December 15, 2007 (the "Stay Period") preventing the creditors of the Debtors and other persons from taking any steps to commence or continue proceedings against the Debtors or enforce any remedies the

creditors may have had against the Debtors with respect to payment of any amounts outstanding to the creditors.

3. The application for the Initial Order made by Wasanda was consented to by the Debtors. Wasanda is the Debtors' primary secured and largest creditor and is owed over \$100 million in pre-filing debt. In addition, Wasanda has provided Debtor in Possession ("DIP") financing to the Debtors in accordance with the Initial Order. It is also the majority shareholder of D'Angelo Brands, Inc. ("DBI"), a Nevada Corporation, which was at the beginning of the CCAA proceedings the owner (directly or indirectly) of the Debtors.
4. In October 2008, 834934 Ontario Limited ("834"), an affiliate of Wasanda, purchased from DBI's Receiver, Shimmerman Penn Title & Associates Inc., all of DBI's ownership interest (directly or indirectly) in the share capital of the Debtors. 834 also holds Affected Claims against D'Angelo Brands and 154 totaling \$1,911,112 and \$2,108,565, respectively.
5. The Debtors operated one or more distinct businesses within the food and beverage industry in Ontario as described in detail in the Monitor's Reports to Affected Creditors dated September 25, 2008. As outlined below and as authorized by this Honourable Court, the primary operating assets of the Debtors have been sold.
6. On December 10, 2007, an Order was made by the Honourable Mr. Justice Siegel, among other things, (i) extending the Stay Period to February 13, 2008, (ii) approving the terms of the Key Employee Retention Program ("KERP") and authorizing the Debtors to enter into and perform their obligations under the KERP, and (iii) requiring that York Warehousing & Distribution Worldwide Inc., SJM Logistics and Confederation Freezers (collectively, the "Warehousers") release all D'Angelo Brands product (excluding Arizona Branded product) and that any proceeds from the sale of said products be held by the Monitor until further order of the Court.
7. On February 13, 2008, an Order was made by the Honourable Madam Justice Hoy (the "February 13, 2008 Order"), among other things, (i) extending the Stay Period to May 16, 2008, (ii) authorizing the Monitor to pay D'Angelo Brands certain funds held by the Monitor in trust and requiring D'Angelo Brands to pay certain settlement funds in accordance with the settlement arrangements entered into by D'Angelo Brands and the Warehousers, (iii) approving certain transactions contemplated by an Agreement of Purchase and Sale dated January 31, 2008 (the "215 Purchase Agreement") between D'Angelo Brands and 2156775 Ontario Inc. ("215") with respect to the disposition of certain assets of D'Angelo Brands and authorizing and directing the Monitor to

pay over to D'Angelo Brands the deposit monies being held by the Monitor under the terms of the 215 Purchase Agreement on the Closing Date, as that term is defined in the 215 Purchase Agreement, (iv) vesting in 215 all of the rights, title and interest, if any, of D'Angelo Brands in and to the purchased assets, upon the delivery by the Monitor of a Certificate confirming that all amounts payable by 215 pursuant to the terms of the 215 Purchase Agreement have been paid, all covenants to be performed by 215 pursuant to the terms of the 215 Purchase Agreement have been performed and all conditions of closing have been satisfied or waived, and (v) sealing the Purchase Agreement pending completion of the purchase transaction contemplated therein.

8. On March 7, 2008, an Order was made by the Honourable Madam Justice Hoy (the "Claims Procedure Order") approving a procedure to provide for (i) the identification, submission and determination of claims against the Debtors and their officers and directors, (ii) the publication of a notice to creditors in the Globe & Mail, and (iii) the barring of claims not filed.
9. On April 15, 2008, an Order was made by the Honourable Mr. Justice Cumming (the "Brewery Asset Approval and Vesting Order"), among other things, (i) approving the sale transaction contemplated by a Purchase and Sale Agreement dated April 10, 2008 (the "SBI Agreement") between the Debtors and Steelback Brewery Inc. ("SBI"), subject to a further sale and marketing process to be conducted by the Monitor in accordance with the bidding procedures attached to and forming part of the SBI Agreement (the "Bidding Procedures"), (ii) authorizing and directing the Monitor to conduct a sale and marketing process, in accordance with the Bidding Procedures, and (iii) upon issuance of a Monitor's Certificate, vesting in SBI all of the Debtors' rights, title and interests in and to certain brewery assets.
10. Also on April 15, 2008, an Order was made by the Honourable Mr. Justice Cumming approving a sale by 154 of a redundant piece of equipment known as a cooling tower to Greenfield Ethanol Inc. ("Greenfield"), and vesting in Greenfield all of 154's rights, title and interests therein and thereto.
11. On May 14, 2008, an Order was made by the Honourable Mr. Justice Morawetz, among other things, (i) extending the Stay Period to September 12, 2008, provided that a progress report is filed by the Monitor by July 21, 2008, and (ii) authorizing and directing the Monitor to distribute to Wasanda, from monies held from the sale of certain assets of the Debtors to SBI, all funds required to satisfy and repay all indebtedness, interest, fees, liabilities and obligations of the Debtors outstanding from time to time under and pursuant to the DIP credit facility extended by Wasanda pursuant to the Initial Order.

12. Also on May 14, 2008, an Order was made by the Honourable Mr. Justice Morawetz which made certain clerical amendments to the Brewery Asset Approval and Vesting Order.
13. On July 23, 2008, an Order was made by the Honourable Mr. Justice Morawetz, among other things, authorizing and directing the Monitor to distribute to Wasanda (i) the net proceeds in the hands of the Monitor received from the completion of the sale transaction to SBI, (ii) from the net proceeds received by the Monitor from any future sale of the Debtors' remaining assets, such amounts as may be required to repay the Debtors' secured indebtedness to Wasanda, subject to the Monitor's right to reserve such amounts as it may determine appropriate to satisfy the Administration Charge and the Directors' Charge (as defined in the Initial Order) and the secured claims of the City of Brampton as against the land and buildings owned by D'Angelo Brands, located at 14 Brewster Road, Brampton, and (iii) from the net proceeds in the hands of the Monitor received from the sale of the assets of Brasserie Steelback Inc. ("Brasserie"), all funds required to satisfy and repay all indebtedness, interest, fees, liabilities and obligations of the Debtors outstanding from time to time under and pursuant to the DIP credit facility extended by Wasanda pursuant to the Initial Order.
14. On September 11, 2008, an Order was made by the Honourable Mr. Justice Morawetz (the "Plan Filing and Meeting Order"), among other things, (i) authorizing Wasanda and 834 to file separate plans of compromise or arrangement dated September 8, 2008 in respect of the Debtors (the "Plan" or "Plans"), (ii) authorizing Wasanda and 834 to call, hold and conduct separate meetings of the unsecured creditors of each Debtor (the "Meeting" or collectively, the "Meetings") for the purpose of considering, and if deemed advisable, approving the Plans, and (iii) extending the Stay Period to and until December 10, 2008.
15. On October 30, 2008, the Applicant prepared an amended plan of compromise or arrangement in respect of each of the Debtors (the "Amended Plan" or collectively, the "Amended Plans"). The amendments contained in the Amended Plans were of a technical nature and did not affect the amount of the proposed distributions to Affected Creditors. Separate Meetings were held on October 30, 2008 to review, consider and vote on each Amended Plan. Each Amended Plan was approved by the requisite majority of Affected Creditors, representing 2/3rds in value of claims voting in person, by proxy or voting letter.
16. On November 13, 2008, Robbie Manufacturing, Inc. ("RMI") brought a motion for an order, among other things, directing payment to RMI by the Monitor of a \$400,000 reserve (the "RMI Reserve").

The RMI Reserve was being held by the Monitor in connection with a claim being asserted by RMI against D'Angelo Brands and Wasanda seeking the declaration of a constructive trust, among other relief. At the same time, Wasanda brought a cross-motion for an order, among other things, authorizing and directing the Monitor to pay the RMI Reserve to Wasanda. As stated in the Endorsement of Mr. Justice Morawetz dated November 13, 2008 (the "November 13, 2008 Endorsement"), the monies held by the Monitor in connection with the RMI Reserve should be paid to Wasanda, but not until such time as RMI has had the opportunity to consider whether it wishes to bring a further motion to have the RMI Reserve paid into Court. The November 13, 2008 Endorsement further notes that if RMI intends to bring such a motion, it is to be made returnable the week of November 24, 2008, otherwise the RMI Reserve may be paid to Wasanda on December 1, 2008, pending further order of the Court. As no such motion was brought by RMI within the required timeframe, the Monitor has paid the RMI Reserve to Wasanda.

17. On November 28, 2008, an order was made by the Honourable Mr. Justice Morawetz (the "Plan Sanction Order"), among other things, sanctioning the Amended Plans.
18. Copies of the Applicant's motion records, Monitor's reports, court orders, endorsements and other information in respect of the Debtors have been posted on the Monitor's website at www.mintzca.com under Insolvency and Restructuring Proceedings and are available to the public and all interested parties.

PURPOSE OF TENTH REPORT

19. This Monitor's tenth report (the "Tenth Report") is being filed in connection with the Applicant's motion for an order, among other things,:
- (i) approving the Agreement of Purchase and Sale dated July 17, 2008 (the "Brewster Purchase Agreement") between D'Angelo Brands and M. Gondosch in Trust ("Gondosch") with respect to certain real property of D'Angelo Brands municipally described as 14 Brewster Road, Brampton, Ontario (the "Brewster Property");
 - (ii) authorizing D'Angelo Brands to complete the transaction of purchase and sale contemplated by the Brewster Purchase Agreement;
 - (iii) directing D'Angelo Brands to pay to the Monitor the net proceeds in respect of Brewster Purchase Agreement;
 - (iv) upon the issuance of a Monitor's Certificate confirming that all conditions of closing have been satisfied or waived by D'Angelo Brands and Gondosch, vesting in Gondosch all of the rights, title and interests, if any, of D'Angelo Brands in and to the Brewster Property, free and clear of all encumbrances (other than Permitted Encumbrances);
 - (v) sealing the Brewster Purchase Agreement and the Appraisal, as defined hereinafter, pending completion of the purchase transaction contemplated by the Brewster Purchase Agreement;
 - (vi) authorizing and directing the Monitor to pay to Wasanda proceeds in connection with a settlement agreement between D'Angelo Brands and The Boiler Inspection and Insurance Company ("B, I & I"); and
 - (vii) extending the Stay Period up to and until January 9, 2009.
20. In developing the Tenth Report, the Monitor has relied upon unaudited financial and other information from and discussions with the management of the Debtors, Wasanda and its legal counsel.

21. The Tenth Report discusses the following matters:

- A. Sale of Brewster Property
- B. B, I & I Settlement Agreement
- C. Stay Period Extension and Debtors' Cash Flow Forecasts
- D. Debtors' Receipts and Disbursements
- E. Monitor's Receipts and Disbursements
- F. Monitor's Activities
- G. Recommendations

A. Sale of Brewster Property

22. As previously reported to this Court, D'Angelo Brands ceased its operations in December 2007 and sold its primary business assets, consisting of machinery and equipment, raw material inventory and related trademarks, to 215 as authorized by the February 13, 2008 Order. Other assets, such as finished goods inventory and accounts receivable, have been realized upon by D'Angelo Brands in the normal course. Real property owned by D'Angelo Brands, consisting of the Brewster Property and a greenhouse located at 148 Farrell Drive, Tiverton, Ontario, has been made available for sale by the Debtor.
23. The Debtors maintained their head office and a warehouse at the Brewster Property, until they moved to smaller premises in May 2008. The Brewster Property consists of a building (warehouse/office) totaling approximately 54,000 sq. ft. on 3.58 acres of land.
24. In March 2008, D'Angelo Brands entered into an MLS listing agreement with Colliers MacAulay Nicolls (Ontario) Inc., Brokerage ("Colliers") for the sale of the Brewster Property at a list price of \$5.0 million. The list price was established by D'Angelo Brands in consultation with Colliers, based on an opinion of value received from Colliers.
25. Further, in May 2008, D'Angelo Brands obtained an appraisal (the "Appraisal") of the Brewster Property from Hendren Mitchell Real Estate Appraisals Ltd.

26. As outlined in the affidavit of Glen A. Huber dated December 3, 2008 ("Huber Affidavit"), Colliers marketed the Brewster Property by:
- (i) Posting a listing on the MLS;
 - (ii) Emailing information to all agents in the Greater Toronto Area commercial database;
 - (iii) Mailing information directly to 1,000 industrial users within the target market;
 - (iv) Providing tours of the Brewster Property to prospective purchasers;
 - (v) Installing "For Sale" signage on the Brewster Property; and
 - (vi) Advertising the Brewster Property in the April 2008 and May 2008 editions of the Brampton Business Times and the May 2008 edition of the Mississauga Business Times.
27. Further, as outlined in the Huber Affidavit, there were twenty-two (22) prospective purchasers and offers were received from five (5) different prospective purchasers. D'Angelo entered into negotiations with three (3) prospective purchasers.
28. In May 2008, D'Angelo Brands entered into a conditional sale agreement with one prospective purchaser which agreement was not completed, as the conditions to the agreement were not met or waived by the prospective purchaser, and D'Angelo Brands was unwilling to grant an extension on the terms requested by the prospective purchaser.
29. In July 2008, a new prospective purchaser, Gondosch, offered to purchase the Brewster Property. In August 2008, D'Angelo Brands entered into the Brewster Purchase Agreement with Gondosch, conditional upon a satisfactory environmental inspection and suitable financing being obtained by Gondosch, and subject to the approval of this Honourable Court. The closing date of the Brewster Purchase Agreement was set at thirty (30) days after the waiving of conditions by Gondosch. An initial deposit of \$60,000 was made which is being held by Colliers.
30. On September 25, 2008, an adjustment to the purchase price and a delay in the closing date to January 6, 2009 was agreed to by the parties, and Gondosch waived all conditions to the Brewster Purchase Agreement. Subsequently, a further deposit of \$100,000 was paid to Colliers, as required by the Brewster Purchase Agreement.

31. Copies of the Brewster Purchase Agreement and the Appraisal have been provided to this Honourable Court as part of the Applicant's motion materials in a separate, sealed envelope. The Applicant has requested that the Brewster Purchase Agreement and the Appraisal be sealed until the completion of the transaction contemplated by the Brewster Purchase Agreement to protect the integrity of the sale process in the event the transaction is not completed and the Brewster Property has to be remarketed. The Monitor is of the view that the Applicant's request is reasonable and appropriate under the circumstances.
32. As previously reported to this Honourable Court, Wasanda is the only creditor with an economic interest in the assets of the Debtors. Wasanda has consented to D'Angelo Brands entering into the Brewster Purchase Agreement and has brought the motion for the approval of the Brewster Agreement.
33. The Monitor is of the view that the sale process with respect to the Brewster Property was fair and reasonable and that it provided anyone who may have had an interest in acquiring the Brewster Property a reasonable opportunity to do so. Based on the results of the sale process, and having reviewed the Appraisal, the Monitor is of the view that the purchase price obtained in respect of the Brewster Property is fair and reasonable.

B. B, I & I Settlement Agreement

34. On February 16, 2004, D'Angelo Brands commenced a legal action and issued a statement of claim against B, I & I for approximately U.S. \$932,000, alleging that B, I & I failed, refused or neglected to honour its obligations under an insurance policy covering equipment breakdown (the "B, I & I Litigation"). B, I & I counterclaimed in the amount of \$394,000 relating to storage charges and professional fees incurred in connection with its defence and filed a proof of claim in the amount of its counterclaim pursuant to the Claims Procedure Order. The Monitor disallowed B, I & I's proof of claim on the basis that the allegations in the counterclaim are disputed by D'Angelo Brands and that B, I & I's claim could not be valued. B, I & I appealed the Monitor's decision and obtained an order on consent lifting the stay of proceedings to permit its counterclaim to proceed.
35. The Monitor has been advised that D'Angelo Brands and B, I & I have now settled the B, I & I Litigation (the "B, I & I Settlement") on the following terms:

- (i) B, I & I shall make a payment to the Monitor in the amount of \$60,000 (the "Settlement Proceeds");
- (ii) D'Angelo Brands shall consent to the dismissal of its claim against B, I & I, without costs;
- (iii) B, I & I shall consent to the dismissal of its counterclaim against D'Angelo Brands and to the withdrawal of its proof of claim in this CCAA proceeding, without costs; and
- (iv) Mutual releases shall be signed.

- 36. As the B, I & I Settlement will result in a payment by B, I & I to D'Angelo Brands and the resolution of the disputes in both the B, I & I Litigation and these CCAA proceedings, the Monitor is of the view that the B, I & I Settlement is reasonable under the circumstances.
- 37. Wasanda, as the only party with an economic interest in the Settlement Proceeds, has consented to the B, I & I Settlement.

C. Stay Period Extension and Debtors' Cash Flow Forecasts

- 38. Pursuant to the Plan Filing and Meeting Order, the Stay Period was extended to and until December 10, 2008.
- 39. Wasanda and 834 have brought a motion to further extend the Stay Period by approximately one month, up to and until January 9, 2009, to allow sufficient time for:
 - (i) Wasanda and the Debtors to satisfy the remaining conditions precedent to the Amended Plans, namely the completion of amended loan agreements and to allow for the expiry of all appeal periods in respect of the Plan Sanction Order; and
 - (ii) D'Angelo Brands to complete the transaction contemplated by the Brewster Purchase Agreement.

40. The Debtors have prepared cash flow forecasts for the period December 1, 2008 to January 9, 2009 which are attached as “**Appendix A**” (D’Angelo Brands) and “**Appendix B**” (154). The forecasts are based on certain key assumptions, which are discussed below.
- (i) During the week ending December 19, 2008, the Debtors will borrow a total of approximately \$796,000 from Wasanda pursuant to the DIP credit facility and forward these funds to the Monitor for distribution to the Debtors’ Affected Creditors. Thereafter, the Monitor will distribute approximately \$383,000 to the Affected Creditors of D’Angelo Brands and approximately \$413,000 to the Affected Creditors of 154;
 - (ii) Operating costs, salaries, consulting and professional fees will be paid in the normal course; and
 - (iii) D’Angelo Brands will continue to receive monthly equipment lease payments and inventory standby charges from 215 in respect of the 215 Purchase Agreement.
41. The cash flow forecasts indicate that the Debtors are expected to incur a negative cash flow of approximately \$1.45 million, consisting of \$658,000 for D’Angelo Brands and \$796,000 for 154. To fund this, the Debtors are forecasting utilizing their cash on hand of approximately \$48,200 (\$46,600 for D’Angelo Brands plus \$1,600 for 154), plus additional DIP advances of approximately \$1.41 million (\$612,000 for D’Angelo Brands and \$795,000 for 154).
42. Wasanda, as DIP Lender, has advised the Monitor that it has approved the Debtors’ cash flow forecasts and is willing to fund the Debtors’ operations and the distributions to the Affected Creditors during the extended Stay Period.
43. In the Monitor’s view, the Debtors and the Applicant are making efforts in good faith and with due diligence to complete the restructuring of the Debtors. Further, it is the Monitor’s view that a one month extension of the Stay Period up to and including January 9, 2009 is reasonable.

D. Debtors’ Receipts and Disbursements

44. The Monitor is reviewing the Debtors’ disbursements on an on-going basis. On a weekly basis, the Monitor is reviewing the Debtors’ summary of receipts and disbursements, cash flow variance analysis, bank reconciliations and working capital balances.

D'Angelo Brands

45. In the Applicant's September 8, 2008 motion materials, a cash flow forecast from D'Angelo Brands indicated that it expected to generate a net cash deficiency of \$461,000, prior to any advances from its DIP Lender, for the period September 1, 2008 to November 28, 2008. The actual cash deficiency was only \$199,000, resulting in a positive cash flow variance of approximately \$262,000 primarily due to lower than forecast operating costs and professional fees paid and the collection of a GST refund that was not anticipated during the forecast period. A summary schedule comparing actual results to forecast is attached hereto as "**Appendix C**".
46. On a cumulative basis from the CCAA filing of November 15, 2007 to November 28, 2008, D'Angelo Brands has generated a net cash deficiency of approximately \$1.2 million, prior to any DIP advances. Over this period, D'Angelo Brands has received DIP financing from Wasanda of \$1.393 million, prior to ongoing interest and costs, all of which has been repaid pursuant to the Third Stay Extension and Distribution Order, the July 23, 2008 Distribution Order and the November 13, 2008 Endorsement. A summary of receipts and disbursements for the period November 15, 2007 to November 28, 2008 is attached hereto as "**Appendix D**".

154

47. In the Applicant's September 8, 2008 motion materials, a cash flow forecast from 154 indicated that it expected to generate a net cash deficiency of \$475,000, prior to any advances from its DIP Lender, for the period September 1, 2008 to November 28, 2008. The actual cash deficiency was only \$231,000, resulting in a positive cash flow variance of approximately \$244,000 primarily due to lower than forecast operating costs and professional fees paid. A summary schedule comparing actual results to forecast is attached hereto as "**Appendix E**".
48. On a cumulative basis from the CCAA filing of November 15, 2007 to November 28, 2008, 154 has generated a net cash deficiency of approximately \$3.2 million, prior to any DIP advances. Over this period, 154 has received DIP financing from Wasanda of \$3.397 million, prior to ongoing interest and costs, all of which has been repaid pursuant to the Third Stay Extension and Distribution Order, the July 23, 2008 Distribution Order and the November 13, 2008 Endorsement. A summary of receipts and disbursements for the period November 15, 2007 to November 28, 2008 is attached hereto as "**Appendix F**".

E. Monitor's Receipts and Disbursements

49. Attached as "Appendix G" is the Monitor's Statement of Receipts and Disbursements as at December 4, 2008.
50. The Monitor has received, in trust, approximately \$9.55 million in asset realizations from the Debtors and a subsidiary corporation, Brasserie. Of the \$9.55 million received, the Monitor has distributed \$4.9 million to Wasanda in repayment of DIP advances (as authorized and directed by the Third Stay Extension and Distribution Order, the July 23, 2008 Distribution Order and the November 13, 2008 Endorsement), \$4.2 million to Wasanda in repayment of pre-filing secured advances (as authorized and directed by the July 23, 2008 Distribution Order and the November 13, 2008 Endorsement) and approximately \$402,000 to D'Angelo Brands in respect of the 215 Purchase Agreement and the sale of the Debtors' assets held by Warehouseurs (as authorized and directed by the February 13, 2008 Order).
51. The Monitor is currently holding \$60,000 in trust in respect of the B, I & I Settlement, pending further order of this Honourable Court.

F. Monitor's Activities

52. Since its Ninth Report, the Monitor's activities have included, among other things, the following:
 - (i) Conducting an investigation into a complaint made by an individual in connection with the vote on the Amended Plans;
 - (ii) Preparation of a confidential report dated November 27, 2008 to this Honourable Court in connection with the Monitor's investigation;
 - (iii) Attending in Court on November 28, 2008 regarding Wasanda's and 834's motion in respect of the Plan Sanction Order;
 - (iv) Reviewing the Debtors' progress regarding the sale of certain real property and excess inventory;
 - (v) Discussions with creditors regarding the status of the CCAA proceedings;

- (vi) Discussions with the Debtors in respect of the B, I & I Settlement;
- (vii) Distributing proceeds held by the Monitor to Wasanda pursuant to the November 13, 2008 Endorsement and the July 23, 2008 Distribution Order;
- (viii) Reviewing receipts and disbursements and working capital balances on an ongoing basis; and
- (ix) Preparing the Tenth Report for this Honourable Court and providing recommendations with respect to the Order sought by Wasanda and 834.

G. Recommendations

53. Based on the foregoing, the Monitor recommends that this Honourable Court:

- (i) approve the Brewster Purchase Agreement;
- (ii) authorize D'Angelo Brands to complete the transaction of purchase and sale contemplated by the Brewster Purchase Agreement;
- (iii) direct D'Angelo Brands to pay to the Monitor the net proceeds received in respect of the Brewster Purchase Agreement;
- (iv) authorize the sealing of the Brewster Purchase Agreement and the Appraisal, pending the completion of the transaction contemplated by the Brewster Purchase Agreement;
- (v) authorize the Monitor to issue the Monitor's Certificate at the appropriate time in accordance with the terms of the draft Approval and Vesting Order;
- (vi) direct the Monitor to pay to Wasanda the funds held by the Monitor in connection with the B, I & I Settlement; and
- (vii) extend the Stay Period up to and including January 9, 2009.

54. The Monitor also requests that this Honourable Court approve the Monitor's activities as outlined in this Tenth Report.

All of which is respectively submitted this 5th day of December, 2008 by:

Mintz & Partners Limited
In its capacity as Monitor of
D'Angelo Brands Ltd. and 1540633 Ontario Inc. o/a Steelback Breweries



for Per: Bryan A. Tannenbaum, FCA, FCIRP
President

MINTZ-#466435

Appendix “A”

Appendix “B”

| 1540633 Ontario, Inc. | | | | | | | | | |
|---|----------------|----------------|---------------|----------------|--------------|---------------|---------------|--|---------------|
| CCAA Cash Flow Forecast (\$'000) | | | | | | | | | |
| For the period from Dec. 1, 2008 - Jan 09, 2009 | | | | | | | | | |
| | TOTAL | 5-Dec | 12-Dec | 19-Dec | 26-Dec | 2-Jan | 9-Jan | | |
| | | | | | | | | | |
| Opening Cash Balance per Books | 1.6 | 1.6 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | | 0.0 |
| Sales Collections - Gross | 0.0 | - | - | - | - | - | - | | - |
| Other Receipts / GST refunds | 0.0 | - | - | - | - | - | - | | - |
| Total Inflows | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | | 0.0 |
| Outflows | | | | | | | | | |
| Salaries, Wages & Benefits | 35.7 | 17.1 | - | 8.7 | 1.2 | 8.7 | - | | - |
| Operating Expenses | 15.0 | 2.5 | 4.0 | 2.0 | 3.2 | 2.0 | 1.3 | | 1.3 |
| Professional Fees re CCAA | 290.5 | 86.0 | 19.0 | 137.2 | - | - | 48.3 | | 48.3 |
| Consulting Restructuring re CCAA | 16.4 | - | 6.3 | 5.0 | - | - | 5.0 | | 5.0 |
| Advances to Brasserie Steelback Inc. | 25.2 | 12.2 | 3.0 | 10.0 | - | - | - | | - |
| Payment to Monitor in trust for payment of claims | 413.4 | - | - | 413.4 | - | - | - | | - |
| Total Outflow | 796.2 | 117.9 | 32.3 | 576.3 | 4.4 | 10.7 | 54.7 | | 54.7 |
| Change in Net Cash Flow before Advances | (796.2) | (117.9) | (32.3) | (576.3) | (4.4) | (10.7) | (54.7) | | (54.7) |
| Closing Cash Balance before Advances | (794.6) | (116.3) | (32.3) | (576.3) | (4.4) | (10.7) | (54.7) | | (54.7) |
| Advances from (Repayment to) DIP Lender | 794.6 | 116.3 | 32.3 | 576.3 | 4.4 | 10.7 | 54.7 | | 54.7 |
| Forecast Ending Cash | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | | 0.0 |

Appendix “C”

D'Angelo Brands Ltd.**Summary of Receipts and Disbursements (\$000) - Actual to Forecast**

For the period September 1, 2008 to November 28, 2008

| | Sept 1, 2008 to Nov 28, 2008 | | |
|---|------------------------------|----------------|--|
| | Actual | Forecast (1) | Variance Favourable (Unfavourable) |
| Opening Cash Balance per Books | 16.0 | 16.0 | - |
| Receipts | | | |
| Receipts from P&S Agreement with 2156775 Ontario Inc. | 102.5 | 102.5 | - |
| Other (inc. GST refunds, misc. sales) | 121.2 | - | 121.2 |
| Total Receipts | 223.7 | 102.5 | 121.2 |
| Disbursements | | | |
| Salaries, Wages & Benefits | 63.9 | 52.2 | (11.7) |
| Operating Expenses | 85.1 | 149.3 | 64.2 |
| Professional Fees re CCAA | 184.5 | 265.6 | 81.1 |
| Consulting Restructuring re CCAA | 37.3 | 44.1 | 6.8 |
| Payments to Monitor of asset realizations | 52.3 | 52.3 | - |
| Total Disbursements | 423.1 | 563.5 | 140.4 |
| Change in Net Cash Flow before Advances | (199.4) | (461.0) | 261.6 |
| Closing Cash Balance before Advances | (183.4) | (445.0) | 261.6 |
| Advances from DIP Lender, net of Debtor repayments | 230.0 | 445.0 | 215.0 |
| Ending Cash Balance per Books | 46.6 | - | 46.6 |
| Add: Outstanding Cheques | 51.9 | | |
| Less: Outstanding Receipts | - | | |
| Ending Cash Balance per Bank | 98.5 | | |

Notes:

(1) Forecast as per Applicant's September 8, 2008 motion materials.

(2) Funds paid to the Monitor in respect of the RMI Reserve.

Appendix “D”

D'Angelo Brands Ltd.
Summary of Receipts and Disbursements (\$000) - Actual
For the period November 15, 2007 to November 28, 2008

| | <u>Actual</u> |
|---|--------------------|
| Opening Cash Balance per Books | <u>(158.7)</u> |
| Receipts | |
| Accounts Receivables Collections and Sale of Finished Goods | 1,572.4 |
| Receipts from P&S Agreement with 2156775 Ontario Inc. | 572.0 |
| Other (GST refunds, misc. sales) | 208.7 |
| Total Receipts | <u>2,353.1</u> |
| Disbursements | |
| Ingredients | 185.8 |
| Salaries, Wages & Benefits | 1,096.7 |
| Operating Expenses | 1,036.2 |
| Professional Fees re CCAA | 755.4 |
| Consulting Restructuring re CCAA | 165.6 |
| Fixed assets | 99.7 |
| Payments to Monitor of asset realizations | 201.4 (1) |
| Total Disbursements | <u>3,540.8</u> |
| Change in Net Cash Flow before Advances | <u>(1,187.7)</u> |
| Closing Cash Balance before Advances | <u>(1,346.4)</u> |
| Advances from DIP Lender, net of Debtor repayments | <u>1,393.0 (2)</u> |
| Ending Cash Balance per Books | <u>46.6</u> |
| Add: Outstanding Cheques | 51.9 |
| Less: Outstanding Receipts | <u>-</u> |
| Ending Cash Balance per Bank | <u><u>98.5</u></u> |

Notes:

(1) Funds paid to the Monitor in respect of the RMI Reserve.

(2) As at December 4, 2008, the Monitor has repaid all outstanding DIP advances pursuant to the Third Stay Extension and Distribution Order, the July 23, 2008 Distribution Order and the November 13, 2008 Endorsement.

Appendix “E”

1540633 Ontario Inc.
 Summary of Receipts and Disbursements (\$000) - Actual to Forecast
 For the period September 1, 2008 to November 28, 2008

| | Sept 1, 2008 to Nov 28 2008 | | |
|--|-----------------------------|----------------|--|
| | Actual | Forecast (1) | Variance Favourable (Unfavourable) |
| Opening Cash Balance per Books | 32.4 | 32.4 | - |
| Receipts | | | |
| Sales Collections | 1.9 | - | 1.9 |
| Other receipts/GST refunds | 214.0 | 198.6 | 15.4 |
| Total Receipts | 215.9 | 198.6 | 17.3 |
| Disbursements | | | |
| Salaries, Wages & Benefits | 62.8 | 52.2 | (10.6) |
| Operating Expenses | (9.1) | 57.2 | 66.3 |
| Professional Fees re CCAA | 110.2 | 261.1 | 150.9 |
| Consulting Restructuring re CCAA | 37.2 | 44.1 | 6.9 |
| Advances to Brasserie Steelback Inc. | 47.0 | 60.0 | 13.0 |
| Payment to Monitor of asset realizations | 198.6 | 198.6 | - |
| Total Disbursements | 446.7 | 673.2 | 226.5 |
| Change in Net Cash Flow before Advances | (230.8) | (474.6) | 243.8 |
| Closing Cash Balance before Advances | (198.4) | (442.2) | 243.8 |
| Advances from DIP Lender, net of Debtor repayments | 200.0 | 442.2 | 242.2 |
| Ending Cash Balance per Books | 1.6 | - | 1.6 |
| Add: Outstanding Cheques | 47.4 | | |
| Less: Outstanding Receipts | - | | |
| Ending Cash Balance per Bank | 49.0 | | |

Notes:

(1) Forecast as per Applicant's September 8, 2008 motion materials.

(2) Funds paid to the Monitor in respect of the RMI Reserve.

Appendix “F”

1540633 Ontario Inc.
Summary of Receipts and Disbursements (\$000) - Actual
 For the period November 15, 2007 to November 28, 2008

| | <u>Actual</u> |
|--|--------------------|
| Opening Cash Balance per Books | <u>(173.5)</u> |
| Receipts | |
| Sales Collections Net of TBS Charges | 698.8 |
| Other receipts/GST refunds | 260.3 |
| Total Receipts | <u>959.1</u> |
| Disbursements | |
| Ingredients | 56.7 |
| Packaging | 191.4 |
| Outside Packing and Tankering | 8.2 |
| Salaries, Wages & Benefits | 1,243.3 |
| Operating Expenses | 1,239.4 |
| Professional Fees re CCAA | 642.0 |
| Consulting Restructuring re CCAA | 254.0 |
| Advances to Brasserie Steelback Inc. | 190.8 |
| Fixed assets | 24.0 |
| Taxes AGCO & Excise | 132.6 |
| Payment to Monitor of asset realizations | 198.6 (1) |
| Total Disbursements | <u>4,181.0</u> |
| Change in Net Cash Flow before Advances | <u>(3,221.9)</u> |
| Closing Cash Balance before Advances | (3,395.4) |
| Advances from DIP Lender, net of Debtor repayments | <u>3,397.0 (2)</u> |
| Ending Cash Balance per Books | 1.6 |
| Add: Outstanding Cheques | 47.4 |
| Less: Outstanding Receipts | <u>-</u> |
| Ending Cash Balance per Bank | <u><u>49.0</u></u> |

Notes:

(1) Funds paid to the Monitor in respect of the RMI Reserve.

(2) As at December 4, 2008, the Monitor has repaid all outstanding DIP advances pursuant to the Third Stay Extension and Distribution Order, the July 23, 2008 Distribution Order and the November 13, 2008 Endorsement.

Appendix “G”

Mintz & Partners Limited

Court Appointed Monitor re: D'Angelo Brands Ltd. and 1540633 Ontario Inc. o/a Steelback Breweries

Summary of Receipts and Disbursements (in trust)

For the period to December 4, 2008

Receipts

| | |
|--|------------------------|
| Proceeds from Sale of Brewery Assets to Steelback Breweries Inc. | \$ 8,000,020.00 |
| Net proceeds from sale of Brasserie Steelback Inc. assets | 654,500.70 |
| Deposit on Sale of Assets to 2156775 Ontario Inc. | 297,000.00 |
| Proceeds from sale of inventory held by 3rd party warehouseurs | 104,031.00 |
| Sale of inventory and collection of amounts receivable (RMI Reserve) | 400,000.00 |
| Proceeds from B, I & I Settlement | 60,000.00 |
| Interest earned | 36,936.74 |
| Total Receipts | \$ 9,552,488.44 |

Disbursements

| | |
|---|-------------------------|
| Repayment to Wasanda of DIP Advances | \$ 4,877,000.00 |
| Repayment to Wasanda of pre-CCAA secured advances | 4,213,455.41 |
| Payments to DBL re: sale to 2156775 Ontario Inc. | 297,000.00 |
| Payments to DBL re: 3rd party warehouseurs | 104,031.00 |
| Payments to DBL re: interest earned | 992.03 |
| Bank charges | 10.00 |
| Total Disbursements | \$ 9,492,488.44 |
| Balance held in trust | \$ 60,000.00 |

IN THE MATTER OF AN APPLICATION BY WASANDA ENTERPRISES INC. UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND BUSINESS CORPORATIONS ACT, R.S.O. 1990, c.B-16, AS AMENDED

AND IN THE MATTER OF A PLAN OR PLANS OF COMPROMISE OR ARRANGEMENT TO BE PROPOSED IN RESPECT OF D'ANGELO BRANDS LTD. AND 1540633 ONTARIO INC. O/A STEELBACK BREWERIES

Court File No.: 07-CL-7283

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**RESPONDING MOTION RECORD OF THE
MONITOR, MINTZ & PARTNERS LIMITED
(RETURNABLE DECEMBER 10, 2008)**

**KRONIS, ROTSZTAIN,
MARGLES, CAPPEL**
Barristers and Solicitors
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Limited