

CITATION: Appili Therapeutics Inc. v. Aditxt, Inc., 2024 ONSC 6449
COURT FILE NO.: CV-24-00725361-00CL
DATE: 20241001

**SUPERIOR COURT OF JUSTICE – ONTARIO
(COMMERCIAL LIST)**

RE: APPILI THERAPEUTICS INC.

AND

ADITXT, INC. and ADIVIR, INC.

BEFORE: W.D. Black J.

COUNSEL: *Ara Basmadjian, Benjamin Iscoe and Matthew Fleming*, for Appili Therapeutics Inc.

Miranda Spence, for Aditxt, Inc. and Adivir, Inc.

HEARD: October 1, 2024

ENDORSEMENT

[1] The applicant (“Appili” or the “Company”) brings this motion for an interim order (“Interim Order”) in connection with a proposed plan of arrangement (the “Arrangement”) under section 182(5) of the Ontario Business Corporations Act (“OBCA”) involving, among other things, the acquisition by Aditxt, Inc. (“Aditxt”) through its wholly-owned subsidiary Adivir, Inc. (“Adivir” of all of the issued and outstanding Class “A” common shares in the capital of Appili (the “Company Shares”).

[2] The Interim Order is to approve the proposed procedure for calling, holding, and conducting a special meeting (the “Meeting”) of holders of company shares to consider and vote on, among other things, a special resolution approving the Arrangement under the OBCA.

[3] The Arrangement was negotiated and approved by a special committee of the board of directors of the Company (the “Special Committee”) in consultation with its independent legal and financial advisors.

[4] It is evident that the consideration received by the Shareholders pursuant to the Arrangement reflects a significant premium to the trading price of the Company Shares.

[5] The Arrangement includes customary and required protection for minority shareholders, and the proposed order is substantially the same as the Commercial List Model Interim Order.

[6] In that regard, I note in particular that the Arrangement was carefully considered by the Special Committee, that an appropriate fairness opinion was sought and received, and appropriate dissent rights are in place.

[7] The one evident “wrinkle” in this matter is that, as a result of the response from the CBCA Director to the proposed arrangement relative to the solvency test and timing issues, the Company elected to seek to continue under the OBCA.

[8] The Shareholders passed a Continuance Resolution on September 17, 2024. I am satisfied that the continuance was undertaken transparently, and with appropriate approval, and that there is a reasonable rationale for this step. I do not find evidence that any stakeholders will be prejudiced in the result, and I note that the OBCA Director is not opposing the relief sought.

[9] Accordingly, I find that the Arrangement is an arrangement for the purposes of s. 182 of the OBCA, and that the Interim Order should issue. The signed Interim Order is attached to this endorsement.

W.D. BLACK J.

DATE: October 1, 2024