

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF CLAIRE'S STORES CANADA CORP.

APPLICANT

FACTUM OF THE APPLICANT

August 14, 2025

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PART I - NATURE OF THE MOTION

1. On August 6, 2025, Claire's Stores Canada Corp. (the "**Applicant**") was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**," and the within proceedings the "**CCAA Proceedings**"), pursuant to an initial order of this Court (the "**Initial Order**").

2. As outlined in the Applicant's Initial Order Factum, the CCAA Proceedings were undertaken in order to allow the Applicant the breathing space to engage with its principal stakeholders and determine how to best maximize the value of its business. Given the Applicant's continuing liquidity constraints and ongoing carrying costs, the Applicant at this time seeks the authority to commence a liquidation process (the "**Sale**") in order to sell its remaining Merchandise and FF&E (each as defined below). At present, the Applicant intends to conduct the Sale at all of its retail stores; however, the proposed realization process grants the Applicant the flexibility to modify the Sale by removing stores should it identify a going-concern transaction for some or all of the Applicant's business.

3. In order to facilitate the Sale, the Applicant seeks the "**Liquidation Sale Approval Order**" which will, among other things:

- (a) approve a consulting agreement between the Applicant and a contractual joint venture comprised of Hilco Merchant Retail Solutions, ULC, Gordon Brothers Canada ULC and SB360 Capital Partners, LLC (the "**Consultant**") dated as of August 12, 2025 (the "**Consulting Agreement**"), pursuant to which the Consultant will act as exclusive consultant for the purpose of conducting the Sale;

- (b) approve the proposed sale guidelines (the “**Sale Guidelines**”) for the orderly liquidation of the Merchandise and FF&E; and
- (c) authorize the Applicant, with the assistance of the Consultant, to undertake the Sale in accordance with the terms of the Liquidation Sale Approval Order, the Consulting Agreement and the Sale Guidelines.

4. In order to facilitate the continuance of the CCAA Proceedings, the Applicant also seeks an Amended and Restated Initial Order, which will, among other things:

- (a) increase the maximum amounts secured by the Administration Charge and the Directors’ Charge to \$750,000 and \$3.3 million, respectively; and
- (b) extend the stay of proceedings (the “**Stay Period**”) until November 14, 2025.

5. An orderly, transparent process for realizing on the value of the Applicant’s Merchandise and FF&E is both necessary and appropriate in the circumstances. Inventory liquidation processes have been approved in a number of retail insolvencies, and the terms of the Consulting Agreement and the Sale Guidelines are generally consistent with similar agreements and guidelines approved in other liquidation processes carried out under the CCAA. The Consultant was selected through a fair and reasonable selection process and the Consulting Agreement and Sale Guidelines were developed with the oversight and support of the Monitor.

6. The liquidation process embodied in the Consulting Agreement and the Sale Guidelines represents the best opportunity to maximize recoveries for stakeholders in a transparent, orderly, and efficient manner, including by leaving open the possibility for the Applicant to identify a going concern transaction. The Applicant seeks this Court’s immediate approval of the Consulting

Agreement and the Sale Guidelines in order to allow the liquidation process to commence as soon as possible, thereby maximizing recoveries and limiting ongoing costs to the benefit of creditors and stakeholders generally.

PART II - SUMMARY OF FACTS

7. The facts are more fully set out in the Affidavit of Suzanne Stoddard.¹

A. Overview of the Applicant's Activities since the Initial Application

8. On August 6, 2025, this Court granted the Initial Order, which, among other things: (i) appointed KSV Restructuring Inc. as monitor in the CCAA Proceedings (the “**Monitor**”); (ii) granted a stay of proceedings until August 15, 2025; (iii) authorized, but did not require, the Applicant to pay certain pre-filing amounts; and (iv) granted the Administration Charge and the Directors' Charge.² Also on August 6, 2025, Claire's Holdings LLC and the other Chapter 11 Debtors filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code with the U.S. Bankruptcy Court. On August 7 and 8, 2025, the U.S. Bankruptcy Court granted certain interim and/or final orders in respect of the relief sought by the Chapter 11 Debtors, including an interim order authorizing the Chapter 11 Debtors to conduct certain store closing sales in the U.S.³

¹ Affidavit of Suzanne Stoddard, sworn August 13, 2025 [Second Stoddard Affidavit]. The Applicant additionally relies upon the facts as set out in the Affidavit of Suzanne Stoddard, sworn August 6, 2025 [First Stoddard Affidavit]. Capitalized terms not otherwise defined have the same meaning as in the First Stoddard Affidavit and Second Stoddard Affidavit. Dollar amounts are given in Canadian dollars unless otherwise specified.

² Second Stoddard Affidavit at paras. 5, 7.

³ Second Stoddard Affidavit at paras. 17-18. See Second Stoddard Affidavit at paras. 18-19 for a detailed summary of the orders granted by the U.S. Bankruptcy Court.

9. Following the Initial Order, the Applicant, in close consultation and with the assistance of the Monitor, has been working in good faith and with due diligence to, among other things:⁴

- (a) stabilize the businesses and operations of the Applicant as part of the CCAA proceedings to enable the Applicant to continue operating its retail store business;
- (b) advise its primary stakeholders, including landlords, employees, and others, of the granting of the Initial Order;
- (c) develop the Sale Guidelines and finalize arrangements with the Consultant for the orderly liquidation of the Applicant's Merchandise and FF&E; and
- (d) respond to numerous creditor and stakeholder inquiries regarding these CCAA proceedings and the Chapter 11 Cases.

10. The Applicant and the Monitor have also been in communication with several of the Applicant's key stakeholders, including as follows:⁵

- (a) Counsel to the Applicant has sent emails to all known landlords of the Applicant's retail store locations (the "**Landlords**"), advising that the Applicant had been granted protection under the CCAA. The Applicant further circulated draft Sale Guidelines in respect of the proposed liquidation process to certain Canadian counsel who represent a significant number of the Landlords and engaged in discussion with such counsel.⁶

⁴ Second Stoddard Affidavit at para. 8.

⁵ See Second Stoddard Affidavit at paras. 12-15 for a full description of these communications.

⁶ Second Stoddard Affidavit at paras. 12-14.

- (b) The Applicant promptly initiated employee outreach following the granting of the Initial Order. On August 12, 2025, the Applicant distributed information to employees regarding the CCAA Proceedings, the Initial Order, and the contemplated liquidation process, including Frequently Asked Questions addressing common employee issues and concerns.⁷

B. Liquidation Process and Consulting Agreement

(a) Selection of the Consultant

11. As part of the Company's pre-filing restructuring initiatives,⁸ in or about July 2025, the Company received bids from two liquidators (the "**Liquidation Bids**"). After several weeks of negotiations, the Company determined that the bid submitted by Hilco Merchant Resources, LLC ("**Hilco LLC**") represented the highest or otherwise best Liquidation Bid. On July 24, 2025, a fee for service agreement with Hilco LLC was executed in respect of certain of the Company's U.S. Stores, which was subsequently amended on August 5, 2025 to include an additional 1,326 stores and certain concessions located within other third-party retail locations, all of which are located in the U.S.⁹

12. On or around the commencement of the CCAA Proceedings, the Applicant engaged in discussions with an affiliate of Hilco LLC, Hilco Merchant Retail Solutions ULC ("**Hilco Merchant**") in respect of a consulting agreement for the Sale in Canada. The Applicant was

⁷ Second Stoddard Affidavit at para. 15.

⁸ For a discussion of the pre-filing restructuring initiatives, see the Applicant's Initial Order Factum at paras. 29-31.

⁹ Second Stoddard Affidavit at paras. 21-22.

subsequently advised that Hilco Merchant had entered into a contractual joint venture with Gordon Brothers Canada ULC and SB360 Capital Partners, LLC for the purposes of conducting the Sale. Effective August 12, 2025, the Applicant entered into the Consulting Agreement.¹⁰

(b) The Sale

13. Under the terms of the Consulting Agreement, the Consultant is appointed as exclusive liquidator for the purpose of conducting the Sale of the Applicant's merchandise and inventory (together, the "**Merchandise**") and owned furnishings, trade fixtures, and equipment (the "**FF&E**") that are at the Applicant's Liquidating Stores (as defined below). The Sale is to commence on or about August 15, 2025 (the "**Sale Commencement Date**") and is to conclude no later than September 23, 2025 (the "**Sale Termination Date**" and the period between the Sale Commencement Date and the Sale Termination Date, the "**Sale Term**"), with the Sale of FF&E concluding no later than 7 days following the Sale Termination Date.¹¹

14. The Consultant is only entitled to include additional merchandise in the Sale provided (i) such additional merchandise is owned by the Applicant, is currently in the possession of, or in the control of the Applicant, or is ordered by or on behalf of the Applicant by an affiliate from an existing supplier; and (ii) the additional merchandise is of the type and quality typically sold in the Applicant's stores.¹² All sales of Merchandise will be by cash, gift card, gift certificate, merchandise credit, or credit or debit card and, at the Applicant's discretion, by check or otherwise.

¹⁰ Second Stoddard Affidavit at para. 23.

¹¹ Second Stoddard Affidavit at paras. 2(b)(i), 26(a)-(b). See Second Stoddard Affidavit at para. 26 for a full description of the proposed Sale.

¹² See Sales Guidelines, at para. 6, Schedule "A" to Draft Liquidation Sale Approve Order, Motion Record of Applicants at Tab 4, p. 166.

Returns, refunds and exchange policies for items purchased prior to the Sale Commencement Date, and gift cards and similar items issued by the Applicant prior to the Sale Commencement Date, will continue to be accepted up to and including August 29, 2025.¹³

15. As consideration for its services, the Consultant will be entitled to following compensation:

- (a) with respect of the Merchandise: (i) a “**Base Fee**” equal to 2.25% of the gross receipts from sales of Merchandise during the Sale Term (excluding sales taxes) (the “**Gross Proceeds**”); (ii) a “**Wholesale Fee**” equal to 7.5% of the Gross Proceeds of Merchandise sold through the Consultant’s wholesale channels, with the Applicant’s prior written consent; and (iii) a “**Consultant Incentive Fee**” equal to the aggregate sum of the “**Gross Recovery Percentage Achieved**,” as defined in the Consulting Agreement;¹⁴ and
- (b) with respect of the FF&E, a fee equal to 17.5% of the gross receipts from the sale of FF&E (excluding sales taxes) (the “**FF&E Commission**”).¹⁵

16. Initially, the Sale will be conducted at all of the Applicant’s stores (the “**Liquidating Stores**”). For clarity, this excludes those stores where a termination notice was received by the Applicant prior to the Filing Date (unless a reinstatement agreement is subsequently executed with the applicable Landlord). However, the Consultant and the Applicant have agreed that the Applicant is entitled to add or remove any of the Liquidating Stores from the Sale. If the removal of Liquidating Stores is in connection with a going concern transaction, the Base Fee, FF&E

¹³ Second Stoddard Affidavit at para. 26(f).

¹⁴ Second Stoddard Affidavit at para. 26(i).

¹⁵ Second Stoddard Affidavit at para. 26(l).

Commission, and Consultant Incentive Fee will not apply to any Merchandise or FF&E included in the applicable going concern transaction.¹⁶ At present, the Sale does not include merchandise that is located at any of the Applicant's concession partner locations.

17. The Consulting Agreement is expressly subject to, among other things, the approval of the Court on or before August 19, 2025. The Consulting Agreement is also subject to the Sale Guidelines, as developed by the Applicant in consultation with the Monitor. The Sale Guidelines, which have been designed in order to ensure an orderly and fair liquidation process, and which are consistent with sale guidelines approved in other retail insolvencies, are discussed in more detail below.¹⁷

C. Pursuit of Potential Going-Concern Transactions

18. Prior to the commencement of the CCAA Proceedings and the Chapter 11 Cases, the Company, with the assistance of Houlihan Lokey (the "**Investment Banker**") and its other advisors, conducted a marketing process designed to sell some or all of its assets. As part of these efforts, the Company contacted approximately 150 prospective buyers, of which approximately 60 interested parties executed confidentiality agreements. While multiple letters of intent ("**LOIs**") were received (which continue to be negotiated), no expressions of interest or LOIs were submitted with respect of any of the Applicant's business or assets on a standalone basis.¹⁸

19. As part of the Initial Order, the Applicant was granted the authority to pursue, if appropriate and warranted, all avenues of refinancing, restructuring, sale, or reorganization of its business or

¹⁶ Second Stoddard Affidavit at paras. 26(d), 27.

¹⁷ Second Stoddard Affidavit at paras. 28-29.

¹⁸ Second Stoddard Affidavit at para. 33.

assets (each, a “**Transaction**”), including any potential Transactions that may emerge in the near-term in the context of the Company’s current sale process being overseen by the Investment Banker. To the extent a Transaction results from these efforts, it will be subject to approval of the Court.¹⁹

20. This authorization gives the Applicant and the Monitor the flexibility to pursue all value-maximizing opportunities for the Applicant’s business, while concurrently conducting the Sale (with the ability to remove some or all of the Liquidating Stores from the Sale). This flexibility will benefit the Applicant and its creditors and stakeholders generally by allowing the Applicant to respond to any potential interest in the Applicant’s business or assets.²⁰

PART III - THE ISSUES AND THE LAW

21. This Factum addresses the following issues:

- (a) The Court should approve the Consulting Agreement and the Sale Guidelines;
- (b) The Court should increase the Administration Charge and Directors’ Charge; and
- (c) The Court should extend the Stay Period until November 14, 2025.

A. The Court should approve the Consulting Agreement and the Sale Guidelines

22. It is well-recognized that a CCAA court has jurisdiction to approve a sale process authorizing the liquidation of a debtor’s assets,²¹ and courts have frequently done so in the context

¹⁹ Second Stoddard Affidavit at paras. 34-35.

²⁰ Second Stoddard Affidavit para 36.

²¹ See e.g., *Grant Forest Products Inc. v. GE Canada Leasing Services Co.*, [2013 ONSC 5933](#) at para. 44; *Indalex Ltd. (Re)*, [2011 ONCA 265](#) at para. 180.

of retail insolvencies.²² In prior cases involving the approval of inventory and FF&E liquidation processes, courts have made use of the *Nortel* factors which generally apply in respect of sale process approvals.²³ In applying the *Nortel* test, the Court considers the following questions:²⁴

- (a) Is a sale transaction warranted at this time?
- (b) Will the sale benefit the whole economic community?
- (c) Do any of the debtors' creditors have a *bona fide* reason to object to a sale?
- (d) Is there a better viable alternative?

23. Courts have also evaluated proposed retail liquidation processes in light of the criteria set out in s. 36(3) of the CCAA, namely: (i) whether the process leading to the proposed sale or disposition was reasonable in the circumstances; (ii) whether the Monitor approved the process leading to the proposed sale or disposition; (iii) whether the Monitor filed a report stating that in

²² See e.g., *Comark Holdings Inc. et al. (Re)*, (January 17, 2025), Ont. S.C.J. [Commercial List], Court File No. CV-25-00734339-00CL ([Endorsement of Justice Cavanagh](#)), at paras. 5-17 [*Comark Endorsement*], endorsing *Comark Holdings Inc. et al. (Re)*, (January 17, 2025), Ont. S.C.J. [Commercial List], Court File No. CV-25-00734339-00CL ([Realization Process Approval Order](#)) [*Comark Order*]; *Mastermind GP Inc. (Re)*, (November 30 2023), Ont. S.C.J. [Commercial List], Court File No. CV-23-00710259-00CL ([Endorsement of Justice Steele](#)), at paras. 10-18 [*Mastermind Toys Endorsement*], endorsing *Mastermind GP Inc. (Re)*, (November 30 2023), Ont. S.C.J. [Commercial List], Court File No. CV-23-00710259-00CL ([Liquidation Sale Approval Order](#)) [*Mastermind Order*]; *Nordstrom Canada Retail Inc. (Re)*, [2023 ONSC 1814](#) at paras. 6-13 [*Nordstrom Endorsement*], endorsing *Nordstrom Canada Retail Inc. (Re)*, (March 20, 2023), Ont S.C.J. [Commercial List], Court File No. CV- 23-00695619-00CL ([Liquidation Sale Approval Order](#)) [*Nordstrom Order*]; *Target Canada Co. (Re)*, [2015 ONSC 846](#) at paras. 2-5 [*Target Endorsement*], endorsing *Target Canada Co. (Re)* (February 4, 2015), Ont S.C.J. [Commercial List], Court File No. CV-15-10832-00CL ([Approval Order – Agency Agreement](#)); *Ted Baker Canada Inc. et al v. Yorkdale Shopping Centre Holdings Inc.*, (May 3, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00718993-00CL ([Endorsement of Justice Black](#)) at paras 13-17 [*Ted Baker Endorsement*], endorsing *Ted Baker Canada Inc. et al v. Yorkdale Shopping Centre Holdings Inc. (Re)*, (May 3, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00718993-00CL ([Realization Process Approval Order](#)) [*Ted Baker Order*].

²³ See e.g., *Comark Endorsement*, at para. 5; *Nordstrom Endorsement*, at para. 7.

²⁴ *Nortel Networks Corp (Re)*, [2009 CanLII 39492](#) (ONSC) at para. 49. While the *Nortel* factors were formulated before the 2009 amendments to the CCAA, CCAA courts have since confirmed that these criteria still apply: *Brainhunter Inc (Re)*, [2009 CanLII 72333](#) (ONSC) at paras. 15-17 [*Brainhunter*].

its opinion the sale or disposition would be more beneficial to creditors than a bankruptcy; (iv) the extent to which creditors were consulted; (v) the effects of the proposed sale or disposition on creditors and stakeholders; and (vi) whether the consideration to be received for the assets is fair and reasonable, taking into account their market value.²⁵

24. The Applicant submits that both the *Nortel* criteria and the s. 36(3) factors are satisfied in respect of the Sale, for the reasons set out below.

(a) The Sale is Warranted at this Time and there is no Better Viable Alternative

25. Given the Applicant's limited liquidity and ongoing carrying costs, an orderly liquidation must be commenced as soon possible in order to maximize recoveries and limit operating costs by ensuring that the Applicant can exit from the Liquidating Stores as soon as practicable.²⁶ Any delay in commencing the liquidation would negatively impact net recoveries from the Sale, to the detriment of stakeholders and the economic community as a whole.

26. At this time, the proposed Sale therefore represents the best path forward for the Applicant. Should a Transaction be identified as a better viable alternative, the Consulting Agreement affords the Applicant the flexibility necessary to continue to pursue discussions in furtherance of a potential Transaction and, if necessary, add or remove Liquidating Stores from the Sale. In the event that all Liquidating Stores are removed from the Sale, the Applicant may terminate the Consulting Agreement.²⁷

²⁵ See e.g., *Comark Endorsement*, at para. 6; *Mastermind Toys Endorsement*, at para. 14; *Target Endorsement*, at para. 5; *Ted Baker Endorsement* at para 14.

²⁶ Second Stoddard Affidavit at para. 25.

²⁷ Second Stoddard Affidavit at para. 27.

27. The retention of the Consultant is a vital element of this recovery-maximizing process. The Consultant's services will produce better results than attempting to realize on the Merchandise and FF&E alone, and are necessary for a seamless and efficient large-scale store closing process and to maximize the value of the Merchandise and FF&E.²⁸

(b) The Process to Select the Consultant was Reasonable

28. The Consultant was selected following a competitive process. As discussed above, the Company received Liquidation Bids from two potential third-party liquidators, and Hilco LLC was selected following several weeks of negotiations.²⁹

29. The Consultant, which represents a contractual joint venture of three leading liquidators (including an affiliate of Hilco LLC) that have extensive experience in a variety of liquidations in the United States and Canada, was subsequently selected by the Applicant to manage the Sale in Canada. This selection was based on, among other things: the Consultant's in-depth knowledge of the Applicant's business, merchandise, and store operations; (ii) the need to commence the Sale quickly; and (iii) the extensive experience of the parties to the joint venture in conducting retail liquidations in Canada (including in *Sears Canada*, *Nordstrom*, *SFP Canada Ltd (d/b/a Papyrus and Carlton Cards)* and *Hudson's Bay*).³⁰

30. The Monitor is supportive of the engagement of the Consultant. Owing to the Consultant's extensive qualifications, the Applicant and the Monitor have reasonably concluded that the

²⁸ Second Stoddard Affidavit at paras. 24, 28; First Report of the Monitor dated August 14, 2025, at para. 4.3.4(a) [First Report].

²⁹ Second Stoddard Affidavit at para. 21.

³⁰ Second Stoddard Affidavit at para. 24.

Consultant is qualified and capable of performing the required tasks in a value maximizing manner, and that engaging the Consultant to assist with the Sale will produce better results than attempting to realize on the Merchandise and FF&E without the assistance of the Consultant.³¹

(c) The Consulting Agreement and Sales Guidelines are Fair and Reasonable

31. The manner in which the Sale will be conducted pursuant to the Consulting Agreement and the Sale Guidelines is fair and reasonable in the circumstances and has been designed by the Applicant and the Consultant, in consultation with the Monitor,³² in order to maximize recovery on the Merchandise and the FF&E for the benefit of the Applicant's creditors.

32. The terms of the Sale Guidelines and Liquidation Sale Approval Order are generally similar to and typical of agreements and orders for inventory liquidation sales that have been negotiated and/or approved in a number of other retail insolvencies, including *Comark*, *Nordstrom Canada*, *Mastermind Toys*, and *Ted Baker*.³³ Consistent with the differing circumstances of each case, each order inevitably varies to some degree to reflect particular circumstances. This is consistent with the flexibility provided by the CCAA to make orders that are appropriate to the needs of the specific restructuring.

33. Among other things, the proposed Sale provides the Applicant with the flexibility needed to maximize recoveries. As set out above, while the Sale will initially occur in all of the Applicant's retail stores, the Consulting Agreement provides the Applicant with the power to remove

³¹ Second Stoddard Affidavit at para. 24; First Report at para. 4.1.3.

³² Second Stoddard Affidavit at para. 28.

³³ First Report at para. 4.3.4(d). See *Ted Baker Endorsement*, at para. 16, for an example of the court taking comfort in a proposed sale process' similar to that approved in *Mastermind Toys* and *Nordstrom*.

individual Stores from the Liquidating Stores during the Sale. This flexible approach will allow the Applicant to adjust to changing circumstances, such as a going concern Transaction for some or all of the Applicant's business, and the parties have agreed to work cooperatively to modify the Sale in such circumstances.³⁴ Liquidation processes containing similar "togglings" provisions have been approved in the past, on the grounds that they provided the debtors with additional valuable flexibility.³⁵

34. Further, the fee structure outlined in the Consulting Agreement is designed to align the Consultant's compensation with stakeholder outcomes and is supported by the Monitor as reasonable in the circumstances.³⁶ In addition, the Merchandise Fee and the FF&E Commission will not apply to any Merchandise or FF&E included in any applicable going concern Transaction(s) once the applicable Liquidating Store is removed.³⁷

35. Finally, the Sale Guidelines contain a number of other provisions designed to ensure that the Sale takes place in an orderly, respectful fashion. These guidelines have been adapted to the circumstances of this case based on similar sale guidelines approved in other retail insolvencies; in particular, the Sale Guidelines are substantially similar to those which were approved in *Comark*, *Nordstrom Canada*, *Mastermind Toys*, and *Ted Baker*.³⁸

36. In particular, the Sale Guidelines provide that the Sale will be conducted in accordance with the terms of the leases of the Liquidating Stores, and may be amended on a store-by-store

³⁴ Second Stoddard Affidavit at paras. 26(d), 27; First Report at para. 4.3.4(e).

³⁵ See e.g., *Comark Endorsement*, at para. 14; *Mastermind Toys Endorsement*, at para. 16; *Ted Baker Endorsement*, at para. 15.

³⁶ First Report at para. 4.3.4(b)-(c).

³⁷ Second Stoddard Affidavit at para. 27.

³⁸ Second Stoddard Affidavit at para 30.

basis with the consent of the parties and the applicable Landlord, in consultation with the Monitor. Among other things, the Sale Guidelines preclude the Applicant or Consultant from engaging in any auctions of Merchandise or FF&E at the Stores, require the Sale to be conducted during normal hours of operation,³⁹ and only permit the Consultant to augment the Merchandise with goods that are owned by the Applicant, currently in the possession of, or in the control of the Applicant, or ordered by or on behalf of the Applicant by an affiliate from an existing supplier; and (ii) the additional merchandise is of the type and quality typically sold in the Applicant's stores.⁴⁰

(d) The Monitor was Consulted and Supports the Sale

37. The involvement and support of the Monitor is an important consideration in determining whether to approve a proposed sale process.⁴¹ The Monitor supports the retention of the Consultant, and the liquidation process, as set out in the Consulting Agreement and the Sale Guidelines, which was designed in consultation with the Monitor. The Monitor supports the proposed Liquidation Sale Approval Order, and believes that the fee structure in the Consulting Agreement will incentivize the Consultant to maximize value the Merchandise and FF&E for the benefit of all stakeholders of the Applicant.⁴²

³⁹ See Second Stoddard Affidavit at para. 29 for a detailed summary of the Sale Guidelines.

⁴⁰ See Sales Guidelines, at para. 6, Schedule "A" to Draft Liquidation Sale Approve Order, Motion Record of Applicants at Tab 4, p. 166.

⁴¹ See e.g., *Comark Endorsement* at para. 17; *Mastermind Toys Endorsement*, at para. 16; *Nordstrom Endorsement*, at para. 9; *Ted Baker Endorsement* at para 17.

⁴² Second Stoddard Affidavit at para. 32; First Report at paras. 4.3.4.

B. The Administration Charge and Directors' Charge Should be Increased

38. The Initial Order approved the Administration Charge in the amount of \$400,000. The Applicant now seeks to increase the Administration Charge to \$750,000 with the concurrence of the Monitor. Similarly, the Initial Order approved the Directors' Charge in the amount of \$2.9 million, which the Applicant seeks to increase to \$3.3 million with the concurrence of the Monitor.⁴³ The increased amount of the Administration Charge reflects the increased anticipated level of activity of the various professionals during the extended Stay Period, and the increased amount of the Directors' Charge reflects the incremental amount of potential director and officer liabilities that may be incurred during the extended Stay Period. The Court has discretion to grant and increase these charges in an amount that the Court considers appropriate pursuant to sections 11.51 and 11.52 of the CCAA.⁴⁴

C. The Stay Period Should be Extended

39. Pursuant to section 11.02 of the CCAA, the Court may grant an extension of a stay of proceedings where: (i) circumstances exist that make the order appropriate; and (ii) the debtor company satisfies the Court that it has acted, and is acting, in good faith and with due diligence. There is no statutory time limit on how long a stay of proceedings can be extended.

40. The Applicant, as supported by the Monitor, asks that the Stay Period be extended up to and including November 15, 2025. The proposed extension of the Stay Period will, among other things, (i) permit the Applicant, with the assistance of the Consultant and under the oversight of

⁴³ Second Stoddard Affidavit at paras. 37-38.

⁴⁴ See the law cited in the Applicant's Initial Order Factum at paras. 49-53.

the Monitor, to conduct the Sale in accordance with the Consulting Agreement and Sale Guidelines with a view to maximizing the value of the Applicant's Merchandise and FF&E; and (ii) provide the Applicant with additional time and stability necessary to explore a potential Transaction and, if successful in this regard, return to the Court to seek approval of such Transaction. The Applicant has acted in good faith and with due diligence in these CCAA proceedings, including by giving notice of these CCAA proceedings to its stakeholders.⁴⁵

PART IV - NATURE OF THE ORDER SOUGHT

41. The Applicant therefore requests a Liquidation Sale Approval Order and an Amended and Restated Initial Order substantially in the form of the draft Orders attached as Tabs 3 and 4, respectively, to the Applicant's Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of August, 2025.



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TO: THE ATTACHED SERVICE LIST

⁴⁵ Second Stoddard Affidavit at paras. 39-40.

SCHEDULE “A”: LIST OF AUTHORITIES

1. *Brainhunter Inc (Re)*, [2009 CanLII 72333](#) (ONSC)
2. *Comark Holdings Inc. et. al. (Re)*, (January 17, 2025), Ont. S.C.J. [Commercial List], Court File No. CV-25-00734339-00CL ([Realization Process Approval Order](#))
3. *Comark Holdings Inc. et. al. (Re)*, (January 17, 2025), Ont. S.C.J. [Commercial List], Court File No. CV-25-00734339-00CL ([Endorsement of Justice Cavanagh](#))
4. *Cinram International (Re)*, [2012 ONSC 3767](#)
5. *Grant Forest Products Inc. v. GE Canada Leasing Services Co.*, [2013 ONSC 5933](#)
6. *Mastermind GP Inc. (Re)*, (November 30 2023), Ont. S.C.J. [Commercial List], Court File No. CV-23-00710259-00CL ([Liquidation Sale Approval Order](#))
7. *Mastermind GP Inc. (Re)*, (November 30 2023), Ont. S.C.J. [Commercial List], Court File No. CV-23-00710259-00CL ([Endorsement of Justice Steele](#))
8. *Nordstrom Canada Retail Inc. (Re)*, (March 20, 2023), Ont S.C.J. [Commercial List], Court File No. CV- 23-00695619-00CL ([Liquidation Sale Approval Order](#))
9. *Nordstrom Canada Retail Inc. (Re)*, [2023 ONSC 1814](#)
10. *Nortel Networks Corp (Re)*, [2009 CanLII 39492](#) (ONSC)
11. *Target Canada Co. (Re)* (February 4, 2015), Ont S.C.J. [Commercial List], Court File No. CV-15-10832-00CL ([Approval Order – Agency Agreement](#))
12. *Target Canada Co. (Re)*, [2015 ONSC 846](#)
13. *Ted Baker Canada Inc. et al v. Yorkdale Shopping Centre Holdings Inc. (Re)*, (May 3, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00718993-00CL ([Realization Process Approval Order](#))
14. *Ted Baker Canada Inc. et al v. Yorkdale Shopping Centre Holdings Inc.*, (May 3, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-00718993-00CL ([Endorsement of Justice Black](#))

I certify that I am satisfied as to the authenticity of every authority.

Date August 14, 2025



Signature
Andrew Rintoul

SCHEDULE “B”
TEXT OF STATUTES, REGULATIONS & BY-LAWS

COMPANIES’ CREDITORS ARRANGEMENT ACT

R.S.C., 1985, c. C-36, as amended

General power of court

11 Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

[...]

Stays, etc. — initial application

11.02 (1) A court may, on an initial application in respect of a debtor company, make an order on any terms that it may impose, effective for the period that the court considers necessary, which period may not be more than 30 days,

(a) staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of the company under the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act;

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Stays, etc. — other than initial application

(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

(a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);

(b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and

(c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company.

Burden of proof on application

11.02 (3) The court shall not make the order unless

(a) the applicant satisfies the court that circumstances exist that make the order appropriate; and

(b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

[...]

Stays — directors

11.03 (1) An order made under section 11.02 may provide that no person may commence or continue any action against a director of the company on any claim against directors that arose before the commencement of proceedings under this Act and that relates to obligations of the company if directors are under any law liable in their capacity as directors for the payment of those obligations, until a compromise or an arrangement in respect of the company, if one is filed, is sanctioned by the court or is refused by the creditors or the court.

[...]

Security or charge relating to director's indemnification

11.51 (1) On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of the company is subject to a security or charge — in an amount that the court considers appropriate — in favour of any director or officer of the company to indemnify the director or officer against obligations and liabilities that they may incur as a director or officer of the company after the commencement of proceedings under this Act.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

[...]

Court may order security or charge to cover certain costs

11.52 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a debtor

company is subject to a security or charge — in an amount that the court considers appropriate — in respect of the fees and expenses of

- (a) the monitor, including the fees and expenses of any financial, legal or other experts engaged by the monitor in the performance of the monitor's duties;
- (b) any financial, legal or other experts engaged by the company for the purpose of proceedings under this Act; and
- (c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for their effective participation in proceedings under this Act.

Priority

(2) The court may order that the security or charge rank in priority over the claim of any secured creditor of the company.

[...]

Restriction on disposition of business assets

36 (1) A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Notice to creditors

(2) A company that applies to the court for an authorization is to give notice of the application to the secured creditors who are likely to be affected by the proposed sale or disposition.

Factors to be considered

(3) In deciding whether to grant the authorization, the court is to consider, among other things,

- (a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;
- (b) whether the monitor approved the process leading to the proposed sale or disposition;
- (c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;
- (d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

Additional factors — related persons

(4) If the proposed sale or disposition is to a person who is related to the company, the court may, after considering the factors referred to in subsection (3), grant the authorization only if it is satisfied that

(a) good faith efforts were made to sell or otherwise dispose of the assets to persons who are not related to the company; and

(b) the consideration to be received is superior to the consideration that would be received under any other offer made in accordance with the process leading to the proposed sale or disposition.

Related persons

(5) For the purpose of subsection (4), a person who is related to the company includes

(a) a director or officer of the company;

(b) a person who has or has had, directly or indirectly, control in fact of the company; and

(c) a person who is related to a person described in paragraph (a) or (b).

Assets may be disposed of free and clear

(6) The court may authorize a sale or disposition free and clear of any security, charge or other restriction and, if it does, it shall also order that other assets of the company or the proceeds of the sale or disposition be subject to a security, charge or other restriction in favour of the creditor whose security, charge or other restriction is to be affected by the order.

Restriction — employers

(7) The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(5)(a) and (6)(a) if the court had sanctioned the compromise or arrangement.

Restriction — intellectual property

(8) If, on the day on which an order is made under this Act in respect of the company, the company is a party to an agreement that grants to another party a right to use intellectual property that is included in a sale or disposition authorized under subsection (6), that sale or

disposition does not affect that other party's right to use the intellectual property — including the other party's right to enforce an exclusive use — during the term of the agreement, including any period for which the other party extends the agreement as of right, as long as the other party continues to perform its obligations under the agreement in relation to the use of the intellectual property.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36,
AS AMENDED

Court File No: CV-25-00748871-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CLAIRE'S STORES CANADA CORP.

Applicant

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

PROCEEDING COMMENCED AT TORONTO

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