

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

**IN THE MATTER OF THE PROPOSAL OF
CLOTHING FOR MODERN TIMES LTD.
A COMPANY DULY INCORPORATED IN THE PROVINCE OF ONTARIO WITH A
HEAD OFFICE IN THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

**SIXTH REPORT OF THE PROPOSAL TRUSTEE AND
PROPOSED MONITOR**

DECEMBER 14, 2011

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INTRODUCTION

1. On June 27, 2011, Clothing for Modern Times Ltd. (“**CMT**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) under Section 50.4 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). A. Farber & Partners Inc. (“**Farber**”) was appointed as Trustee in the Proposal of the Company (the “**Proposal Trustee**”). A copy of the Certificate of Filing a Notice of Intention to Make a Proposal is attached hereto as **Appendix “A”**.
2. CMT is an Ontario-incorporated company that designs, produces and markets trendy apparel styles under the retail businesses: Urban Behavior (“**UB**”), Costa Blanca (“**CB**”) and Costa Blanca X (“**CBX**”), with a head office premises located at 300 Supertest Road, Toronto.
3. At the time of filing the NOI, the Company employed 1,682 employees, of which approximately 1,316 were hourly retail employees.
4. CMT has experienced declining sales and reduced profit margins over the past three years attributed mainly to the poor economic climate for retail operations and the entry of direct competitors in the Canadian marketplace.
5. Roynat Asset Finance, a Division of Roynat Inc. (“**Roynat**”), CMT and other related entities to CMT, as guarantors, entered into a forbearance agreement dated June 24, 2011 (the “**Forbearance Agreement**”), whereby Roynat agreed to forbear from taking certain actions under its security.

6. The July 11, 2011 Order approved the Forbearance Agreement and granted the DIP Charge (as defined below). The Company's outstanding indebtedness to Roynat has reduced substantially over the restructuring period. The Company has advised that it anticipates paying down Roynat's operating line by December 23, 2011 and the term loan will be repaid from the UB transaction proceeds and self-liquidation of the Liquidation Stores (as defined below).

7. Pursuant to Orders of the Ontario Superior Court of Justice (Commercial List) dated July 11 and 22, 2011 (the "**July Orders**"), September 23, 2011 (the "**September Order**") and November 7, 2011 (the "**November Order**"), the Court approved, *inter alia*, (i) the post-filing advances and Over-Advances to the Company by Roynat, (ii) a super-priority charge in favour of Roynat to secure payment of the money advances by Roynat post-filing (the "**DIP Charge**"), (iii) an Administration Charge to secure the reasonable fees and disbursements of CMT's legal and financial advisors, the Proposal Trustee and its legal counsel; (iv) a charge in favour of certain of CMT's real property landlords, (v) self-liquidation of 68 underperforming stores (the "**Liquidation Stores**") across Canada and a key employee retention and incentive plan ("**KERP**") for certain key employees employed in the Liquidation Stores, (vi) a process for the removal of fixtures, (vii) a process for the marketing and sale of the UB and CBX businesses; and (viii) numerous extensions of time for CMT to file a proposal to its creditors, the last extension expiring on December 22, 2011. Copies of the July Orders, September Order and November Order are attached hereto as **Appendix "B", "C" and "D"** respectively.

8. The November Order granted the Company approval to enter into an agreement of purchase and sale for property, assets and undertakings of the UB business, including the leases, leasehold improvements, fixtures and equipment for 16 UB locations not disclaimed by CMT. The sale of the UB business is scheduled to close on January 16, 2011.
9. In addition, the November Order granted the Company approval to sell the lease, leasehold improvements and fixtures of the UB store located at Midtown Plaza, in the City of Saskatoon, Saskatchewan.
10. The Proposal Trustee has reviewed the sworn affidavit of Chris Johnson dated December 13, 2011 (the “**Johnson Affidavit**”), in support of the Company’s motion.

PURPOSE OF THIS REPORT

11. The purpose of this Sixth Report of the Proposal Trustee and Proposed Monitor’s Report (“**Sixth Report**”) is to:
 - a) support the Company’s request to, effective December 22, 2011, seek continuation of CMT’s restructuring proceeding under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”) by granting an Initial Order under the CCAA, including a stay of proceedings;
 - b) support the Company’s request for the Honourable Court to declare, if it deems appropriate, that the BIA proposal provisions will have no further application to CMT under the CCAA proceeding; and

- c) support the Company's request to seek approval of the process for the Company to market and sell the property, assets and undertakings of the CB business (the "**Sales Process**").

DISCLAIMER

12. Farber has relied upon the financial records and financial statements of CMT, as well as other information supplied by management, accountants, auditors and financial advisors to CMT. Our procedures and enquiries did not constitute any audit or review engagement. Farber assumes no responsibility or liability for loss or damage occasioned by any party as a result of the circulation, publication, re-production or use of this Sixth Report. Any use which any party, other than Court, makes of this Sixth Report or any reliance on or a decision made based upon it is the responsibility of such party.

PROPOSAL PROCEEDING AND CCAA APPLICATION

13. The Company's intention was to restructure its business by i) selling the UB and CBX businesses as going concerns or on a piecemeal basis, ii) self-liquidating underperforming CB, UB and CBX stores, and iii) preserving the CB business after all underperforming CB stores have been disclaimed.

14. As described above, the Company has successfully restructured its business by concluding a sale of the UB business, and is in the process of self-liquidating the last of its 68 UB, CB and CBX stores across Canada. The Company advised the Court in November 2011 that its secured lenders, CIC Asset Management Inc. ("**CIC**") and CMT Sourcing Group Ltd. ("**CMT Sourcing**") were supportive of the Company

making a proposal to its unsecured creditors by way of a payment by the Company of a nominal dividend distribution. An intended proposal would conclude the restructuring efforts of the Company and it would emerge from BIA protection as a smaller, more focused chain of approximately 35 CB stores in six provinces across Canada.

15. The Proposal Trustee's Supplemental Report to the Fifth Report dated November 16, 2011 concluded that unsecured creditors would not receive a dividend in the estate if the Company was wound up in an orderly liquidation.
16. The Proposal Trustee has been advised by the Company that as a result of its discussions with certain landlords and other stakeholders and the nominal amount that the Company can afford to offer its unsecured creditors, the Company does not believe that a proposal will be successfully approved by the requisite majority of unsecured creditors.
17. In addition, the Company has concluded that the nominal amount of distribution that it could offer unsecured creditors may not appear viable to the Court and, as a result, is uncertain whether the Court would approve such a proposal. Accordingly, the Company has determined that a going concern sale of the CB business is in the best interests of the Company's stakeholders.
18. The six month stay extension period expires on December 22, 2011 (the "**Expiry Date**"). The Company would be unable to seek a further extension to file a proposal under the provisions of the BIA to conduct the Sales Process of the CB business. If

the Company does not file a proposal before the Expiry Date, the Company will be deemed bankrupt on December 23, 2011.

19. The Proposal Trustee agrees that a going concern sale of the CB business is in the best interests of the Company's stakeholders and that a sale would maximize recoveries to CIC and CMT Sourcing and preserve employment for the remaining CMT employees.

20. Accordingly, the Proposal Trustee supports the continuation of the Company's restructuring proceeding under the CCAA in order to conduct the Sales Process for a going concern sale of the CB business and Farber consents to being appointed the Monitor (the "**Monitor**") under the CCAA application.

21. In addition, the Proposal Trustee believes that the continuation of the charges established in the Company's proposal proceedings and their relative priorities into the proposed CCAA proceedings is both necessary and appropriate in the circumstances.

SALES PROCESS

22. The Company is seeking approval for the going concern sale of the CB property, assets and undertakings, including its wholly owned subsidiary, CMT America Holding Inc. and its wholly owned subsidiary, CMT Wholesale Corp.

23. The Johnson Affidavit states that the majority shareholder of the Company, Mr. Arif Noor, intends to submit an offer for the property, assets and undertakings of the CB business in the Sales Process. Accordingly, the Company has determined, subject to

approval of this Honourable Court, that the Monitor, with Ernst & Young's ("E&Y") assistance, administer the Sales Process in order to protect the integrity of the process.

24. The Monitor, with E&Y's assistance, will conduct the Sales Process proposed in the Johnson Affidavit.

25. The proposed offer deadline date is January 16, 2012. E&Y has advised, and the Monitor agrees, that the timeline is sufficient and consistent with E&Y's experience with selling distressed companies of this size. Pursuant to the proposed sale process subject to the approval of this Court, the Monitor will have the discretion to extend the bid deadline should it be deemed appropriate.

26. The Company has advised the Monitor that CIC and CMT Sourcing support the Sales Process.

REVIEW OF CASH FLOW STATEMENT

27. The Company has not made alternative financing arrangements to fund the CCAA proceedings. Management has advised the Monitor that they believe the Company will have sufficient resources to fund the Sales Process and its continued operations from its operating cash flows.

28. In accordance with section 10(2) of the CCAA, the Company has provided the Monitor with its cash flow projections for the period ending January 28, 2012 (the "**Cash Flow Statement**"). The Company intends to file the Cash Flow Statement with the Court (on a confidential basis to preserve the purchase price of the UB transaction) in support of its CCAA application.

29. The Cash Flow Statement reflects, and as set out in the Johnson Affidavit, that the Company has sufficient funds to continue operating in the CCAA proceeding and conduct the Sales Process without the need for additional financing.

30. The Monitor's review consisted of inquiries, analytical procedures and discussion related to information supplied to us by management and employees of the Company. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Statement. We have also reviewed the support provided for the probable assumptions and the preparation and presentation of the Cash Flow Statement.

31. Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Cash Flow Statement;
- b) as at the date of this Sixth Report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Company or do not provide a reasonable basis for the Cash Flow Statement, given the hypothetical assumptions; or
- c) the Cash Flow Statement does not reflect the probable and hypothetical assumptions.

RECOMMENDATIONS

32. As a result of the above, the Proposal Trustee and Monitor respectfully recommends that this Honourable Court approve:

- a) the Company's request to seek continuation of CMT's restructuring proceeding under CCAA, including a stay of proceedings, all with effect from December 22, 2011 and the continuation of all existing court ordered charges in the Company's proposal proceedings into the CCAA proceedings with the same relative priorities afforded thereto in such proposal proceedings;
- b) the Company's request for a declaration that the BIA proposal provisions will have no further application to CMT under the CCAA proceeding; and
- c) the Company's request for approval of the Sale Process .

All of which is respectfully submitted this 14th day of December 2011.

**A. FARBER & PARTNERS INC.
IN ITS CAPACITY AS TRUSTEE *IN RE*
THE PROPOSAL OF CLOTHING FOR MODERN TIMES LTD.**

A. Farber & Partners Inc.
