

**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 INTERTAN CANADA LTD. AND  
TOURMALET CORPORATION

APPLICANTS

**AFFIDAVIT OF IAN YOUNG  
(Sworn February 17, 2009)**

I, Ian Young, of the City of Toronto, in the Province of Ontario, MAKE OATH  
AND SAY:

1. I am the Chief Financial Officer of the Applicant, InterTAN Canada Ltd. ("InterTAN"). In my capacity as Chief Financial Officer, my duties include overseeing the financing of InterTAN's business. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources for information, I have specifically referred to such sources and verily believe them to be true. I am swearing this affidavit in support of the Applicants' motion seeking this Honourable Court's approval of the Third Amendment to the DIP Facility (both as defined below).

***Background***

2. On November 10, 2008, InterTAN and Tourmalet Corporation ("Tourmalet", collectively the "Applicants") filed for and obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), pursuant to the Initial Order of the Honourable Justice Morawetz, dated November 10, 2008. A copy of the Amended and Restated Initial Order, dated November 10, 2008, is attached as Exhibit "A".

3. Pursuant to the Amended and Restated Initial Order, Alvarez & Marsal Canada, ULC was appointed as monitor ("Monitor") of the Applicants pursuant to the CCAA.

4. On December 5, 2008, the Honourable Justice Morawetz approved a CCAA sale process for the Applicants (the "CCAA Sale Process"). A copy of Justice Morawetz' order, dated December 5, 2008, is attached as Exhibit "B". The CCAA Sale Process was subsequently amended by a further order of the Honourable Justice Morawetz on January 14, 2009. A copy of Justice Morawetz' order dated January 14, 2009 is attached as Exhibit "C". Collectively these orders are referred to herein as the CCAA Sale Process Orders.

5. Pursuant to the terms of the CCAA Sale Process Orders, the Applicants received a number of formal bids from potential purchasers for the purchase of InterTAN's business on Friday January 23, 2009. The Applicants, together with their financial advisors, FTI Consulting, investment bankers, N M Rothschild and Sons Canada, InterTAN's shareholder and the Monitor, are in the process of reviewing those formal bids and anticipate bringing forward a bid for consideration by this Honourable Court in the near future.

6. Circuit City Stores Inc. ("Circuit City"), a publicly-held Virginia corporation, is InterTAN's ultimate parent company. On November 10, 2008, Circuit City and certain of its affiliates (the "U.S. Debtors") filed for and were granted bankruptcy protection pursuant to Chapter 11 of title 11 of the *United States Code* in the United States Bankruptcy Court for the Eastern District of Virginia (the "Chapter 11 Proceedings").

### ***Necessity for an Amendment to the DIP Facility***

7. The Amended and Restated Initial Order authorized InterTAN to enter into a cross-border credit facility along with certain of the U.S. Debtors, as joint and several borrowers (collectively, the "Domestic Borrowers"), and the Canadian Agent and other lenders (the "DIP Lenders") on the terms and subject to the conditions set forth in the Senior Secured, Super-Priority, Debtor-in-Possession Credit Agreement (the "DIP Facility"). A copy of the execution version of the DIP Facility (without exhibits) and the First and Second Amendments to the DIP Facility are collectively attached as Exhibit "D". Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the DIP Facility.

8. The Chapter 11 Proceedings have been running concurrently with the Applicants' CCAA proceedings. However, circumstances in the Chapter 11 Proceedings resulted in the U.S. Debtors being unable to consummate a going concern sale transaction for the U.S. Circuit City business. On January 16, 2009, the United States Bankruptcy Court entered an "Order Approving Agency Agreement, Store Closing Sales and Related Relief" (the "U.S. Liquidation Order") that authorized the U.S. Debtors, among other things, to conduct going out of business sales at the U.S. Debtors' remaining 567 stores pursuant to an Agency Agreement. A copy of the Agency Agreement governing the U.S. liquidation is approved by and attached as an Exhibit to the U.S. Liquidation Order. A copy of the U.S. Liquidation Order is attached as Exhibit "E". On January 17, 2009, the Agent under the Agency Agreement commenced going out of business sales at the U.S. Debtors' remaining stores.

**A. The U.S. Amendment Motion**

9. On February 12, 2009, the U.S. Debtors filed an Expedited Motion for an Order Approving Amendment to Debtor-in-Possession Credit Agreement Effective as of January 17, 2009 (the "U.S. Amendment Motion"). A copy of the U.S. Amendment Motion is attached as Exhibit "F".

10. According to paragraph 9 of the U.S. Amendment Motion, as a result of the U.S. Liquidation Order, the conditions necessary for the U.S. Debtors to borrow under the DIP Facility cannot be met and in order for the U.S. Debtors (and thus InterTAN) to have access to the DIP Facility, the DIP Lenders are requiring the U.S. Debtors (and thus InterTAN) to enter into a proposed amendment to the DIP Facility (the "Third Amendment"). A copy of the Third Amendment is attached as Exhibit "G".

11. According to paragraph 10 of the U.S. Amendment Motion, as it pertains to the U.S. Debtors, the Third Amendment, among other things, provides for an amended Maturity Date and Termination Date under the DIP Facility and the implementation of a wind down budget consistent with the U.S. Debtors' ongoing liquidation under the Agency Agreement.

12. Paragraph 11 of the U.S. Amendment Motion provides as follows:

As described above, the Debtors have commenced liquidation of the inventory of their remaining stores pursuant to the Agency Agreement with the Agent. In the absence of the proposed

amendment, such liquidation would be a default under the DIP Credit Agreement. Moreover, consistent with the Debtors' reduced operations as they continue the inventory liquidation, the Third Amendment provides for a wind down budget of the Debtors' operations and termination of the DIP Facility on the earlier of the completion of the liquidation sales or April 30, 2009. [emphasis added]

13. Circuit City has been in liquidation since on or about January 17, 2009. As a result of the liquidation, the U.S. Debtors do not need incremental borrowings under the DIP Facility. As such, the current structure of the DIP Facility does not reflect the current status of the Chapter 11 Proceedings. Conversely, InterTAN still relies on continuing availability under the DIP Facility to fund its working capital and general corporate purposes as it seeks to complete a going concern transaction to maintain enterprise value pursuant to the CCAA Sale Process. Thus, InterTAN accepts and agrees that changes to the DIP Facility are required in order to reflect the reality that (i) the Domestic Borrowers are in liquidation and do not require incremental borrowings under the DIP Facility and (ii) InterTAN still needs a DIP Facility for the same reasons that existed as at the date of the Initial Order.

#### **B. The Canadian Commitments under the DIP Facility**

14. Pursuant to the terms of the DIP Facility, from the closing date of the DIP Facility until the earlier of January 17, 2009 or the closing and funding of a US \$75 million subordinate debtor-in-possession facility (defined as the "Term Loan" in the DIP Facility), Credit Extensions to InterTAN (i.e. Canadian Loans) were to be based on a "Canadian Borrowing Base". The Canadian Borrowing Base was calculated as a percentage of the appraised value of InterTAN's Eligible Inventory minus any applicable reserves. According to paragraph 18 of the U.S. Amendment Motion, the U.S. Debtors have been unable to obtain financing on an unsecured or junior priority basis, or otherwise, on terms and conditions more favourable than those provided in the DIP Facility.

15. Section 2.01(a)(vi) of the DIP Facility provides that from and after the earlier of January 17, 2009 or the closing and initial funding of the Term Loan, Credit Extensions to InterTAN shall not exceed the lower of: (a) the Canadian Total Commitments; or (b) the amount of the Borrowing Base (i.e. the U.S. Borrowing Base) minus outstanding Credit Extensions in favour of the Domestic Borrowers. The effect of this provision is that InterTAN currently does

not obtain credit under the DIP Facility based on its own borrowing base as availability for the Canadian portion of the loan is wholly-dependant on the U.S. Borrowing Base.

16. Attached as Exhibit "H" is correspondence dated February 13, 2009 from Canadian counsel to the DIP Lenders to the Applicants' counsel setting out the DIP Lenders' understanding of the current state of the DIP Facility (the "DIP Lender Memo"). The correspondence states that "it is without prejudice to or waiver of any other rights or remedies of the DIP Lenders but encapsulates an outline of their understanding at this time".

17. As set out in the DIP Lender Memo, the DIP Lenders take the position that they are currently providing InterTAN "what is in essence merely discretionary advances" under the DIP Facility. As the DIP Lenders describe their current advances as "discretionary", it appears that the DIP Lenders believe that they are under no obligation to provide additional credit to InterTAN at this time.

18. The DIP Lender Memo states that as there is no longer a U.S. Borrowing Base, no loans are being advanced (to the U.S. Debtors) and that liquidation expenses in the United States are being addressed by further Court order. The result of there being no U.S. Borrowing Base is that there is also no borrowing base to support loans to InterTAN.

19. The DIP Lender Memo states that the DIP Facility defines "Borrowing Base" as an aggregate of three defined terms (less certain reserves): (a) Eligible Credit Card Receivables; (b) Eligible Inventory; and (c) Eligible Letters of Credit.

20. With respect to Eligible Credit Card Receivables and Eligible Inventory, the DIP Lender Memo states that there is "currently no Eligible Inventory and Eligible Credit Card Receivables since the Domestic Borrowers are being liquidated. Amongst other things, the current inventory is not merchantable and readily saleable to the public in the ordinary course of business".

21. In addition, the DIP Lender Memo states that the Inventory is encumbered by the Agency Agreement which provides for rights of the liquidator to sell (and obtain title to the Inventory) against payments on future dates as sales are completed. Paragraph 25 of the U.S. Liquidation Order provides, in part, that "Upon issuance of the Letter of Credit provided for in

the Agency Agreement, the Agent shall have a valid and perfected security interest in and lien upon the Merchandise and the Proceeds”.

22. For the reasons set out above, the structure of the current DIP Facility no longer reflects the commercial reality of the needs of the U.S. Debtors or InterTAN. InterTAN is extremely concerned about a situation where it may have no access to additional credit that it needs to operate its business as a going concern and to effectuate a going concern sale. As such, the U.S. Debtors, InterTAN and the DIP Lenders have worked together to negotiate an amendment to the terms of the DIP Facility that is acceptable to InterTAN under the circumstances and that provides InterTAN with a direct lending commitment that is not dependant on a calculation of the U.S. Borrowing Base. The result of those negotiations is the proposed Third Amendment which was previously attached as Exhibit “G”. Copies of drafts of the Third Amendment were provided to the Monitor by the Applicants during the negotiation process.

***Changes to the DIP Facility set out in the Third Amendment are Acceptable to the Applicants***

23. Attached as Exhibit “I” is a chart (the “DIP Comparison Chart”) summarizing certain material changes between the current DIP Facility and the proposed Third Amendment that relate to InterTAN.

24. In order to analyze the proposed changes to the DIP Facility set out in the Third Amendment, InterTAN, with the assistance of FTI Consulting, prepared cash flows that extend until the week of June 28, 2009 (the “Extended Cash Flows”). A copy of the Extended Cash Flows is attached as Exhibit “J”. As set out below, the Extended Cash Flows project that InterTAN’s liquidity needs will be satisfied by the modified Canadian commitment levels and other changes provided for by the Third Amendment.

**A. Maturity Date**

25. The Third Amendment changes the “Maturity Date” of the DIP Facility, as it relates to InterTAN, from November 10, 2009 to the earlier of the consummation of a sale of the Canadian business or June 30, 2009 (unless the Obligations are otherwise accelerated in accordance with the terms of the DIP Facility). It is InterTAN’s belief that the June 30, 2009

Maturity Date should be sufficient to complete the sale of the Canadian business. If the sale is not completed by that date, InterTAN would be required to negotiate a further amendment to the DIP Facility or obtain alternate financing.

26. The outside "Maturity Date" for the Domestic Borrowers in the Third Amendment is April 30, 2009. InterTAN requested an extension of its Maturity Date to June 30, 2009 to allow it to continue its efforts to complete a going concern transaction which request was agreed to by the DIP Lenders. This extension represents an accommodation by the DIP Lenders to the benefit of InterTAN and its stakeholders.

#### **B. Termination Date**

27. As set out on the DIP Comparison Chart, the Third Amendment ensures that any "Termination Date" that occurs as a result of the "Maturity Date" for the Domestic Borrowers will not result in a Termination Date for InterTAN (i.e. the April 30, 2009 Maturity Date applicable to the Domestic Borrowers will not result in a Termination Date for InterTAN).

#### **C. Lender Commitments**

28. The Third Amendment reduces the "Canadian Commitments" for InterTAN's borrowings from US\$50 million to US\$40 million. As set out in the Extended Cash Flows, the maximum borrowings for InterTAN under the DIP Facility are projected to be approximately CDN\$32.3 million during the week of June 7, 2009. As such, InterTAN is satisfied that the Third Amendment provides it with sufficient liquidity to operate until the end of June. Moreover, as set out above, the fact that the Third Amendment provides for direct Canadian borrowings that are not tied to the U.S. Borrowing Base is a positive development for InterTAN that should provide it with sufficient stability to complete the CCAA Sale Process.

29. The reduction in the commitment level from US\$50 million to US\$40 million will also have the effect of reducing the amount of the "Unused Commitment Fee" payable by InterTAN for any unused portion of the "Canadian Facility".

#### **D. Letters of Credit**

30. The DIP Facility currently provides InterTAN with a sub-facility for Letters of Credit in an amount not exceeding US\$40 million. The Third Amendment provides that the

aggregate outstanding Letters of Credit shall not exceed US\$20 million. As set out in the Extended Cash Flows, InterTAN projects to have maximum aggregate outstanding Letters of Credit of CDN\$3.8 million during the week of February 15, 2009.

**E. Performance in Accordance with Budget**

31. The Third Amendment revises certain of the performance covenants set out in the DIP Facility so that the total cash expenditures of InterTAN shall not be greater than 110% of the projected total amount set forth in its budget. This covenant is to be tested weekly pursuant to a variance report on a four-week trailing basis. Based on its financial projections, InterTAN anticipates that it will be able to manage its business such that cash expenditures will not exceed 110% of forecast expenditures on a trailing four week basis.

**F. Wind Down Budget**

32. The Third Amendment also introduces the concept of a "Wind Down Budget" which has been produced in accordance with the U.S. liquidation sale. The amendment provides that cumulative total cash expenditures (other than certain excluded expenditures) of the Domestic Borrowers shall not be greater than 100% of the projected cumulative total amount set forth in the Wind Down Budget.

33. The Wind Down Budget attached to the Third Amendment is a six week projection until February 28, 2009. As set out at paragraph 13 of the U.S. Amendment Motion, any further availability under the DIP Facility is contingent upon subsequent cash flow projections being approved by the DIP Lenders or further order of the U.S. Bankruptcy Court. As such, to the extent that there is no agreement on further cash flows in the U.S. subsequent to February 28, 2009, or a further court order, the DIP Facility would be in default.

34. As part of the negotiations concerning the Third Amendment, InterTAN requested relief from the cross-default provisions of the DIP Facility. Specifically, InterTAN requested that the cross-default provisions of the DIP Facility not apply to any default that may be occasioned by a failure of the parties to agree on a Wind Down Budget past the end of February. The DIP Lenders were not agreeable to such a provision.

35. Although InterTAN would have preferred to see a provision in the Third Amendment eliminating the cross-default provisions of the DIP Facility, and in particular any



cross-default associated with the Wind Down Budget's expiration at the end of February, it is InterTAN's view that the Third Amendment represents an accommodation from the DIP Lenders in agreeing to fund InterTAN's operations and provide a renewed direct commitment to InterTAN (as opposed to the current situation where InterTAN relies on the U.S. Borrowing Base). The DIP Lenders have agreed to let the Canadian portion of the facility revolve when there is no additional borrowing required in the Chapter 11 Proceedings. As set out in the Extended Cash Flows, the proposed Third Amendment provides sufficient liquidity during the forecast period to allow InterTAN to continue its efforts to consummate a going concern sale of its business and is crucial to the enterprise's survival.

36. Faced with a situation where the DIP Lenders have stated that advances are currently being made to InterTAN on a discretionary basis and the U.S. Amendment Motion states that the DIP Facility is in default absent the Third Amendment, it is InterTAN's belief that in the current circumstances the negotiated terms of the Third Amendment provide InterTAN with the ability to continue to operate as a going concern and proceed with the sale of its assets.

### ***InterTAN is Attempting to Source Alternate Financing***

37. Due to the change in position of the U.S. Debtors and the Applicants' ongoing need for funding, the Applicants are attempting to determine whether it is possible to arrange for alternate financing should such financing become necessary. The Applicants have initiated discussions with alternate lenders and will report back and seek further orders of this Honourable Court with respect to alternate financing as necessary.

### ***Approval by the Canadian Court Required***

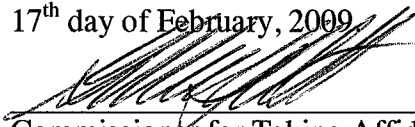
38. Paragraph 14(d) of the Third Amendment provides that a condition precedent to the effectiveness of the amendment is the approval of both the U.S. Bankruptcy Court and this Honourable Court.

39. On February 17, 2009, the Third Amendment was approved in the Chapter 11 Proceedings. A copy of the Order of the U.S. Bankruptcy Court approving the Third Amendment, including a copy of the Wind Down Budget, is attached as Exhibit "K".

40. It is my belief that the changes to the DIP Facility, as embodied in the Third Amendment, are reasonable and satisfactory and are of benefit to the Applicants and their stakeholders.

SWORN BEFORE ME at the CITY of  
Toronto, in the Province of Ontario, this  
17<sup>th</sup> day of February, 2009

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Commissioner for Taking Affidavits  
GILLIAN SCOTT

  
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IAN YOUNG