

CITATION: Target Canada Co. (Re), 2015 ONSC 846

COURT FILE NO.: CV-15-10832-00CL

DATE: 2015-02-05

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: 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 TARGET CANADA CO., TARGET CANADA
HEALTH CO., TARGET CANADA MOBILE GP CO., TARGET CANADA
PHARMACY (BC) CORP., TARGET CANADA PHARMACY (ONTARIO)
CORP., TARGET CANADA PHARMACY CORP., TARGET CANADA
PHARMACY (SK) CORP., and TARGET CANADA PROPERTY LLC.

BEFORE: Regional Senior Justice Morawetz

COUNSEL: *Jeremy Dacks, Tracy Sandler and Shawn Irving*, for the Target Canada Co.,
Target Canada Health Co., Target Canada Mobile GP Co., Target Canada
Pharmacy (BC) Corp., Target Canada Pharmacy (Ontario) Corp., Target Canada
Pharmacy Corp., Target Canada Pharmacy (SK) Corp., and Target Canada
Property LLC (the "Applicants")

Jay Swartz, for the Target Corporation

Alan Mark, Melaney Wagner, and Jesse Mighton, for the Proposed Monitor,
Alvarez and Marsal Canada ULC ("Alvarez")

Susan Philpott, Employee Representative Counsel for employees of the
Applicants

Jane Dietrich and Shane Kukulowicz, for Merchant Retail Solutions ULC, Gordon
Brothers ULC and GA Retail Canada ULC

Harvey T. Strosberg, Q.C., for the Pharmacy Association of Pharmacies

David Bish and Adam Slavens, for Cadillac Fairview Corporation

Kenneth Pimental and Brian Parker, for Montez Corp. and Westcliff & Fishman
Holdings

Scott Bomhof and Jeremy Opolosky, for First Capital Realty

D.J. Miller, for Oxford Properties

Derek J. Bell, for One York Street

Lou Brzezinski, for Universal, Nintendo and Thyssen Krup

S. Richard Orzy, Richard Swan and Sean Zweig, for Riece and Kingscott

Evan Cobb, for Real Estate Investment Trust

A Kaufman, for Ivanhoe Cambridge

Aryo Shalviri, for Dyson Canada Ltd., Bose Limited and Philips Electronics Limited

Harvey Chaiton, for the Directors and Officers of Target Canada Co.

John Salmas, for Carlton Cards Limited and Papyrus Recycled Greetings Canada Ltd.

David Ullman, for Primaris REIT

Linda Galessiere, for 20 ULC, Morguard, Crombie, Calloway and Blackwell

HEARD and RELEASED: February 4, 2015

ENDORSEMENT

[1] There was no opposition to the request to approve the Agency Agreement.

[2] The Proposed Inventory Liquidation Proposal was designed by the Target Canada Entities, in consultation with the Monitor. Having reviewed the record, I am satisfied that the process resulted in three bona fide proposals and that the Agreement put forward for approval presents the best guaranteed recovery for stakeholders and the most favourable bid of those submitted. I note that the Monitor supports both the selection of the agent and the entering into of the Agency Agreement.

[3] It is recognized that a CCAA court has jurisdiction to approve a sales process prior to development of a Plan of Compromise or Arrangement (see: *Nortel Networks Corp.*, Re 2009 CarswellOnt 4467 and s. 36 CCAA).

[4] The factum submitted by the Applicants sets out a number of factors which support the submission of the Applicants that the Agency Agreement should be approved (commencing at paragraph 24).

[5] In my view, the factors are sufficient to satisfy the *Nortel* test and are consistent with the objects and intent of s. 36 of the CCAA.

[6] The Agency Agreement, as appended at Tab "D", of the Affidavit of Mark Wong, sworn January 24, 2015 and the transactions contemplated therein, is approved. The parties are to prepare a form of order for execution, which order shall be dated and effective as of February 4, 2015.

[7] The Court will determine the terms of the Real Property Portfolio Sales Process upon motion returnable February 11, 2015. Pending the determination of the terms:

1. Lazard is authorized to contact prospective interested parties.
2. Lazard is authorized to provide such interested parties with a "teaser" and form of confidentiality agreement.
3. Lazard and the Applicants are authorized to negotiate the terms of the confidentiality agreements and the Applicants are authorized to enter into such agreements.
4. Interested parties are permitted to undertake due diligence, including (i) receiving a confidential information memorandum ("CIM") from Lazard; (ii) being permitted access to the data room; and (iii) conducting site visits, if requested.
5. Lazard can enter into preliminary discussions with interested parties.

[8] The stay extension will be heard on February 11, 2015.

A handwritten signature in blue ink, appearing to read "G.B. Morawetz", is written over a horizontal line.

Regional Senior Justice G.B. Morawetz

Date: February 5, 2015