

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1984, c. C-36, as amended

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57

AND

IN THE MATTER OF STERLING SHOES INC. and STERLING SHOES GP INC.

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc. (the "**Monitor**")

To: The Service List as set out in Schedule "A"

TAKE NOTICE that an application will be made by the Monitor to Mr. Justice Pearlman at the courthouse at 800 Smithe Street, Vancouver, British Columbia on July 31, 2013 at 9:00 a.m. for the orders set out in Part 1 below.

Part 1 ORDERS SOUGHT

1. An order abridging the time for service of this Notice of Application and the materials herein such that the application is properly returnable on July 31, 2013;
2. An order approving the activities of the Monitor as detailed in the Monitor's Fourteenth Report to the Court dated July 26, 2013 (the "**Fourteenth Report**");
3. An order approving the fees and disbursements of the Monitor and its legal counsel, as set out in the Fourteenth Report;
4. An order authorizing the Monitor, after payment of the fees and disbursements of the Monitor as approved by this Court, in its sole discretion, to distribute all funds remaining in its hands (the "**Residual Funds**") to the creditors of Sterling Shoes GP Inc. and Sterling Shoes Limited Partnership;
5. An order staying any Proceeding, and all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entity, against, in respect of or affecting the Residual Funds until such time as all of the Residual Funds have been

distributed by the Monitor (in its sole discretion), except with the written consent of the Monitor or with leave of this Court.

6. An order discharging the Monitor, and
7. An order releasing the Monitor and any director, officer or employee of the Monitor, its affiliates or A&M US (collectively, the “**Released Parties**”) from any and all liability that the Released Parties or any of them now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of the Monitor in relation to the Monitor’s capacity as monitor in these proceedings,

all substantially as set out in the form of Order attached hereto as Schedule “B”.

Part 2 FACTUAL BASIS

1. On October 21, 2011, Madam Justice Brown granted the Initial Order pursuant to the *Companies’ Creditors Arrangement Act* (“**CCAA**”).
2. On April 2, 2012, this Court made an Order (the “**Claims Process Order**”) approving, among other things, a claims process (the “**Claims Process**”) for the determination of the nature and quantum of claims against the Petitioners and Sterling Shoes Limited Partnership (the “**Partnership**”), and collectively with the Petitioners, the “**Company**”).
3. On December 12, 2012, this court made an Order (the “**Distribution Order**”) permitting the Company to make one or more distributions to creditors of Sterling Shoes GP Inc. and the Partnership.
4. On January 23, 2013, this Court made an Order (the “**Enhanced Monitor Order**”), *inter alia*, authorizing and empowering the Monitor, fully and exclusively, to take any and all actions and steps on behalf and in the name of the Company, including such steps as, in the opinion of the Monitor, are necessary to complete the Claims Process and make distributions to creditors in accordance with the Distribution Order.
5. During the period from September 20, 2011 (when Alvarez & Marsal Canada Inc. commenced work as the Proposed Monitor of the Petitioners) until the making of the Initial Order, and subsequently, pursuant to the Initial Order and the Enhanced Monitor Order, the Monitor has:
 - (a) prepared the Proposed Monitor’s Pre-Filing Report dated October 21, 2011, including reviewing drafts of same with the Proposed Monitor’s legal counsel, Fasken Martineau DuMoulin LLP (“**Fasken**”), and legal counsel to the Petitioners, Blake Cassels & Graydon LLP (“**Blakes**”);
 - (b) attended numerous meetings and discussions with the Petitioners’ senior management and Blakes regarding the Company’s business and financial affairs, and operational restructuring activities, and other matters relating to these proceedings;

- (c) reviewed drafts of the Initial Order and subsequent orders and related Court materials, prepared by Blakes;
- (d) reviewed agency agreements entered into between the Company and Century Services LP and Great American Group, LLC for the sale of merchandise at 89 stores which were closed by the Company;
- (e) reviewed various operational restructuring initiatives undertaken by the Petitioners, including termination of various employees, and termination of various real estate leases and negotiations with landlords with respect to same;
- (f) prepared for and attended various meetings of the Board of Directors of Sterling Inc., as well as numerous discussions with the board's legal counsel, Davis LLP;
- (g) reviewed and considered various legal and financial analyses prepared by the Company's advisors, including valuation and cash flow liquidity models prepared by Capital West Partners and Richter Consulting Inc.;
- (h) monitored, and reviewed documents associated with, the solicitation process (approved by this Court on December 9, 2011) conducted by the Company in conjunction with Capital West Partners, which resulted in the sale of 69 stores to Town Shoes Limited;
- (i) prepared and issued statutory notices required under the CCAA, the Initial Order, the Claims Process Order and the Distribution Order, and the following creditor communications and notices:
 - (i) publication of notices to creditors in The Globe and Mail on October 28 and November 4, 2011;
 - (ii) mailed notices in the prescribed form (as referenced in paragraph 42 of the Initial Order) on October 26, 2012 to approximately 534 creditors and potential creditors of the Petitioners, and posted copies of same on the Monitor's website;
 - (iii) issued various notices to employees;
 - (iv) issued Form 1 and 2 notices to the Office of the Superintendent of Bankruptcy, as required under section 23(1)(f) of the CCAA; and
 - (v) sent claims packages to pre-filing creditors, landlords, employees and the trustee of the Subordinated Notes pursuant to the Claims Process Order;
- (j) received, reviewed and reconciled a total of 638 Proofs of Claim, developed and maintained a Proofs of Claim register, dealt with numerous enquiries from various pre-filing creditors, employees, landlords and other interested parties in respect of Proofs of Claim filed;

- (k) prepared 226 Notices of Revision or Disallowance which were issued to 11 pre-filing creditors, 66 landlords and 149 employees;
- (l) reviewed Notices of Disclaimer issued to landlords, overseen negotiations with landlords, reviewed Proofs of Claim submitted by landlords, issued Notices of Revision or Disallowance to landlords, reviewed Notices of Dispute received from landlords, and requested additional information from landlords with respect to their claims;
- (m) reviewed Notices of Dispute received from various employees and requested additional information from employees in support of their claims;
- (n) calculated and issued cheques in respect of an interim distribution on or around February 15, 2013 (the “**Interim Distribution**”) to 610 creditors of the Partnership and Sterling GP representing 40% of their Allowed Claims (aggregate cash distribution of \$9.01 million);
- (o) following the granting of the Enhanced Monitor Order, administered the Company’s affairs, including payment of expenses and discussions with Canada Revenue Agency (“**CRA**”) regarding outstanding HST/GST and withholding tax issues;
- (p) prepared fourteen Monitor’s Reports to the Court;
- (q) monitored the business and financial affairs of the Petitioners;
- (r) established and maintained the Monitor’s website throughout these proceedings; and
- (s) attending to various and periodic enquiries from creditors, employees, suppliers and other parties regarding the administration of these proceedings generally.

Further particulars of the activities of the Monitor are set out in the Fourteenth Report.

- 6. Since the commencement of these proceedings, the Company has had total receipts of \$96.7 million from sales of goods, liquidation proceeds and the sale of certain assets to Town Shoes Limited. Total operating expenses were \$62.5 million, resulting in a net cash flow from operations of \$34.2 million. Further particulars of the Company’s receipts and disbursements are set out in the Fourteenth Report.
- 7. For the period from September 30, 2011 to June 30, 2013, the Monitor’s fees and disbursements total \$1,507,179.09 (including all applicable taxes).
- 8. For the period ending June 30, 2013, Fasken’s fees and disbursements total \$238,199.91 (including all applicable taxes).
- 9. The Monitor and Fasken anticipate incurring additional fees and disbursements related to this matter of approximately \$90,000.

10. The fees incurred by the Monitor and Fasken were reasonable and necessary, and the hours and rates charged are fair and reasonable given the circumstances, as are the estimated fees of the Monitor and Fasken.
11. The Monitor anticipates that it will make a further distribution (the “**Final Distribution**”) to creditors with Allowed Claims in or around early August 2013, so that the total distribution to creditors with Allowed Claims will be 56.9% of those Allowed Claims, representing a further distribution of 19.6% to those creditors, over and above the Interim Distribution.
12. With the exception of the making the Final Distribution and the completion of certain sundry matters (the “**Residual Matters**”), including those matters which are referred to in the Fourteenth Report, the Monitor has now completed its mandate as set out in the Initial Order and the Enhanced Monitor Order, and desires to be summarily discharged.
13. The Monitor seeks a release from any liability that the Released Parties may have arising out of the Monitor’s acts or omissions in relation to the Monitor’s capacity as Monitor during these proceedings.
14. The Monitor is seeking the release on the basis that:
 - (a) Sterling Shoes Inc. is a publicly listed entity with publicly traded debt securities;
 - (b) the Petitioners’ enterprise was significant in scale, across multiple provinces with more than 1,000 employees at the date of the Initial Order;
 - (c) the Monitor’s powers were expanded by this Court to encompass the performance of activities previously undertaken by the Company’s Officers and directors, all of whom resigned in or around December 2012 and January 2013; and
 - (d) the Monitor has been involved, directly and indirectly, in the determination of numerous high value creditor claims, some of which involved contentious negotiations, has completed the liquidation of the Company’s assets, and made a material distribution to unsecured creditors during the course of these proceedings.

Part 3 LEGAL BASIS

1. The *Companies’ Creditors Arrangement Act*, R.S.C. 1984, c. C-36.
2. Rule 8-1 of the *Supreme Court Civil Rules*.
3. As set forth in the Fourteenth Report, the CCAA proceedings are now concluded and there are no further duties for the Monitor to perform, other than making the Final Distribution and completion of the Residual Matters.
4. There is no reason not to discharge the Monitor at this time, provided the monitor remains authorized to make the Distribution and complete the Residual Matters.

5. The Initial Order contemplated the Monitor passing its accounts summarily on application to this Court.
6. The Monitor seeks its discharge and the approval of its fees and disbursements and those of its legal counsel on a summary basis.

Part 4 MATERIAL TO BE RELIED ON

1. Fourteenth Report of the Monitor dated July 26, 2013;
2. All pleadings had and taken herein; and
3. Such further and other materials as counsel may advise and the Court may permit.

The Monitor estimates that the application will take 10 minutes.

This matter is not within the jurisdiction of a master. Mr. Justice Pearlman is seized of this matter.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) service on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

- (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: 26-Jul-2013

Vicki Tickle

Signature of Vicki Tickle
Lawyer for the Monitor, Alvarez & Marsal
Canada Inc.

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of
this Notice of Application

☐ with the following variations and additional terms:

.....
.....
.....

Date:

.....

Signature of ☐ Judge ☐ Master

The Solicitors for the Monitor, Alvarez & Marsal Canada Inc. are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 2900 - 550 Burrard Street, Vancouver BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232. (Reference: Vicki Tickle/285937.00003)

Schedule "A"

SERVICE LIST

IN THE MATTER OF THE CCAA, THE BUSINESS CORPORATIONS ACT AND STERLING SHOES INC. AND STERLING SHOES G.P. INC.

<p><i>Counsel for the Petitioners</i> Blake, Cassels & Graydon LLP Attention: Peter L. Rubin Andrew Crabtree Kim Grierson Email: peter.rubin@blakes.com andrew.crabtree@blakes.com kim.grierson@blakes.com</p>	<p><i>Counsel for the Bank of Montreal</i> Gowlings Attention: Colin D. Brousson David Cohen Email: colin.brousson@gowlings.com david.cohen@gowlings.com</p>
<p><i>Monitor</i> Alvarez & Marsal Canada Inc. Attention: Todd M. Martin Pam Boparai Email: tmartin@alvarezandmarsal.com pboparai@alvarezandmarsal.com</p>	<p><i>Counsel for the Monitor</i> Fasken Martineau Attention: John F. Grieve Kibben Jackson Vicki Tickle Email: jgrieve@fasken.com kjackson@fasken.com vtickle@fasken.com</p>
<p><i>Counsel for BII Acquisition Inc.</i> Borden Ladner Gervais LLP Attention: Magnus C. Verbrugge Email: mverbrugge@blg.com</p>	<p><i>BII Acquisition Inc.</i> Belcorp Group Of Companies Attention: Randy Smith Email: rsmith@belcorp.com</p>
<p><i>Counsel for Ivanhoe Cambridge</i> McCarthy Tetrault Attention: Warren Milman Email: wmilman@mccarthy.ca</p>	<p><i>Sports Industry Credit Association (Footwear Credit Group)</i> Attention: William Anidjar Email: william@sica.ca</p>
<p><i>Counsel for The Cadillac Fairview Corporation Limited</i> Torys LLP Attention: David Bish Email: dbish@torys.com</p>	<p><i>The Clarks Companies</i> Clarks, Bostonian, Indigo, Privo Attention: Dan Logan, Credit Manager Email: dan.logan@clarksna.com</p>
<p><i>Counsel for Morguard Investments Limited, Morguard Real Estate Investment Trust, Primaris Retail Estate Investment Trust, 20 VIC Management Inc., Oxford Properties Group Inc. and Retrocom Mid-Market REIT</i> Alexander Holburn Beaudin & Lang LLP Attention: Sharon Urquhart Email: surquhart@ahbl.ca</p>	<p><i>Western Compensation & Benefits Consultants</i> Attention: Barry Cook Email: barry_cook@wcbc.ca</p>

<i>Counsel for MC Leaseholds Ltd.</i> Borden Ladner Gervais LLP Attention: Blair A. Rebane Email: brebane@blg.com	<i>Counsel for adidas AG</i> Gowlings Attention: Martha J. Savoy Email: martha.savoy@gowlings.com
<i>Counsel for Rocket Dog Brands LLC</i> Goodmans LLP Attention: Brian F. Empey Email: bempey@goodmans.ca	<i>Counsel for Canada Revenue Agency</i> Department Of Justice Canada Attention: Kirat K. Khalsa Email: kirat.khalsa@justice.gc.ca
<i>Counsel for Jackson Lam and Yvonne Yee Wan Lau, Landlords</i> Miller Thomson Attention: Gordon Plottel Email: gplottel@millerthomson.com	<i>Counsel for the Directors of Sterling Shoes Inc. and Sterling Shoes GP Inc.</i> Davis LLP Attention: Mary I.A. Buttery Email: mbuttery@davis.ca
<i>Shaw Cablesystems G.P.</i> Attention: Sandra Bazian Email: sandra.bazian@sjrb.ca	<i>Counsel for Town Shoes Limited</i> Torys LLP Attention: Lee J. Cassey Email: lcassey@torys.com
<i>Counsel for Peritas Solutions Ltd.</i> Carscallen LLP Attention: Brent Robinson Email: robinson@carscallen.com	<i>Counsel for Vanprop Investments Ltd.</i> Bull Housser Tupper LLP Attention: Decatur Howe Email: cdh@bht.com
<i>Counsel for Dave Alves</i> Yeager & Company Attention: Robert Yeager Email: ryeager@dismissal.ca	

SCHEDULE "B"

No. S117081
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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AND

IN THE MATTER OF STERLING SHOES INC. and STERLING SHOES GP INC.

ORDER MADE AFTER APPLICATION

))
))
BEFORE)	THE HONOURABLE)
)	MR. JUSTICE PEARLMAN)
))
))

July 31, 2012

ON THE APPLICATION OF Alvarez & Marsal Canada Inc. in its capacity as Monitor (the "**Monitor**") coming on for hearing at Vancouver, British Columbia on July 31, 2013 and on hearing Vicki Tickle, counsel for the Monitor, and those counsel listed in Schedule "A" hereto, and upon reading the materials filed, including the Fourteenth Report of the Monitor dated July 26, 2013 (the "**Fourteenth Report**");

THIS COURT ORDERS AND DECLARES that:

1. The activities of the Monitor as described in the Fourteenth Report are hereby approved.
2. The fees and disbursements of the Monitor for the period September 20, 2011 to June 30, 2013, as described in the Fourteenth Report, are hereby approved in the amount of \$1,507,179.09, including applicable taxes.
3. The fees and disbursements of the Monitor's legal counsel, Fasken Martineau DuMoulin LLP, for the period ending June 30, 2013, as described in the Fourteenth Report, are hereby approved in the amount of \$238,199.91, including applicable taxes.
4. After payment of the fees and disbursements of the Monitor as herein approved, the Monitor is authorized, in its sole discretion, to distribute all funds remaining in its hands

(the “**Residual Funds**”) to the creditors of Sterling Shoes GP Inc. and Sterling Shoes Limited Partnership.

5. Until such time as all of the Residual Funds have been distributed by the Monitor (in its sole discretion), no action, suit or proceeding in any court or tribunal (each, a “**Proceeding**”) against, in respect of or affecting the Residual Funds shall be commenced or continued, and all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities against, in respect of or affecting the Residual Funds, are hereby stayed and suspended, except with the written consent of the Monitor or with leave of this Court.
6. The Monitor has duly performed its duties and met its obligations under the October 21, 2011 Order of this Court (the “**Initial Order**”) and the January 23, 2013 Order of this Court (the “**Enhanced Monitor Order**”), and upon making the distribution referred to in paragraph 4 hereof, the Monitor shall be discharged of its duties and obligations arising under the Initial Order and the Enhanced Monitor Order, provided that notwithstanding its discharge the Monitor shall remain Monitor for the performance of such incidental duties as may be required to complete the administration of the proceedings herein.
7. Alvarez & Marsal Canada Inc. and any director, officer or employee of the Monitor (collectively, the “**Released Parties**”) are hereby released and discharged from any and all liability that the Released Parties now have or may hereafter have by reason of, or in any way arising out of, the acts or omissions of the Released Parties’ acts or omissions in relation to Alvarez & Marsal Canada Inc.’s capacity as Monitor herein. Without limiting the generality of the foregoing, the Released Parties are hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, within the proceedings herein.
8. Endorsement of this Order by counsel appearing on this application, except counsel for the Monitor, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Vicki Tickle
Lawyer for the Monitor

BY THE COURT

REGISTRAR

No. S117081
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

AND

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1984, c. C-36, as amended

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IN THE MATTER OF STERLING SHOES INC. and
STERLING SHOES GP INC.

ORDER MADE AFTER APPLICATION

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Counsel: Vicki Tickle
Matter No: 285937.00003

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts