

**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 OR 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.**

**SECOND REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.**

**FEBRUARY 9, 2015**

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## 1.0 INTRODUCTION

1.1 On January 15, 2015, Target Canada Co. (“**TCC**”) and those companies listed in **Appendix “A”** (collectively, the “**Applicants**”), together with the Partnerships also listed in **Appendix “A”** (the “**Partnerships**”, and collectively with the Applicants, the “**Target Canada Entities**”), applied for and were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to an Order of this Court dated January 15, 2015 (the “**Initial Order**”), Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed Monitor of the Target Canada Entities in the CCAA proceedings (the “**Monitor**”). The proceedings commenced by the Applicants under the CCAA are referred to herein as the “**CCAA Proceedings**”.

1.2 In connection with the CCAA Proceedings, the Monitor has provided to this Court the First Report of the Monitor (the “**First Report**”) dated January 30, 2015 and the Supplemental Report to the First Report (the “**First Supplemental Report**”) dated February 3, 2015, and A&M has provided to this Court the Pre-Filing Report of the Proposed Monitor (the “**Pre-Filing Report**”) dated January 14, 2015 (collectively, the “**Prior Reports**”). The Prior Reports, Initial Order and other Court-filed documents and notices in these CCAA Proceedings are available on the Monitor’s website at [www.alvarezandmarsal.com/targetcanada](http://www.alvarezandmarsal.com/targetcanada). For ease of reference, the First Report is attached as **Appendix B** to this Second Report.

1.3 The Initial Order, among other things:

- (a) granted a stay of proceedings (the “**Stay**”) through February 13, 2015 (the “**Stay Period**”) in favour of the Target Canada Entities;
- (b) provided the Target Canada Entities with the ability to, among other things, engage in discussions with and solicit proposals and agreement(s) from third

parties in respect of the liquidation of the inventory, furniture, equipment and fixtures located in and/or forming part of the Property (the “**Liquidation Agent Solicitation Process**”) and return to Court for approval of such agreement(s);

- (c) approved the engagement of Lazard Frères & Co. LLC (“**Lazard**”) as financial advisor and of Northwest Atlantic (Canada) Inc. (“**Northwest**”) as broker advisor;
- (d) authorized and directed the DIP Entities to enter into and borrow under the DIP Facility provided by Target Corporation;
- (e) approved the creation of the Employee Trust on substantially the terms and conditions set out in the Employee Trust Agreement, including without limitation, the appointments of Hon. John D. Ground as trustee (the “**Trustee**”) and the Monitor as administrator (the “**Administrator**”) of the Employee Trust;
- (f) approved the Key Employees Retention Plan (“**KERP**”);
- (g) appointed Koskie Minsky LLP (“**Koskie Minsky**” or “**Employee Representative Counsel**”) as counsel for all employees other than officers and directors (the “**Employees**”) of the Target Canada Entities in these CCAA Proceedings, any proceeding under the *Bankruptcy and Insolvency Act* (the “**BIA**”) or in any other proceeding respecting the insolvency of the Applicants which may be brought before this Court (the “**Insolvency Proceedings**”) for any issues affecting the Employees in the Insolvency Proceedings including, without limitation, with respect to the Employee Trust Agreement and the Claims Process (as defined in the Employee Trust Agreement);

- (h) provided the Target Canada Entities with the ability, but not the requirement, to pay, among other things, the following expenses whether incurred prior to, on or after the Initial Order to the extent that such expenses are incurred and payable by the Target Canada Entities:
  - (i) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses payable on or after the date of the Initial Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll processing expenses;
  - (ii) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
  - (iii) all outstanding or future amounts related to honouring gift cards issued before or after the date of the Initial Order;
  - (iv) the fees and disbursements of any Assistants retained or employed by the Target Canada Entities at their standard rates and charges;
  - (v) with the consent of the Monitor, amounts owing for goods and services actually supplied to the Target Canada Entities prior to the date of the Initial Order by:
    - (A) logistics or supply chain providers, including customs brokers and freight forwarders and security and armoured truck carriers;

- (B) providers of credit, debit and gift card processing related services;
  - (C) other third party suppliers up to a maximum aggregate amount of \$10 million, if, in the opinion of the Target Canada Entities, the supplier is critical to the Orderly Wind-down; and
  - (D) any and all sums due and owing to Amex Bank of Canada and JPMorgan in respect of credit cards issued to management and employees of the Target Canada Entities; and
- (i) approved the Administration Charge, the KERP Charge, the Directors' Charge, the Financial Advisor Subordinated Charge and the DIP Lender's Charge in the amounts and relative priority as set out in the Pre-Filing Report.

1.4 On January 29, 2015, the Applicants brought a motion returnable February 4, 2015 for, among other things, Orders:

- (a) approving the Agency Agreement (defined below), including the Sales Guidelines attached thereto (the "**Sales Guidelines**");
- (b) approving the Real Property Portfolio Sales Process; and
- (c) extending the Stay Period to May 15, 2015.

1.5 On February 4, 2015, this Court issued an order (the "**Approval Order – Agency Agreement**") approving: (i) the Agency Agreement, including the Sales Guidelines, entered into between TCC, Target Canada Pharmacy Corp. and Target Canada Pharmacy (Ontario) Corp. (collectively, "**Target Canada**"), and a contractual joint venture comprised of Merchant Retail Solutions ULC, Gordon Brothers Canada ULC and GA Retail Canada, ULC (collectively, the "**Agent**") on January 29, 2015 (the "**Agency Agreement**"), and certain related relief; and (ii) the granting of

the Agent's Charge and Security Interest (as defined in the Approval Order – Agency Agreement).

1.6 The Approval Order – Agency Agreement, authorized the Agent to conduct the Sale of inventory and furniture, fixtures and equipment in accordance with the Order, the Agency Agreement and the Sales Guidelines, and to advertise and promote the Sale within the Stores (each as defined in the Approval Order – Agency Agreement) in accordance with the Sales Guidelines. The Inventory Liquidation Process commenced in the retail stores on February 5, 2015.

1.7 Also, on February 4, 2015, this Court issued an Endorsement providing that:

- (a) the Court will determine the terms of the Real Property Portfolio Sales Process upon a motion returnable on February 11, 2015;
- (b) pending the determination of the terms of the Real Property Portfolio Sales Process:
  - (i) Lazard is authorized to contact prospective interested parties;
  - (ii) Lazard is authorized to provide such interested parties with a “teaser” and form of confidentiality agreement (“CA”);
  - (iii) Lazard and the Applicants are authorized to negotiate the terms of such CAs and the Applicants are authorized to enter into such agreements;
  - (iv) 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; and



(v) Lazard can enter into preliminary discussions with interested parties; and

(c) the stay extension motion will be heard on February 11, 2015.

1.8 The purpose of this second report (the “**Second Report**”) is to provide this Court with:

(1) information regarding the following:

(a) the proposed amendments to the Initial Order;

(b) the Applicants’ motion for approval of the Real Property Portfolio Sales Process;

(c) the motion by the Employee Representatives (as defined later in this Second Report), on behalf of all employees of the Applicants as at January 15, 2015, to seek the appointment of the Employee Representatives to represent the Target Employees (excluding Opt-Out Individuals, if any) in the CCAA Proceedings or in any other Insolvency Proceedings, and certain related relief;

(d) pharmacy matters and the motion by the Pharmacy Franchisee Association of Canada (“**PFAC**”) to seek: (i) the appointment of PFAC as the representative of the Pharmacists and Franchisees under the Pharmacy Franchise Agreements in the CCAA Proceedings; (ii) the appointment of Sutts, Strosberg LLP as Pharmacist Representative Counsel; (iii) the appointment of BDO Canada as Pharmacist Financial Advisor; (iv) payment from the estate of legal and other authorized professional expenses of PFAC, including funding for the involvement of a second law firm, Gardiner Roberts LLP; (v) an administrative charge in favour of the legal fees and other professional expenses of PFAC; (vi) direction pursuant to section 32(2) of the CCAA seeking a declaration that the Pharmacy Franchise Agreements and/or related agreements are not to be

disclaimed or resiliated without further Court order and related relief; and (vii) such further relief as the Court may seem just;

(e) the Applicant's motion for an extension of the Stay Period until May 15, 2015;

(f) the Monitor's activities since the date of the First Report; and

(2) the Monitor's conclusions and recommendations in connection with the foregoing.

## **2.0 TERMS OF REFERENCE AND DISCLAIMER**

2.1 In preparing this Second Report, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Target Canada Entities and Target Corporation, and discussions with management of the Target Canada Entities and Target Corporation (collectively, the "**Information**"). Except as otherwise described in this Second Report in respect of the Target Canada Entities' cash flow forecast:

(a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and

(b) some of the information referred to in this Second Report consists of forecasts and projections. An examination or review of the financial forecasts and

projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

- 2.2 Future oriented financial information referred to in this Second Report was prepared based on management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
- 2.3 This Second Report should be read in conjunction with the First Report, the Affidavit of Mark J. Wong, General Counsel and Assistant Secretary of TCC, sworn January 29, 2015 (the "**Second Wong Affidavit**"), the Supplemental Affidavit of Mark J. Wong sworn February 9, 2015 (the "**Third Wong Affidavit**") and the Affidavit of Mark J. Wong dated February 9, 2015 (the "**Fourth Wong Affidavit**").
- 2.4 Capitalized terms not otherwise defined in this Second Report are as defined in the Prior Reports, the Initial Order, the Third Wong Affidavit and the Fourth Wong Affidavit, as applicable.
- 2.5 Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

### **3.0 PROPOSED AMENDMENTS TO INITIAL ORDER**

- 3.1 As described in the Second Wong Affidavit, the Target Canada Entities have initiated extensive communications with TCC's landlords as part of the CCAA filing, including several meetings in person or by phone during the weeks of January 26, 2015 and February 2, 2015 involving representatives of the Target Canada Entities, the Monitor and counsel for (and in some cases, business representatives of) several large retail landlords who hold or manage, in aggregate, the majority of the TCC store leases (the "**Landlord Group**"). Following these meetings, a group of

counsel representing the Landlord Group provided a consolidated mark-up of the Initial Order to the Applicants (the “**Landlord Consolidated Comments**”). The Landlord Consolidated Comments primarily related to changes to: (a) provisions in the Initial Order regarding obligations, rights and remedies under the leases that were additions to the model order language; and (b) the stay in respect of Target US.

3.2 The Applicants, the Monitor and their respective counsel reviewed the Landlord Consolidated Comments and discussed those comments with counsel for the Landlord Group and counsel for Target Corporation (the latter given that the requested changes would affect the stay of Target US guarantees granted with respect to certain of TCC’s leases).

3.3 Following extensive discussions and negotiations regarding the Initial Order and the Real Property Portfolio Sales Process (as described further below), the following summarizes the key agreed changes to the Initial Order to form part of an Amended and Restated Initial Order<sup>1</sup>:

- (a) clarification that the Target Canada Entities may vacate, abandon or quit the whole but not part of any leased premises and may permanently but not temporarily cease, downsize or shut down;
- (b) clarification as to what was intended by inserting the word “normally” before “payable to the landlord under its lease” in paragraph 13 of the Initial Order, namely, that penalties, fees or other charges arising as result of the insolvency of the Target Canada Entities or the making of the Initial Order are not required to be paid pending disclaimer of a lease;

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<sup>1</sup> A blackline of the Amended and Restated Initial Order to the Initial Order is attached as Exhibit “D” to the Third Wong Affidavit.

- (c) deletion of a provision that the Landlord Group interpreted as an authorization to override terms of their leases, as opposed to a possible breach in respect of which their rights and remedies would be stayed;
- (d) an exception to the stay in favour of Target US such that the stay does not apply to any landlord in connection with any right, remedy or claim such landlord may have against Target US in connection with any indebtedness, indemnity, liability or obligation of Target US pursuant to a written contractual indemnity, guarantee or surety provided by Target US to such landlord;
- (e) approval of an orderly process to determine Landlord Guarantee Claims (as defined therein) of any landlord against Target US relating to a lease of real property, including that such claims: (i) shall be determined by a judge of the Ontario Superior Court of Justice (Commercial List), notwithstanding any federal or provincial statutes with respect to procedural matters relating to Landlord Guarantee Claims; provided that any landlord holding such guarantees or indemnities that has not consented to the foregoing may, within 15 days of the making of the Order, bring a motion to have the matter of the venue for the determination of its Landlord Guarantee Claim adjudicated by the Court; (ii) shall not be determined in the CCAA Proceedings; (iii) shall be unaffected by any determination of any rights, remedies and claims of such landlords as against the Target Canada Entities in the CCAA Proceedings or in any subsequent proposal or bankruptcy proceedings under the BIA (other than that any recoveries under such proceedings received by such landlords shall constitute a reduction and offset to any Landlord Guarantee Claims); and (iv) shall be treated as unaffected and shall not be released or affected in any plan filed under the CCAA or any proposal filed under the BIA.

3.4 Counsel for the Landlord Group advised that the Real Property Portfolio Sales Process proceeding on a consensual basis as described below is conditional on the proposed changes to the Initial Order.

3.5 The Monitor recommends approval of the Amended and Restated Initial Order as it reflects: (a) revisions negotiated as among the Target Canada Entities, the Landlord Group and Target US (in conjunction with revisions to the Real Property Portfolio Sales Process), with the assistance of the Monitor; and (b) a fair and reasonable balancing of interests.

#### **4.0 REAL PROPERTY PORTFOLIO SALES PROCESS**

4.1 The Real Property Portfolio Sales Process is described in detail in the First Report (attached as **Appendix B** to this Second Report).

4.2 Following the February 4, 2015 Court hearing, the Applicants and the Monitor have participated in several discussions with counsel for the Landlord Group, and with Lazard, in an effort to resolve matters with respect to the Real Property Portfolio Sales Process. These discussions have culminated in certain changes to the Real Property Portfolio Sales Process from the version included in the Applicants' Motion Record dated January 29, 2015, of which the key changes are summarized below<sup>2</sup>:

- (a) Monitor Supervision and Control – The initial Real Property Portfolio Sales Process explicitly referenced that the Monitor will supervise, in all respects, the Real Property Portfolio Sales Process (including any attendant sales and the Financial Advisor's performance under its engagement with TCC) and included many procedures requiring Monitor consent. The revised Real Property Portfolio

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<sup>2</sup> A blackline of the Real Property Portfolio Sales Process to the version included in the Motion Record dated January 29, 2015 is attached as Exhibit "C" to the Third Wong Affidavit.

Sales Process incorporates additional specific instances requiring Monitor consent. In aggregate, the following procedures under the Real Property Portfolio Sales Process require Monitor consent (in addition to other procedures requiring consultation with the Monitor):

- (i) extension of the bid deadlines;
- (ii) waiver of compliance with requirements relating to Qualified LOIs and Qualified Bids;
- (iii) extension of the timing to assess Qualified LOIs received;
- (iv) the determination (if one or more Qualified LOIs is received) of whether there is a reasonable prospect of obtaining a Qualified Bid and to continue the sale process;
- (v) determination of whether to proceed with a stalking horse bid and the selection of the stalking horse bid, including specifically with respect to any Break Fee and Expense Reimbursement;
- (vi) determination of which is the most favorable Qualified Bid (including which would be the baseline bid at auction);
- (vii) modification of auction procedures;
- (viii) modifications to the process (with any material modification now requiring Court approval); and
- (ix) rejection of any or all bids.

- (b) Landlord Bid Participation for their Leases – Certain requirements for Qualified LOIs and Qualified Bids are not applicable to proposals or bids that may be submitted by landlords for their respective Leases. Accordingly, definitions of a Landlord LOI and Landlord Qualified Bid were added and provisions were included deeming a Landlord LOI and a Landlord Qualified Bid to be a Qualified LOI and Qualified Bid, respectively.
  
- (c) LOI Considerations / Bid Requirements – Considerations for assessing Qualified LOIs were revised to include, among other things, the financial capability of the Interested Bidder to comply with terms of the applicable Lease(s) and requirements for Qualified Bids were revised to include, among other things, evidence of the Competing Bidder’s ability to meet the financial obligations under the Lease(s) subject to the bid and details of any amendments that the Competing Bidder is seeking to such Lease(s) from the applicable landlord.<sup>3</sup>
  
- (d) Outside Dates – Revisions were made to provide more clarity on outside dates as follows:
  - (i) the definition of “Targeted Outside Date” was revised to mean May 15, 2015, or such later date as may be determined by the Applicants, on the consent of the Monitor, and in consultation with the Financial Advisor and the DIP Lender, provided that in no event shall such date be after June 1, 2015;
  
  - (ii) paragraphs were added providing that:

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<sup>3</sup> With the revisions also providing that, for greater certainty, nothing in the Real Property Portfolio Sales Process shall be construed to: (i) permit or require any amendments to the terms of any Lease(s) without the consent of the applicable landlord(s); or (ii) obligate any landlord to negotiate with a Competing Bidder regarding any such amendments.



- (1) if a definitive agreement with respect to a particular Lease(s) is not executed on or before June 1, 2015, any such Lease(s) that is not subject to a definitive executed agreement on or before such date (or not earlier disclaimed, which disclaimer has become effective by June 1, 2015) shall be released from the stay of proceedings and shall be disclaimed in accordance with the CCAA and the Initial Order on June 1, 2015; and
- (2) if a transaction with respect to a particular Lease(s) has not been completed on or before June 30, 2015 or such later date as may be ordered by the Court, any such Lease(s) that is the subject of such transaction shall be released from the stay of proceedings and shall be disclaimed in accordance with the CCAA and the Initial Order on the later of (i) June 30, 2015, and (ii) such later date as may be ordered by the Court, as applicable.

- (e) Without Prejudice re: Court Approval – A provision was added confirming that nothing in the Real Property Portfolio Sales Process or in any arrangements made during the course thereof with a Successful Bidder shall prejudice a landlord's right to object to the Court approval of a Successful Bid.

4.3 The Real Property Portfolio Sales Process and Sales Process Procedures were developed by the Target Canada Entities and the Financial Advisor in consultation with the Monitor. As indicated above, following the February 4, 2015 Court hearing, extensive discussions and negotiations continued between and among the Applicants, the Monitor, Target Corporation, their respective counsel and counsel to the Landlord Group. These efforts have culminated in the agreed amendments to the Initial Order and the Real Property Portfolio Sales Process described above.

The Monitor understands that the motion for approval of the Real Property Portfolio Sales Process and the Sales Process Order is now proceeding on a consensual basis without opposition from the Landlord Group.

- 4.4 The Monitor recommends that the Court approve the Real Property Portfolio Sales Process and the Sales Process Order in order for the Applicants to: (i) continue to advance and facilitate the Orderly Wind-down; (ii) realize on the Leases and Real Property in a comprehensive and coordinated manner through a single process on a timely basis; and (iii) maximize net realizations for the benefit of all stakeholders.

## **5.0 EMPLOYEE REPRESENTATIVES**

- 5.1 The Initial Order approved the creation of the Employee Trust on substantially the terms and conditions set out in the Employee Trust Agreement and also included the appointment of Koskie Minsky as Employee Representative Counsel for all Employees in the CCAA Proceedings or any other Insolvency Proceedings for any issues affecting Employees in such proceedings, including without limitation, with respect to the Employee Trust Agreement and the Claims Process.
- 5.2 The Initial Order also provided that Koskie Minsky commence a process of identifying no more than seven Employees to be nominated as Court-appointed representatives of the Target Employees as soon as practicable (the “**Employee Representatives**”). The Employee Representatives, once appointed, are to represent the Employees in the CCAA Proceedings or Insolvency Proceedings, including, without limitation, for the purpose of settling or compromising claims of the Employees in such proceedings.
- 5.3 The process undertaken by Koskie Minsky to identify and nominate the Employee Representatives is described in the Affidavit of Natercia McLellan, an employee of Koskie Minsky, sworn February 9, 2015 (the “**McLellan Affidavit**”).

5.4 As described in the McLellan Affidavit, Frederick Payette, Sylvie Gautier, Jennifer Lindsay, Catherine Bédard, Michael O’Neill, Alyssa Morin and Joshua Gordon, each an Employee, have consented to being appointed to the role of Employee Representative.

5.5 The Employee Representatives are seeking an Order (the “**Employee Representatives Order**”) of this Court that:

(a) approves the Employee Representatives as representatives of the Target Employees (excluding Opt-Out Individuals, as defined below, if any) in these CCAA Proceedings or in any other Insolvency Proceedings which has been or may be brought before this Court (the “**Proceedings**”) and such representatives shall determine, advance and compromise any and all Target Employees’ claims which now have arisen or may arise at law or equity or under federal or provincial legislation, including but not limited to actual or deemed trust claims, secured or unsecured claims under the BIA, contractual claims, and any claims arising under provincial employment standards, retirement savings arrangements, human rights, workplace safety and insurance legislation which may be made against the Applicants, its estate, or the Employee Trust established, as the case may be, relating to or arising out of the Target Employees’ employment with the Applicants;

(b) the Employee Representatives or Employee Representative Counsel are authorized to take all steps and to do all acts necessary or desirable to carry out the terms of the Employee Representatives Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto;

(c) notice of the granting of the Employee Representatives Order be:

- (A) published by Employee Representative Counsel on its website within 2 calendar days of the date of the Employee Representatives Order;
  - (B) published by the Applicants, with the assistance of the Monitor, in The Globe and Mail and La Presse within seven calendar days of the date of the Employee Representatives Order; and
  - (C) posted by the Applicants, with the assistance of the Monitor, in each of the Applicants' stores, within two calendar days of the date of the Employee Representatives Order;
- (d) any individual Target Employee who does not wish to be represented by the Employee Representatives and Employee Representative Counsel in the Proceedings shall, within 30 days of publication in The Globe and Mail and La Presse of the notice referred to above, notify the Monitor, the Applicants and Employee Representative Counsel in writing, that he or she is opting out of representation by the Employee Representatives and Employee Representative Counsel (an "**Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Employee Representatives or Employee Representative Counsel and shall represent himself or herself or be represented by any counsel that he or she may retain exclusively at his or her own expense in the Proceedings (any such persons who deliver an Opt-Out Notice in compliance with the terms of the Employee Representatives Order, being "**Opt-Out Individuals**");
- (e) the Employee Representatives and Employee Representative Counsel have no obligation to represent the Opt-Out Individuals;

- (f) with the exception of the Opt-Out Individuals, the Employee Representatives shall represent all Target Employees, which persons shall be bound by the actions of the Employee Representatives and Employee Representative Council in the Proceedings;
- (g) the Employee Representatives shall have no liability as a result of their respective appointment or the fulfilment of their duties in carrying out the provisions of the Employee Representatives Order save and except for any gross negligence or unlawful misconduct on their part; and
- (h) the Employee Representatives and Employee Representative Council shall be at liberty and are authorized at any time to apply to this Court for advice and directions in the discharge or variation of their powers and duties.

5.6 The Monitor recommends that the Court approve the Employee Representatives Order as the terms of the order are consistent with the Initial Order and the Employee Trust Agreement, and will assist the Applicants in achieving the intended objectives of the Employee Trust Agreement.

#### Employee Trust Update

5.7 As described in the First Report, on January 23, 2015 (the “**First Separation Date**”), TCC notified approximately 560 salaried Eligible Employees (the “**Notified Employees**”) that their services were no longer required. As the First Separation Date corresponded with the end of TCC’s bi-weekly payroll cycle, the Notified Employees received their final working pay from TCC on January 30, 2015. It is anticipated that the first payment to the Notified Employees by TCC that is to be funded from the Employee Trust Account (as defined below) will be made on February 13, 2015, at the end of the following bi-weekly payroll cycle.

5.8 Since the date of the First Report (January 30, 2015), TCC has notified approximately 175 additional salaried Eligible Employees that their services are no longer required. Accordingly, as of February 6, 2015, TCC employed approximately 165 salaried Eligible Employees in its group, district and corporate head offices, including 44 international assignees. To date, no hourly employees have been notified by TCC of their separation date.

5.9 On January 29, 2015, the Monitor, in its capacity as Administrator under the Employee Trust, and the Trustee jointly opened the Target Canada Employee Trust bank account at Royal Bank of Canada (the “**Employee Trust Account**”). On February 3, 2015, counsel to the Monitor transferred the full \$90 million of contributions received from the Settlor to the Employee Trust Account.

## **6.0 PHARMACY MATTERS**

### Overview

6.1 As previously identified in the Monitor’s Pre-Filing Report, the Wong Affidavit, the Second Wong Affidavit and the Monitor’s First Report, Target branded pharmacy businesses are operated in most of TCC’s stores, through corporate and franchise arrangements. Set out below is a summary regarding such arrangements and the current status of the pharmacies:

#### **Quebec Pharmacies**

- (a) In Quebec, pharmacies in TCC stores are co-branded with the Target trade-mark and the “Brunet” trade-mark, which is owned by McMahon Distributeur Pharmaceutique Inc. (“**McMahon**”). Target Pharmacy has sub-licensed the Target trade-marks to McMahon, which in turn has sub-licensed to third-party franchisees, the right to operate co-branded Target and “Brunet” pharmacies within 14 TCC stores.

- (b) There is a closure plan in place with McMahon, such that the 14 Quebec-based pharmacies will be closed on or before February 11, 2015. As of February 9, 2015, 12 have already closed, with the remaining two scheduled to close on February 11, 2015. McMahon has confirmed arrangements for the transfer of all patient files from all 14 Quebec pharmacies.

### **Corporate Pharmacies**

- (a) With respect to the three corporate-owned pharmacies, an agreement regarding the orderly transfer of patient information to Wal-Mart Canada Corp. was reached and such transfer was completed on January 29, 2015.

### **Remaining Franchised Pharmacies**

- (a) Target Pharmacy is the franchisor of 93 in-store pharmacies outside Quebec operated by third party corporate franchisees which, in the vast majority of cases, are wholly-owned by licensed pharmacists (the “**Franchisees**”).
- (b) Regulated “Schedule I and II” drugs such as narcotics and antibiotics (behind-the-counter (“**BTC**”) drugs), that either require a prescription to be sold or that must be held behind the counter, are owned by the Franchisees. The Franchisees maintain their own point of sale (“**POS**”) terminals at the pharmacies and sales of BTC drugs are for the account of the pharmacist.
- (c) “Schedule III” drugs such as pain relievers and cough medicines (over-the-counter (“**OTC**”) drugs) are owned by TCC until immediately prior to the retail sale to a customer, when title passes from TCC to the Franchisee and the Franchisee pays TCC the retail price at the time of the retail sale by the Franchisee to the customer.

- (d) Pursuant to the franchise arrangements, on a monthly basis, the Franchisees pay to Target Pharmacy, among other things, franchise fees, operation fees, licensed space fees, and advertising fund fees (collectively the “**Franchisee Payments**”) and Target Pharmacy pays to the Franchisees, among other things, generic prescription purchase rebates, OTC royalty payments and EBIT support payments (collectively the “**Franchisor Payments**”). A reconciliation of individual Franchisee accounts is completed on a monthly basis such that the Franchisee Payments and the Franchisor Payments are netted against one another and the net balance is either paid by the Franchisee to Target Pharmacy or paid by Target Pharmacy to the Franchisee. The draft December 31, 2014 month-end calculation indicates that Target Pharmacy was in a net payable position in respect of 84 of the Franchisees (approximately \$595,000, in aggregate) and in a net receivable in respect of 9 Franchisees (approximately \$44,000, in aggregate)
- (e) Since the granting of the Initial Order, the Monitor has worked closely with the Target Canada Entities to assist in the timely transition of patient files to alternative pharmacies, and in facilitating and implementing the Orderly Wind-down that will ultimately result in the cessation of the Target Canada Entities’ operations. A key component of the Orderly Wind-down is the orderly disclaimer of contracts in order to facilitate the wind-down and to ensure a corresponding reduction in costs and expenses to the estate in the interests of stakeholders.
- (f) As outlined in the Second Wong Affidavit, immediately following the granting of the Initial Order, and in anticipation of the disclaimer of pharmacy franchise agreements as part of the Orderly Wind-down, the Target Canada Entities contacted each of the applicable pharmacy colleges across Canada to advise that



the CCAA Proceedings will ultimately result in the closure and/or relocation of Target Pharmacy branded pharmacies in Canada. The Target Canada Entities, in consultation with the Monitor, then initiated extensive communications with pharmacy franchisees regarding the impact of the Initial Order and the Orderly Wind-down, and the steps that franchisees would be required to take to comply with their regulatory and professional requirements regarding the safeguarding of patient files, communication with patients, and the ongoing sale and relocation of scheduled drug inventory.

- (g) Pursuant to a master services and lease agreement between TCC and Kroll Computer Systems Inc. (“**Kroll**”), the patient data and Franchisee POS are located on the computer systems used by the Franchisees, all of which systems are provided by Kroll. The Monitor has been instrumental in efforts to ensure continuity of patient care by assisting Target Pharmacy in making arrangements with Kroll, at no cost to the Franchisees (but at a cost to the Target Canada Entities of approximately \$140,000), for the seamless transfer of patient data from each Franchisee to wherever they direct.<sup>4</sup>
- (h) On January 26, 2015, as provided for, and in accordance with, subsection 32(1) of the CCAA, the Target Canada Entities provided notice in the prescribed form and with the approval of the Monitor to 94 pharmacy franchisees<sup>5</sup> of the Target Canada Entities’ intention to disclaim or resiliate their franchise agreements and all other ancillary agreements (“**Disclaimer Notices**”).

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<sup>4</sup> Notwithstanding paragraph 40 of the Gavrillidis Affidavit (as defined below), the arrangements have been made between Kroll and TCC with the Monitor’s assistance and not by A&M.

<sup>5</sup> The 94 Disclaimer Notices included notices for 93 operating Franchisees and one pharmacy franchisee in respect of an unopened store.

6.2 The delivery of the Disclaimer Notices to the Franchisees on January 26, 2015 was reasonable, appropriate and necessary in the circumstances, including for the following reasons:

- (a) As a result of the Initial Order, in accordance with the Orderly Wind-down, all of TCC's stores are going to be closing in the near future. By definition, the liquidation sale process is quite fluid. While the outside date for store closings is May 15, 2015, several stores are expected to close as early as March, 2015. Further, the practical reality is there is simply no way of knowing with complete precision exactly when each particular store location will be closing. To utilize guess work in trying to match the timing of individual disclaimer notices with individual store closings would have created confusion (at both a Franchisee and patient level) and, more importantly, would have had significant adverse consequences for individual Franchisees if the effective notice period proved to be less than 30 days prior to a store closing. Accordingly, it was important to ensure that the Disclaimer Notices were issued on a timely basis so as to eliminate any possible risk that an individual Franchisee would receive a notice of disclaimer that did not ensure the full 30-day notice period was provided before individual stores began to close. Further, as a practical matter, as was then anticipated, and subsequently, as a result of the Approval Order-Agency Agreement, the timing of individual store closings is now in the control of the Agent and hence not in the control of TCC or the Monitor.
  
- (b) Ongoing costs to the estate of maintaining the pharmacist operations network and support functions in the context of the fact that the stores were closing, particularly in view of declining inventory volume over time. As previously noted, for the majority of the Franchisees, the Franchisor Payments exceed the Franchisee Payments. During the period from February 1, 2014 through to

December 31, 2014, on a monthly basis, the EBIT top-up was on average approximately \$410,000, the OTC royalty payments were on average approximately \$320,000, and the Kroll costs are approximately \$200,000, with net aggregate average payments from the Franchisor to the Franchisees of approximately \$930,000 per month.

6.3 The alternative of the continued operation of individual pharmacies after the termination of TCC's retail sales at each location is impractical and unadvisable for several reasons:

- (a) the terms of the Approval Order-Agency Agreement require that on the date the Agent vacates the store, it must sell/remove all remaining merchandise and FF&E (including pharmacy FF&E, which FF&E is owned by Target Pharmacy) and leave the store in "broom-swept" and clean condition;
- (b) the proposed Amended and Restated Initial Order clarifies that the Target Canada Entities may vacate the whole but not part of any leased premises;
- (c) the cost of keeping the entirety of the store open for such purpose, including the cost for services such as security, utilities and POS system;
- (d) Franchisees would have to continue to employ staff and maintain inventory when there is limited or no store traffic;
- (e) due to the overall lower store traffic, it is possible that the EBIT and OTC royalty payments would very significantly increase, at a cost to the estate;
- (f) the Kroll lease arrangements are with respect to the entirety of the pharmacy franchise arrangements. It would be impractical to continue to provide the entire pharmacy support services for only a small number of Franchisees; and

- (g) it is anticipated that certain leases will be disclaimed as the Real Property Portfolio Sales Process proceeds.

6.4 From the Monitor's perspective, it was of paramount importance that the Franchisees were provided with sufficient time to comply with the professional regulatory notice requirements (re: the upcoming closure of their pharmacy operations) of their respective provinces (which range from 7 days to 30 days, depending on the province), and to ensure the continuity of patient care. The Disclaimer Notices were not issued to the Franchisees at the outset of the filing. However, Target Pharmacy took steps at that time to ensure that it was clear to the Franchisees that their pharmacies would need to close, the Disclaimer Notices would need to be issued and that Franchisees should anticipate having to close or relocate at an early date. The Franchisees were advised on January 15, 2015 by email that they would be responsible for closing or relocating their pharmacies. As well, by way of conference call on that date, the Franchisees were advised to take steps to close or relocate their pharmacies as soon as possible. They were also told to contact their pharmacies regulator to obtain advice on the retention and transfer of patient files. On January 19, 2015, by way of email from Target Pharmacy, the pharmacists were advised that a decision would be made as to the timing for disclaimer of the franchise agreements in the coming week(s). The Franchisees were also advised on January 23, 2015 not to wait until they received the Disclaimer Notices to close and/or relocate their pharmacy operations. Accordingly, the delivery of the Disclaimer Notices on January 26, 2015 should not have been a surprise to the Franchisees. Further, as set out above, the Monitor helped to facilitate Target Pharmacy's arrangements with Kroll for new services related to the transfer of patient data for the benefit of each Franchisee, at no cost to the Franchisees, so as to ensure continuity of patient care.

6.5 As of the date of this report, of the 93 Franchisees, 10 have already closed and 15 have given notice that they will be closing and have provided specific departure dates. Of the foregoing, 14 are among the 75 individuals listed at Exhibit "E" of the Gavrilidis Affidavit.

6.6 While the Franchisees may indeed experience financial hardship in this case, such hardship is attributable to the Applicants' CCAA filing, the Orderly Wind-down and the reality of the closing of all 133 TCC stores, not the issuance of the Disclaimer Notices, which were inevitable and necessary in the circumstances. It is most unfortunate that the pharmacies are having to close, but that is the regrettable reality given that the stores are all closing.

Pharmacy Franchisee Association of Canada (“PFAC”)

6.7 On January 29, 2015, the Monitor received the letters from counsel to PFAC which are attached as Exhibits “N” and “O” to the Affidavit of Stavros Gavriliadis sworn February 3, 2015 (the “**Gavriliadis Affidavit**”) requesting information regarding the Disclaimer Notices.

6.8 By letter and cover email dated February 3, 2015, attached as Appendix C, Alan Mark, counsel for the Monitor, responded, reflecting the Monitor's understanding that the requested information was sought from the Applicants and suggesting a call among counsel.

6.9 On February 3, 2015, counsel for PFAC delivered a motion record wherein PFAC is seeking an Order (the “**PFAC Motion**”) for:

- (a) the appointment of PFAC as the representative of the Franchisees;
- (b) the appointment of Sutts, Strosberg LLP as Pharmacist Representative Counsel;
- (c) the appointment of BDO Canada as “Pharmacist Financial Advisor”;
- (d) legal and other professional expenses of PFAC to be paid from the estate of the Target Canada Entities with an administrative charge; and

- (e) setting aside the Disclaimer Notices, and directing that Target Pharmacy cannot deny access to premises, discontinue supplies or otherwise interfere with the Pharmacists' and Franchisees' operations.

6.10 One of the fundamental requests set out in the PFAC Motion is that the Franchisees be provided with more "breathing space" related to the wind-down and relocation of their operations. The Monitor is sympathetic to the needs of the Franchisees who may desire such additional time, and accordingly, has no issue with TCC permitting Franchisees who may wish to continue to operate in TCC's stores after the expiration of the notice period under the Disclaimer Notices on February 25, 2015 to remain, subject to certain parameters, including the practical necessity of a very short vacate notice period due to the uncertainties related to TCC's lack of control over the timing of individual store closings and the rights of the applicable landlord. The Monitor has encouraged, and supports, the following plan to be implemented by the Target Canada Entities:

- (a) To provide additional time to assist the pharmacists in the transfer or relocation of patient files and drug inventory and in the relocation of their respective pharmacy businesses, TCC will permit and facilitate the pharmacists to continue to operate, in compliance with their professional obligations and applicable law, at their respective existing Target locations, subject to any applicable landlord rights, while the pharmacists wind down their respective operations, until the earlier of: (i) March 30, 2015; and (ii) three (3) days following written notice by TCC to the pharmacist of anticipated store closure at such pharmacist's location (such earlier date being the "**Accommodation Date**"). TCC, in consultation with the liquidation agent under the Agency Agreement approved by the Court on February 4, 2015, will use commercially reasonable efforts to provide each pharmacist with as much advance notice of their anticipated store closure date as possible.

- (b) The Notices of Disclaimer of the franchise agreements and all ancillary agreements delivered on January 26, 2015 shall remain in full force and effect and the disclaimer of such agreements will take effect on February 25, 2015 in accordance therewith and with the CCAA, and, for greater certainty, without any further payment obligations on any party thereunder relating to the period after February 25, 2015.
- (c) As per the Closing Checklist provided to the Franchisees, once the pharmacist has made arrangements to close and/or relocate its pharmacy operations, the pharmacist shall notify TCC at [targetcanadarx@target.com](mailto:targetcanadarx@target.com) immediately and advise of the pharmacist's last day at the Target Pharmacy, which in any event shall be on or before the Accommodation Date.

6.11 The March 30, 2015 outside date was established as it represents the provision of an additional month of support services (such as arrangements with Kroll with respect to the patient data and POS system) required to allow the pharmacists to continue to operate, at the Target Canada Entities' cost. Further, while the Monitor expects that many stores will be closing before March 30, 2015, these arrangements would provide the pharmacists with up to 75 days' effective notice (since the January 15, 2015 filing date) of the need to close their respective pharmacies and/or relocate. While neither the Franchisor Payments nor the Franchisee Payments would continue with respect to the period following February 25, 2015, the provision of infrastructure support services for another month by Target Pharmacy (at a cost of approximately \$200,000) in order to facilitate such operations is, in the view of the Monitor, a reasonable and appropriate balancing of interests of the Franchisees and other stakeholders.

6.12 Set out below are responses to certain of the factual inaccuracies contained in the Gavriliadis Affidavit regarding the conduct of the Monitor (all numbered references are to the Gavriliadis Affidavit):

- (a) In response to paragraphs 4 and 25, the Monitor has never said nor suggested that the closing of the Target Canada Stores will not cause significant financial harm to the pharmacists and Franchisees. However, as set out above, such financial harm is the unfortunate practical consequence of the Orderly Wind-down and closure of all of TCC's 133 stores, and not as a result of the Disclaimer Notices. It is understood that the discontinuation of the business at the Target Canada stores and of the Franchisees in the Target Canada locations would have adverse economic consequences for the Franchisees.
- (b) In response to paragraph 7, in respect of a concern for the continuity of patient care, the Monitor is of the view that the patient records can be readily transferred to a responsible pharmacy within the timeframe provided to the Franchisees. In fact, this has already happened with the Quebec and corporate pharmacies and has been done or is underway for the 25 Franchisees that, as of the date of this report, have closed their location or have advised that they are in the process of closing their location. The Monitor is aware of steps taken by the Target Canada Entities to notify the necessary regulatory authorities and to ensure compliance with regulatory obligations, and is satisfied that patients can be serviced in a manner to facilitate continuity of patient care.
- (c) In response to paragraph 53, as set out above, the Monitor is aware of and has worked with the Target Canada Entities to ensure that the following communication with Franchisees has occurred:



- (i) email communications were sent to all Franchisees on January 15, advising of the CCAA Filing and of the arranging of a conference call (Gavrilidis Affidavit, Exhibit "F").
- (ii) a conference call took place on January 15, and a transcription thereof was circulated to Franchisees (Gavrilidis Affidavit, Exhibit "G").
- (iii) email communications were sent to Franchisees on January 16, 19 and 23 (Gavrilidis Affidavit, Exhibits "H", "I" and "J").
- (iv) email communications were sent to Franchisees on February 3, 2015 providing a franchise closing checklist, confirming arrangements with Kroll regarding transfer of patient data and confirming arrangements with respect to forwarding of pharmacy telephone numbers.

6.13 With respect to legal representation, the Monitor understands from Sutts, Strosberg that they have been retained by 82 individual Franchisees. The Monitor has no objection to Sutts, Strosberg's representation of such Franchisees individually without being formally appointed as Representative Counsel. In the circumstances, the Monitor does not see the reason for PFAC to act as representative plaintiff in these proceedings given that Sutts, Strosberg has such individual retainers. The plaintiffs are free to organize their communications internally however they want, but, from the perspective of the estate, there does not appear to be any additional purpose served by having PFAC designated as representative. As well, it is not clear that all of the Franchisees are in the same circumstances.

6.14 Having regard to the interests of the estate and past practice, the Monitor does not support funding from the estate for the purpose of the Franchisees obtaining advice or assistance resulting from the fact that their independent pharmacy businesses are being closed or relocated. In this

regard, it appears that the roles of Gardiner Roberts and BDO are with respect to re-establishing or transitioning the pharmacies and, thereby dealing with the consequences of the closure of the Target business, rather than the negotiation, for example, of a continuation of the business in the context of a restructuring.

## **7.0 EXTENSION OF THE STAY PERIOD**

7.1 Pursuant to the Initial Order, the Stay Period is to expire on February 13, 2015. The Applicants are seeking an extension of the Stay Period to May 15, 2015.

7.2 The Monitor supports the Applicants' motion to extend the Stay Period to May 15, 2015 for the following reasons:

- (a) the stay is required to provide the necessary stability and certainty to enable the Target Canada Entities to continue the Inventory Liquidation Process and to continue to advance the Real Property Portfolio Sales Process in furtherance of the Orderly Wind-down;
- (b) the extension corresponds with the Targeted Outside Date under the Real Property Portfolio Sales Process and the date by which the Inventory Liquidation Process is required to be completed;
- (c) the stay will permit the Target Canada Entities to continue to take all other necessary steps in furtherance of the Orderly Wind-down;
- (d) management of the Target Canada Entities' have been focused on the Orderly Wind-down process, and need to maintain this level of focus to ensure the success of the Orderly Wind-down;

- (e) the DIP Facility remains available to the DIP Entities and is projected to provide the Applicants with sufficient liquidity to conclude the Orderly Wind-down process; and
- (f) the Applicants continue to act in good faith and with due diligence.

## **8.0 MONITOR'S ACTIVITIES TO DATE**

- 8.1 Since the granting of the Initial Order, the Monitor has worked closely with the Target Canada Entities to stabilize their business and operations (all 133 open stores in Canada have remained operational since the granting of the Initial Order). As summarized in the First Report and below, this has included concerted efforts to address urgent supply chain and other logistical issues essential to the Orderly Wind-down and extensive communications with stakeholders, as well as assisting with other activities essential to the Orderly Wind-down, including matters related to the Inventory Liquidation Process and the Real Property Portfolio Sales Process. The Monitor will continue to communicate with stakeholders and assist with and facilitate the stabilization of the business and the Orderly Wind-down, in the interests of all stakeholders.
- 8.2 Certain suppliers have requested information regarding inventory balances and purchases as at and prior to the commencement of the CCAA Proceedings. In order to respond to these inquiries in an efficient and appropriate manner, the Applicants have requested that the Monitor review the matters raised and provide an update in a subsequent report following its review. Given this review to be performed by the Monitor and reported on in due course, the Monitor is of the view that any cross-examination of Mr. Wong at this time is premature as it may not be necessary.
- 8.3 In addition to the Monitor's ongoing supervision and involvement with the Real Property Portfolio Sales Process (as described above and in the First Report) and with the Inventory

Liquidation Process (as described in the First Report), the activities of the Monitor from the date of the First Report have included the following:

- assisting the Applicants with communications with employees, PFAC, pharmacy franchisees, suppliers and other parties;
- assisting TCC in stabilizing its supply chain, including extensive communications with the third-party operator of TCC's distribution centres, vendors, freight forwarders and consolidators, ocean freight carriers and other transportation companies, and TCC's customs broker, with a view to minimizing supply disruption and continuing the movement of goods-in-transit to the distribution centres and stores;
- discussions and meetings with landlords, the Applicants, the Financial Advisor and counsel in respect of the CCAA proceedings, Inventory Liquidation Process, Approval Order – Agency Agreement and the proposed Real Property Portfolio Sales Process;
- numerous discussions with suppliers and other creditors, including with respect to requests for critical supplier status;
- responding to a high volume of enquiries from stakeholders, including addressing questions or concerns of parties who contacted the Monitor on the toll-free number or email account established by the Monitor;
- monitoring the receipts, disbursements, purchase commitments and arrangements for deposits with certain suppliers and creditors of the Applicants, including tracking outstanding balances and commitments due to critical service providers;


- assisting the Applicants in assessing certain components of the Orderly Wind-down, including the disclaimer of contracts and agreements, employee reductions and other matters;
- developing and updating, on a daily basis, the “Daily Management Dashboard” to assist the Applicants in managing the Orderly Wind-down;
- corresponding with and tracking claims transfers and assignments received from purchasers of creditor claims;
- in its capacity as Administrator of the Employee Trust, communications with and among Employee Representative Counsel, Monitor counsel, Applicants’ counsel and the Trustee regarding the Employee Trust, and facilitating the opening of the Employee Trust Account and transfer of funds; and
- posting non-confidential materials filed with the Court to the website established by the Monitor for the CCAA Proceedings.


**9.0 MONITOR'S RECOMMENDATION**

9.1 For the reasons set out in this Second Report, the Monitor is of the view that: (a) the relief requested by the Applicants is reasonable and respectfully recommends that this Court make the Orders granting the relief requested by the Applicants; and (b) the PFAC Motion should be dismissed.

All of which is respectfully submitted to this Court this 9<sup>th</sup> day of February, 2015.

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Target Canada Co., and  
the other Applicants listed on Appendix "A"**

Per:   
Name: Douglas R. McIntosh  
Title: President

Per:   
Name: Alan J. Hutchens  
Title: Senior Vice President

## **APPENDIX "A"**

### **Applicants**

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 (SK) Corp.

Target Canada Pharmacy Corp.

Target Canada Property LLC

### **Partnerships**

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP

## **APPENDIX “B”**



**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 OR 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.**

**FIRST REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.**

**JANUARY 30, 2015**

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**Appendix A – List of the Applicants and Partnerships**

## 1.0 INTRODUCTION

- 1.1 On January 15, 2015, Target Canada Co. (“**TCC**”) and those companies listed in **Appendix “A”** (collectively, the “**Applicants**”), together with the Partnerships also listed in **Appendix “A”** (the “**Partnerships**”, and collectively with the Applicants, the “**Target Canada Entities**”), applied for and were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to an Order of this Court dated January 15, 2015 (the “**Initial Order**”), Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Monitor**”) was appointed Monitor of the Target Canada Entities in the CCAA proceedings. The proceedings commenced by the Applicants under the CCAA are referred to herein as the “**CCAA Proceedings**”.
- 1.2 In connection with the Applicants’ application for protection under the CCAA, A&M provided to this Court a pre-filing report (the “**Pre-Filing Report**”) dated January 14, 2015 in its capacity as the proposed monitor. The Pre-Filing Report, Initial Order and other Court-filed documents and notices in these CCAA Proceedings are available on the Monitor’s website at [www.alvarezandmarsal.com/targetcanada](http://www.alvarezandmarsal.com/targetcanada).
- 1.3 The Initial Order, among other things:
- (a) granted a stay of proceedings (the “**Stay**”) through February 13, 2015 (the “**Stay Period**”) in favour of the Target Canada Entities;
  - (b) provided the Target Canada Entities with the ability to, among other things, engage in discussions with and solicit proposals and agreement(s) from third parties in respect of the liquidation of the inventory, furniture, equipment and fixtures located in and/or forming part of the Property (the “**Liquidation Agent Solicitation Process**”) and return to Court for approval of such agreement(s);

- (c) approved the engagement of Lazard Frères & Co. LLC (“**Lazard**”) as financial advisor and of Northwest Atlantic (Canada) Inc. (“**Northwest**”) as broker advisor;
- (d) authorized and directed the DIP Entities to enter into and borrow under the DIP Facility provided by Target Corporation;
- (e) approved the creation of the Employee Trust on substantially the terms and conditions set out in the Employee Trust Agreement, including without limitation, the appointments of Hon. John D. Ground as trustee (the “**Trustee**”) and the Monitor as administrator (the “**Administrator**”) of the Employee Trust;
- (f) approved the Key Employees Retention Plan (“**KERP**”);
- (g) appointed Koskie Minsky LLP (“**Koskie Minsky**” or “**Employee Representative Counsel**”) as counsel for all employees other than officers and directors (the “**Employees**”) of the Target Canada Entities in these CCAA Proceedings, any proceeding under the *Bankruptcy and Insolvency Act* or in any other proceeding respecting the insolvency of the Applicants which may be brought before this Court (the “**Insolvency Proceedings**”) for any issues affecting the Employees in the Insolvency Proceedings including, without limitation, with respect to the Employee Trust Agreement and the Claims Process (as defined in the Employee Trust Agreement);
- (h) provided the Target Canada Entities with the ability, but not the requirement, to pay, among other things, the following expenses whether incurred prior to, on or after the Initial Order to the extent that such expenses are incurred and payable by the Target Canada Entities:

- (i) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses payable on or after the date of the Initial Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and all other payroll processing expenses;
- (ii) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (iii) all outstanding or future amounts related to honouring gift cards issued before or after the date of the Initial Order;
- (iv) the fees and disbursements of any Assistants retained or employed by the Target Canada Entities at their standard rates and charges;
- (v) with the consent of the Monitor, amounts owing for goods and services actually supplied to the Target Canada Entities prior to the date of the Initial Order by:
  - (A) logistics or supply chain providers, including customs brokers and freight forwarders and security and armoured truck carriers;
  - (B) providers of credit, debit and gift card processing related services;
  - (C) other third party suppliers up to a maximum aggregate amount of CAD\$10 million, if, in the opinion of the Target Canada Entities, the supplier is critical to the Orderly Wind-down; and

(D) any and all sums due and owing to Amex Bank of Canada and JPMorgan in respect of credit cards issued to management and employees of the Target Canada Entities; and

(i) approved the Administration Charge, the KERP Charge, the Directors' Charge, the Financial Advisor Subordinated Charge and the DIP Lender's Charge in the amounts and relative priority as set out in the Pre-Filing Report.

1.4 Since the granting of the Initial Order, the Monitor has worked closely with the Target Canada Entities to stabilize their business and operations (all 133 open stores in Canada have remained operational since the granting of the Initial Order), including concerted efforts to address urgent supply chain and other logistical issues essential to the Orderly Wind-down. Stabilization efforts have included extensive communications with stakeholders (including landlords, critical service providers, suppliers, pharmacists and other interested parties) and responding to numerous employee, creditor and other stakeholder requests received through the Monitor's website and email address, as well as telephone requests to the Monitor's hotline established pursuant to the Initial Order. The Monitor has worked with the Target Canada Entities and with Employee Representative Counsel to ensure that enquiries are addressed in as timely a manner as possible. As described further below, the Monitor has also assisted with other activities essential to the Orderly Wind-down, including matters related to the inventory liquidation sales process and the Real Property Portfolio Sales Process, communications with pharmacy franchisees to facilitate an orderly wind-down of the pharmacy operations, maintaining logistics support for operations, and disclaimer of contracts to facilitate the Orderly Wind-down. The Monitor will continue to communicate with stakeholders and assist with and facilitate the stabilization of the business and the Orderly Wind-down, in the interests of all stakeholders.

1.5 The purpose of this first report (the "**First Report**") is to provide this Court with:

- (1) information regarding the following:
  - (a) the Liquidation Agent Sales Process;
  - (b) the Applicants' motion to seek approval of the Agency Agreement (defined below) and the process to liquidate the inventory contemplated therein (and in the Sales Guidelines attached thereto);
  - (c) the Applicants' motion to seek approval of the Real Property Portfolio Sales Process;
  - (d) the receipts and disbursements of the Target Canada Entities from January 15, 2015 through January 24, 2015;
  - (e) the DIP Financing facility;
  - (f) updated information with respect to the following:
    - (i) payments of pre-filing amounts to certain critical service providers;
    - (ii) notices to disclaim certain contracts and agreements;
    - (iii) the Employee Trust;
    - (iv) creditor notifications;
  - (g) the Applicant's motion to seek extension of the Stay Period until May 15, 2015;
  - (h) the Monitor's activities since the granting of the Initial Order; and
- (2) the Monitor's conclusions and recommendations in connection with the foregoing.



## 2.0 TERMS OF REFERENCE AND DISCLAIMER

2.1 In preparing this First Report, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Target Canada Entities and Target Corporation, and discussions with management of the Target Canada Entities and Target Corporation (collectively, the “**Information**”). Except as otherwise described in this First Report, in respect of the Target Canada Entities’ cash flow forecast:

- (a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
- (b) some of the information referred to in this First Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

2.2 Future oriented financial information referred to in this First Report was prepared based on management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

2.3 This First Report should be read in conjunction with the Affidavit of Mark J. Wong, General Counsel and Assistant Secretary of TCC, sworn January 29, 2015 (the “**Second Wong Affidavit**”).

2.4 Capitalized terms not otherwise defined in this First Report are as defined in the Pre-Filing Report, the Initial Order and the Second Wong Affidavit, as applicable.

2.5 Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

### **3.0 LIQUIDATION AGENT SOLICITATION PROCESS**

3.1 The Initial Order provided the Target Canada Entities, with the oversight of the Monitor, with the ability to engage in the Liquidation Agent Solicitation Process in respect of the liquidation of the inventory, furniture, equipment and fixtures located in and/or forming part of the Property (the “**Inventory and FF&E**”) and return to Court for approval of such agreement(s).

3.2 Following the commencement of the CCAA Proceedings, five parties (the “**Potential Bidders**”) determined to have the requisite expertise, qualifications and capability to implement a retail liquidation of the scale of the proposed liquidation of the Inventory and FF&E were contacted. The purpose of this initial contact was to describe the anticipated process and timeline for soliciting proposals and agreements in respect of the contemplated liquidation.

3.3 On January 20, 2015, the following documents were distributed to Potential Bidders (collectively, the “**Bid Documents**”):

- (a) the solicitation letter (“**Solicitation Letter**”) inviting Potential Bidders to submit equity and/or fee proposals in respect of the liquidation of the Inventory and FF&E (under equity proposals, Potential Bidders were to conduct the liquidation

and provide a net minimum guaranteed amount to TCC, and under fee proposals, Potential Bidders were to consult in a liquidation process for a percentage fee on sales);

- (b) the request for proposals (“**RFP**”), which describes the terms and conditions, including the procedures to be followed and deadlines, for the submission of proposals (copies of the Solicitation Letter and RFP are attached as Exhibit C to the Second Wong Affidavit);
- (c) the form of agency agreement to be submitted, in accordance with the RFP, by Potential Bidders for equity proposals for the liquidation of the Inventory and FF&E;
- (d) the form of consulting agreement to be submitted, in accordance with the RFP, by Potential Bidders for fee proposals for the liquidation of the Inventory and FF&E;
- (e) the proposed Court orders to be sought by the Applicants for approval of a “Final Accepted Proposal” for each of the equity and fee proposals; and
- (f) the sales procedures (the “**Sales Guidelines**”) to be followed in connection with conducting the liquidation of the Inventory and FF&E at TCC’s stores, distribution centres and corporate head office (collectively, the “**Locations**”).

3.4 In order to facilitate and assist Potential Bidders in conducting due diligence to prepare and submit proposals, in accordance with the RFP, TCC established an electronic data room (the “**Data Room**”) that was activated on the CCAA filing date. The Data Room was pre-populated with a range of relevant information, including detailed inventory, operations and financial reports. Potential Bidders were granted access to the Data Room after executing a confidentiality

agreement (“CA”). Given its familiarity with TCC’s inventory data and operations, the Monitor acted as the primary point of contact between the Potential Bidders and TCC on all diligence related information requests and questions. As part of this process, the Monitor regularly followed up with Potential Bidders with respect to any further information they required and worked with TCC to respond to such requests. In addition, the Monitor coordinated and attended several site visits with the Potential Bidders, including visits to the Milton distribution centre, to enable the Potential Bidders to better understand the logistics network that supports the retail stores.

3.5 Key terms of the RFP were as follows:

- (a) all proposals were to be received, in writing, no later than 3:00 p.m. (EST) on January 23, 2015 (the “**Proposal Deadline**”) and were to stipulate that they were open for acceptance until 5:00 p.m. (EST) on January 27, 2015;
- (b) a proposal would be considered a Conforming Proposal only if: (i) the proposal was received on or before the Proposal Deadline; and (ii) the proposal complied with all of the requirements outlined in the RFP (subject to such compliance, as may be determined in the discretion of TCC and the Monitor) (a “**Conforming Proposal**”);
- (c) equity proposals were required to be submitted using the form of Agency Agreement enclosed with the RFP and fee proposals were to be submitted using the form of Consulting Agreement enclosed with the RFP, in each case redlined to show any proposed changes from the original documents;
- (d) TCC, in consultation with the Monitor (and their respective advisors), was to review each Conforming Proposal and provide feedback, as required, to each

bidder about its Conforming Proposal(s). TCC was to share certain of the Conforming Proposals with certain of its key constituents including the DIP Lender;

- (e) the Final Accepted Proposal was to form the basis of an Agency Agreement negotiated between TCC and the successful bidder;
- (f) the Final Accepted Proposal shall be subject to the approval of this Court and the DIP Lender, as required; and
- (g) TCC reserved the right, in its sole discretion, to accept or reject any and all proposals or any terms or conditions of a Conforming Proposal, to seek clarification or enhancement of a Conforming Proposal, to withdraw any of the Locations at any time prior to the execution of a definitive agreement or to exclude any bidder from any further participation in the RFP process and had no obligation to disclose any reason therefor.

3.6 Conforming Proposals were received from three bid groups in compliance with the Proposal Deadline. Some of the five Potential Bidders that were initially provided with the Bid Documents joined with other Potential Bidders, such that all five Potential Bidders were parties to a Conforming Proposal. Each bid group submitted both an equity and a fee proposal.

3.7 On January 27, 2015, an auction among the three bid groups was conducted at the offices of Osler, Hoskin & Harcourt LLP, in Toronto. At the completion of the auction, the Target Canada Entities, in consultation with the Monitor, selected the proposal from a contractual joint venture comprised of Merchant Retail Solutions ULC, Gordon Brothers Canada ULC and GA Retail Canada, ULC (collectively, the “**Agent**”) as the most favourable proposal of those submitted.

#### 4.0 PROPOSED AGENCY AGREEMENT

4.1 Subject to the approval of the Court, on January 29, 2015, the Agent and certain of the Target Canada Entities entered into an agency agreement (the “**Agency Agreement**”), a copy of which is attached as Exhibit D to the Second Wong Affidavit. The Agency Agreement is summarized in the table below (capitalized terms used but not defined in this section are as defined in the Agency Agreement). At a high level, the Agency Agreement:

- (a) guarantees the Company a minimum recovery of 74% of the Cost Value of the Merchandise;
- (b) provides that the Agent is responsible for store-level operating expenses during the Sale; and
- (c) entitles the Company to share in recoveries in excess of the Expenses, the Guaranteed Amount and the Agent’s fee.

<b>Target Canada Co., Target Canada Pharmacy Franchising LP and Target Pharmacy (Ontario) Corp. Summary of Terms of Agency Agreement</b>	
<b>Exclusive Agent</b>	<ul style="list-style-type: none"><li>• A contractual joint venture comprised of Merchant Retail Solutions ULC, Gordon Brothers Canada ULC and GA Retail Canada, ULC will collectively act as the exclusive agent and mandatary of TCC, TCC Pharmacy and TCC Pharmacy Ontario (collectively, the “<b>Company</b>”).</li></ul>
<b>Purpose</b>	<ul style="list-style-type: none"><li>• The Agent will conduct the Sale at TCC’s retail stores, distribution centres and corporate head office, and liquidate the Inventory and FF&amp;E in its entirety.</li></ul>
<b>Timing</b>	<ul style="list-style-type: none"><li>• The Agency Agreement is conditional upon the Company having obtained an Order of this Court by no later than February 4, 2015 substantially in the form attached to the Agency Agreement.</li><li>• If the Court issues the proposed Order approving the Agency Agreement, the Sale will commence within one calendar day of the making of the Order, or such other date as the parties may mutually agree in writing.</li><li>• The Sale Term will end on the Sale Termination Date, which is to be no later than May 15, 2015 for the stores, April 30, 2015 for the distribution centres (subject to further extensions as may be agreed upon) and March 31, 2015 for the corporate</li></ul>

<b>Target Canada Co., Target Canada Pharmacy Franchising LP and Target Pharmacy (Ontario) Corp.</b> <b>Summary of Terms of Agency Agreement</b>	
	office.
<b>Sales</b>	<ul style="list-style-type: none"> <li>All sales of Merchandise and FF&amp;E will be “final sales” and “as is” and all advertisements and sales receipts will reflect same.</li> </ul>
<b>Guaranteed Amount</b>	<ul style="list-style-type: none"> <li>The Agent has guaranteed that the Company will receive a net minimum amount of 74% of the “Cost Value” of the Merchandise (the “<b>Guaranteed Amount</b>”), computed in accordance with the Agency Agreement, and subject to adjustment in accordance with the Agency Agreement, if: (i) the aggregate Cost Value of the Merchandise is less than \$445 million or greater than \$475 million; and/or (ii) the Cost Value of the Merchandise as a percentage of the Retail Price of the Merchandise exceeds 63%.</li> <li>To secure the Agent’s obligations under the Agency Agreement, the Agent has agreed to deliver to the Company an irrevocable and unconditional standby letter of credit in the original face amount of \$50 million.</li> </ul>
<b>Use of Sale Proceeds</b>	<ul style="list-style-type: none"> <li>All sales of Merchandise in TCC’s stores will be recorded using the existing POS System. All proceeds will be collected by TCC and deposited in TCC’s existing bank accounts on a daily basis and reconciled on a weekly basis.</li> <li>During each “Weekly Sale Reconciliation” during the Sale Term, all proceeds will be disbursed as follows:               <ol style="list-style-type: none"> <li>(a) first, to the Company, to reimburse the Company for Expenses paid by the Company during the previous week;</li> <li>(b) second, to the Agent, to reimburse the Agent for Expenses paid by the Agent during the previous week;</li> <li>(c) third, to the Company, until payment in full of the Guaranteed Amount;</li> <li>(d) fourth, to the Agent, until the Agent has received an amount equal to 6% of the aggregate Cost Value of the Merchandise; and</li> <li>(e) fifth, 50% to the Agent and 50% to the Company.</li> </ol> </li> </ul>
<b>Other Terms</b>	<ul style="list-style-type: none"> <li>The Agent only has the right to supplement the Merchandise in the Sale with additional goods procured by the Agent, if such additional goods are of like kind and no lesser quality to the Merchandise in the Sale, and provided that such goods will be limited to 5% of the aggregate Cost Value of the Merchandise at the Sale Commencement Date. The Agent will pay the Company 5% of the gross proceeds for such goods.</li> <li>The Agent will have the exclusive right to dispose of all FF&amp;E in accordance with the Agency Agreement. The Agent will receive a commission of 20% on the sale of any FF&amp;E sold during the Sale.</li> <li>To the extent that there is Merchandise remaining at the Sale Termination Date, such remaining Merchandise will be deemed transferred to the Agent free and clear of all Encumbrances and the Agent shall use commercially reasonable efforts to dispose of</li> </ul>

<b>Target Canada Co., Target Canada Pharmacy Franchising LP and Target Pharmacy (Ontario) Corp. Summary of Terms of Agency Agreement</b>	
	such remaining Merchandise by bulk sale, wholesale or otherwise. Any subsequent proceeds from the sale of such remaining Merchandise is to be distributed in accordance with the formula set out in “Use of Sale Proceeds” above.
<b>Sales Guidelines</b>	<ul style="list-style-type: none"><li>• The Agency Agreement is also subject to the Sales Guidelines, which are attached as Schedule “G” to the Agency Agreement (which is attached as Exhibit D to the Second Wong Affidavit). The Sales Guidelines provide, among other things:<ul style="list-style-type: none"><li>(a) except as otherwise set out in any Court Order, written agreement between TCC and the landlord, or the Sales Guidelines, the Sale will be conducted in accordance with the terms of the applicable leases;</li><li>(b) the Sale will be conducted so that the locations remain open during the normal hours of operation provided for in the applicable leases;</li><li>(c) all display and hanging signs used in connection with the Sale will be professionally produced and hung in a professional manner. No signs will advertise the Sale as a “going-out-of-business” or “bankruptcy” sale;</li><li>(d) the purchasers of FF&amp;E will only be permitted to remove FF&amp;E through the back shipping areas after regular store business hours, with the landlords’ supervision as required by the landlords; and</li><li>(e) the Agent will not conduct any auctions of merchandise or FF&amp;E at any of the locations.</li></ul></li></ul>

4.2 The Company and the Monitor have the right to monitor the Sale and related activities and be present in all Locations at all times. The Target Canada Entities, with the assistance of the Monitor, intend to consult with the Target Canada Entities’ landlords throughout the Inventory Liquidation Process in order to address concerns and minimize disruptions.

4.3 The Agency Agreement contemplates the creation of a Court-ordered charge in favour of the Agent on all Merchandise, Proceeds, the FF&E Proceeds, and, if any, the proceeds of the Designated Company Consignment Goods (to the extent of the FF&E Commission) (to the extent of the commission payable to the Agent with respect thereto) (collectively, the “**Limited Inventory Charged Property**”) in order to secure all amounts due and owing to the Agent under



the Agency Agreement (the “**Agent’s Charge and Security Interest**”). The priority of the Agent’s Charge and Security Interest and the other Court-ordered charges is as follows:

- (a) First – the Agent’s Charge and Security Interest (on the Limited Inventory Charged Property only);
- (b) Second – Administration Charge (to the maximum amount of \$6.75 million);
- (c) Third – KERP Charge (to the maximum amount of \$6.5 million);
- (d) Fourth – Directors’ Charge (to the maximum amount of \$64 million);
- (e) Fifth – Financial Advisor Subordinated Charge (to the maximum amount of \$3 million);  
and
- (f) Sixth – DIP Lender’s Charge,

provided however that the Agent’s Charge and Security Interest shall be junior and subordinated to all encumbrances to the extent of any unpaid entitlements due to the Company under the Agency Agreement.

4.4 The Liquidation Agent Solicitation Process was developed and conducted by TCC with the assistance of the Monitor. The Agency Agreement was negotiated and finalized in consultation with the Monitor. In negotiating the terms of the Agency Agreement, the Target Canada Entities (and the Monitor in consultation) were cognizant of the interests of various stakeholders.

4.5 The Monitor recommends that the Court approve the Agency Agreement and the Inventory Liquidation Process as reflected in the Agency Agreement and Sales Guidelines. The Monitor considered the process leading to the Agency Agreement and the consideration to be received in respect of the Inventory Liquidation Process in light of the requirements of, *inter alia*, section 36

of the CCAA. The Agent was the successful bidder in the Liquidation Agent Solicitation Process and the Agency Agreement provides for the best guaranteed realization for the benefit of stakeholders, both by maximizing proceeds and minimizing costs, on a timely and urgent basis.

4.6 As indicated previously, the Sales Termination Date under the Agency Agreement is to be no later than May 15, 2015. The Agent has advised that the operations at many stores may cease before May 15, 2015, with sales at some stores to be completed potentially as early as the end of March 2015. In developing the Real Property Portfolio Sales Process described below, the Target Canada Entities, the Monitor and the Financial Advisor were cognizant of the Inventory Liquidation Process and the interests of TCC's landlords and attempted to minimize to the extent possible in the circumstances any differences in timing between the two processes, while balancing the objective of maximizing realizations for stakeholders.

4.7 The Monitor is of the view that a realization of the assets of the Target Canada Entities in the CCAA Proceedings allows for a maximization of value through, among other things, a more flexible, holistic and orderly approach, and does not believe that a realization of the assets under a bankruptcy would be more beneficial to the creditors of the Target Canada Entities.

## **5.0 REAL PROPERTY PORTFOLIO SALES PROCESS**

5.1 The Initial Order approved the retention of Lazard as financial advisor (the "**Financial Advisor**") to develop and provide assistance with the sales process for the real property assets held by the Target Canada Entities (the "**Real Property Portfolio Sales Process**"). The Initial Order also approved the retention of Northwest to provide real estate advisory services (the "**Broker Advisor**"), including any required brokerage services, in respect of the Real Property Portfolio Sales Process.

- 5.2 Since their retention, Lazard and Northwest have worked extensively with the Target Canada Entities, in consultation with the Monitor, to develop the Real Property Portfolio Sales Process. A copy of the Real Property Portfolio Sales Process is attached as Exhibit E to the Second Wong Affidavit and is summarized below (capitalized terms not otherwise defined in this section of the First Report are as defined in the Real Property Portfolio Sales Process and the Sales Process Procedures).
- 5.3 The Monitor will supervise, in all respects, the Real Property Portfolio Sales Process and any attendant sales, and without limitation, will supervise the Financial Advisor's performance under its engagement by TCC. The Target Canada Entities are required to assist and support the efforts of the Monitor and the Financial Advisor as provided for in the Real Property Portfolio Sales Process. In the event that there is disagreement or clarification required as to the interpretation or application of the Real Property Portfolio Sales Process or the responsibilities of the Monitor, the Financial Advisor or the Target Canada Entities, this Court will have jurisdiction to hear such matters and provide advice and directions, upon application of the Monitor or the Applicants.
- 5.4 The Real Property Portfolio Sales Process describes, among other things:
- (a) the Leases and the Real Property available for sale;
  - (b) the manner in which prospective bidders may gain access to due diligence materials concerning the Leases and Real Property;
  - (c) the manner in which bidders and bids become Competing or Qualified Bids, respectively;
  - (d) the manner in which Competing Bidders may submit Stalking Horse Bids;
  - (e) the manner in which Stalking Horse Bids become Selected Stalking Horse Bids;

- (f) the receipt, evaluation and negotiation of bids received;
- (g) the ultimate selection of one or more Successful Bidders and Backup Bids; and
- (h) the process for obtaining such approvals (including the approval of this Court) as may be necessary or appropriate in respect of a Successful Bid, Backup Bid or Qualified Bid, as applicable.

5.5 The Applicants are seeking an Order of this Court approving the Real Property Portfolio Sales Process (the “**Sale Process Order**”), which includes the Sales Process Procedures described therein. Key components of the Real Property Portfolio Sales Process are set out below.

Solicitation of Interest

5.6 As soon as reasonably practical, the Monitor will cause a notice of the Real Property Portfolio Sales Process to be published in the national editions of The Globe and Mail and The Wall Street Journal, and to be posted on the Monitor’s website.

5.7 As soon as reasonably practical, but in any event no more than three business days after the issuance of the Sales Process Order, the Financial Advisor will distribute an initial offering summary of the Leases and the Real Property in a form acceptable to the Target Canada Entities and the Monitor (the “**Teaser Letter**”) notifying those potentially interested parties that are identified by the Financial Advisor, the Broker Advisor and the Target Canada Entities of the existence of the Real Property Portfolio Sales Process and inviting such parties to express an interest in making an offer to acquire all or some of the Leases and the Real Property in accordance with the Sales Process Procedures.

5.8 A summary of the key dates for the Real Property Portfolio Sales Process is as follows:

**Phase 1**

- (a) Phase 1 Bid Deadline – March 5, 2015;

**Phase 2**

- (b) Stalking Horse Bid Deadline<sup>1</sup> – March 26, 2015;
- (c) Qualified Bid Deadline – April 23, 2015; and
- (d) Targeted Outside Date – May 15, 2015.

**Participation Requirements**

5.9 Unless otherwise ordered by the Court, or as otherwise determined by the Applicants in consultation with the Monitor, each person seeking to participate in the Real Property Portfolio Sales Process must deliver to the Financial Advisor:

- (a) a letter setting forth such person's identity, the contact information for such person and full disclosure of the principals of such person; and
- (b) an executed CA which shall include provisions whereby such person agrees to accept and be bound by the provisions of the Real Property Portfolio Sales Process.

5.10 The Real Property Portfolio Sales Process is structured in two phases as described below.

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<sup>1</sup> As explained below, the Target Canada Entities, in their reasonable business judgment and with the consent of the Monitor and in consultation with the Financial Advisor, may select one or more bids to serve as "Stalking Horse Bids".

## PHASE 1

### Initial Timing

- 5.11 For a period from the date an order approving the Real Property Portfolio Sales Process is issued until the Phase 1 Bid Deadline, the Financial Advisor (with the assistance of the Target Canada Entities and the Broker Advisor) will solicit non-binding letters of intent (each an “**LOI**”) from prospective parties to acquire one or more of the Leases and/or one or more of the properties constituting the Real Property.

### Due Diligence

- 5.12 Subject to certain limitations, a confidential information memorandum (“**Confidential Information Memorandum**”) describing the opportunity to acquire all or some of the Leases and Real Property will be made available by the Financial Advisor to those parties who have executed a CA (an “**Interested Bidder**”). Subject to certain limitations, the Financial Advisor will provide each Interested Bidder with access to an electronic data room.

### Non-Binding LOIs

- 5.13 Interested Bidders that wish to pursue a Sale Proposal must deliver a non-binding LOI to the Financial Advisor by 5:00 p.m. (EST) on or before March 5, 2015, or such later date or time as may be determined by the Target Canada Entities on the consent of the Monitor and in consultation with the Financial Advisor and DIP Lender (the “**Phase 1 Bid Deadline**”). In order for a submitted LOI to be considered a qualified LOI (a “**Qualified LOI**”) it must comply with customary requirements as more particularly described in the Real Property Portfolio Sales Process.

Assessment of Qualified LOIs

- 5.14 Within five business days of the Phase 1 Bid Deadline, or such later date as may be determined by the Target Canada Entities with the consent of the Monitor and in consultation with the Financial Advisor, the Target Canada Entities will, in consultation with the Financial Advisor and the Monitor, assess the Qualified LOIs received during Phase 1, if any, and will determine whether there is a reasonable prospect of obtaining a Qualified Bid, including whether a proposed transaction is reasonably likely to close on or before the Targeted Outside Date of May 15, 2015. If one or more Qualified LOIs are received and the Target Canada Entities, in consultation with the Monitor and the Financial Advisor, determine there is a reasonable prospect of obtaining a Qualified Bid, the Applicants will continue the Real Property Portfolio Sales Process.

**PHASE 2**

Due Diligence

- 5.15 Each Interested Bidder that: (a) submits a Qualified LOI; and (b) that is not eliminated from the Real Property Portfolio Sales Process by the Target Canada Entities, following consultation with the Financial Advisor and the Monitor, and after assessing such Qualified LOI, may be invited by the Target Canada Entities to participate in Phase 2 (each a “**Competing Bidder**”). Subject to certain limitations, the Financial Advisor will provide each Competing Bidder with access to additional due diligence materials and information relating to the Leases and Real Property.

Stalking Horse Bid from Competing Bidders

- 5.16 The Target Canada Entities, in their reasonable judgment, on consent of the Monitor and in consultation with the Financial Advisor, may select one or more bids from Competing Bidders to serve as Selected Stalking Horse Bids. Any Competing Bidder that wishes to submit a stalking horse bid (a “**Stalking Horse Bid**”) must submit a Qualified Bid to the Financial Advisor so that

the bid is received not later than 5:00 pm (EST) on or before March 26, 2015, or such later date or time as may be determined by the Applicants on the consent of the Monitor and in consultation with the Financial Advisor and the DIP Lender (the “**Stalking Horse Bid Deadline**”).

- 5.17 The Target Canada Entities, in consultation with the Financial Advisor and the Monitor, will review and evaluate each Stalking Horse Bid in accordance with the criteria set out in the Real Property Portfolio Sales Process, and with the consent of the Monitor and in consultation with the Financial Advisor, may waive compliance with any one or more of the requirements with respect to Qualified Bids (which are applicable to Stalking Horse Bids).
- 5.18 If one or more Stalking Horse Bids is received, the Target Canada Entities, exercising their reasonable business judgment, on consent of the Monitor and in consultation with the Financial Advisor, will select the Stalking Horse Bid(s) that they consider most favourable and will negotiate and attempt to settle the terms of a definitive agreement in respect of such Stalking Horse Bid(s).
- 5.19 A definitive agreement negotiated and settled in respect of a Stalking Horse Bid as selected by the Target Canada Entities will be a “**Selected Stalking Horse Bid**” and the person(s) who made the Selected Stalking Horse Bid will be a “**Selected Stalking Horse Bidder**”. The Target Canada Entities may grant, on consent of the Monitor and in consultation with the Financial Advisor, each Selected Stalking Horse Bidder (i) a Break-Up Fee not to exceed 3% of the negotiated purchase price of the applicable Leases and/or the Real Property subject to the bid (the “**Break-Up Fee**”); and/or (ii) an expense reimbursement of documented and reasonable out of pocket costs in pursuing the opportunity to consummate a Sale Proposal to a maximum amount of \$150,000 in the aggregate (the “**Expense Reimbursement**”). A Selected Stalking Horse Bidder will only be entitled to payment of a Break-Up Fee and/or Expense Reimbursement, as applicable, if and when the Applicants consummate a transaction for the applicable Leases and/or



Real Property with a Successful Bidder or a Backup Bidder, neither of which is the Selected Stalking Horse Bidder. The Financial Advisor has advised the Target Canada Entities, and the Monitor concurs, that these bid protections, including the percentage of the Break-Up Fee and the amount of the Expense Reimbursement, are reasonable in the circumstances.

#### Qualified Bids

- 5.20 The deadline for submission of bids to be considered for the sales of Lease(s) and/or Real Property (“**Qualified Bids**”) will be April 23, 2015, or such later date as may be determined by the Target Canada Entities with the consent of the Monitor and in consultation with the Financial Advisor and the DIP Lender.
- 5.21 Any Competing Bidder (other than the Selected Stalking Horse Bidder) who wishes to become a Qualified Bidder must submit a Qualified Bid satisfying the conditions set out in the Sales Process Procedures, unless the Target Canada Entities, with the consent of the Monitor and in consultation with the Financial Advisor, waive compliance with any one or more of the requirements with respect to Qualified Bids.
- 5.22 The Target Canada Entities, in consultation with the Financial Advisor and the Monitor: (a) may engage in such negotiations with Qualified Bidders as they deem appropriate and may accept such revisions to Qualified Bids, in their discretion, that are otherwise consistent with the objectives of the Real Property Portfolio Sales Process; and (b) will determine which is the most favourable bid with respect to such Lease(s) and/or Real Property, taking into account customary evaluation criteria, including whether a proposed transaction is reasonably likely to close on or before the Targeted Outside Date, as described in the Real Property Portfolio Sales Process.

Auction Process

- 5.23 The Target Canada Entities, in consultation with the Financial Advisor and the Monitor, will commence one or more auctions (the “**Auctions**”) on or about April 28, 2015. The Auctions will be conducted as described in the Real Property Portfolio Sales Process. Only parties who have submitted Qualified Bids for the Lease(s) and/or Real Property to be auctioned (and their financial and legal advisors) may participate in the Auctions.

Approval Motion for Successful Bids

- 5.24 The Target Canada Entities will apply to this Court for an order approving the Successful Bid(s), or for Lease(s) and/or Real Property not subject to an Auction, the applicable Qualified Bid(s), and authorizing the Target Canada Entities to enter into any and all necessary agreements with respect to the Successful Bid(s) and Qualified Bid(s), as applicable, and to undertake such other actions as may be necessary or appropriate to give effect to the Successful Bid(s) and Qualified Bid(s), as applicable.

Amendment

- 5.25 The Target Canada Entities, on consent of the Monitor, and the DIP Lender, and in consultation with the Financial Advisor may: (a) amend the Real Property Portfolio Sales Process, or (b) impose additional terms and conditions and otherwise seek to modify the Real Property Sales Portfolio Process.

Monitor Updates

- 5.26 The Monitor will provide periodic updates to this Court on notice to the Service List with respect to the conduct and progress of the Real Property Portfolio Sales Process, including an update to be delivered to the Court prior to the commencement of any Auction.

Landlord Communications

- 5.27 The Target Canada Entities, the Monitor and the Financial Advisor will communicate with the landlords under the Leases from time to time, as appropriate, in connection with their respective interests in the Real Property Portfolio Sales Process.

DIP Lender Communications

- 5.28 The Target Canada Entities, the Monitor and the Financial Advisor will communicate and consult with the DIP Lender throughout the Real Property Portfolio Sales Process and will provide information to the DIP Lender in connection with such communications.
- 5.29 The Real Property Portfolio Sales Process and Sales Process Procedures were developed by the Target Canada Entities and the Financial Advisor in consultation with the Monitor. The Monitor recommends that the Court approve the Real Property Portfolio Sales Process and the Sales Process Order in order to: (i) continue to advance and facilitate the Orderly Wind-down; (ii) realize on the Leases and Real Property in a comprehensive and coordinated manner through a single process, and (iii) maximize net realizations for the benefit of all stakeholders.

## 6.0 CASH FLOW RESULTS RELATIVE TO FORECAST

6.1 Receipts and disbursements for the period January 15, 2015 to January 24, 2015 (the “**Reporting Period**”), as compared to the CCAA Cash Flow Forecast, are summarized in the table below.

(\$ in 000's CAD, unless otherwise noted)

<i>Week Ending</i>	<b>Cumulative</b>		
	<b>Budget 24-Jan</b>	<b>Actual 24-Jan</b>	<b>Variance B / (W)</b>
<b>OPERATING RECEIPTS</b>			
Sales Receipts	\$ 52,221	\$ 81,524	\$ 29,303
Other Receipts	-	160	160
<b>TOTAL RECEIPTS</b>	<b>52,221</b>	<b>81,685</b>	<b>29,463</b>
<b>OPERATING DISBURSEMENTS</b>			
Employee Payments	16,387	17,791	(1,404)
Rent & Occupancy	9,558	480	9,077
DC / Logistics	29,035	50	28,985
Normal Course Taxes	17,271	8,396	8,875
Professional Fees	3,747	-	3,747
All Other	14,742	1,034	13,708
Current Operating Disbursements	90,740	27,752	62,988
<b>OPERATING CASH FLOW</b>	<b>(38,519)</b>	<b>53,933</b>	<b>92,452</b>
<b>INTERCOMPANY DISBURSEMENTS</b>			
Intercompany Services	-	-	-
DIP Interest	-	-	-
Intercompany Disbursements	-	-	-
<b>NET CASH FLOW</b>	<b>\$ (38,519)</b>	<b>\$ 53,933</b>	<b>\$ 92,452</b>

<b>WEEKLY LIQUIDITY</b>			
Beginning Bank Cash Balance [1]	\$ 1,000	\$ 3,169	\$ 2,169
(+/-) Net Cash Flow	(38,519)	53,933	92,452
(+/-) Net DIP Draws	47,519	21,730	(25,789)
(+/-) FX Translation	-	924	924
Ending Bank Cash Balance [1]	10,000	79,756	69,756
<b>DIP Balance - USD</b>	<b>\$ 39,932</b>	<b>\$ 19,000</b>	<b>\$ 20,932</b>

[1] Actuals assume \$1.245 CAD/USD

6.2 During the Reporting Period, the Target Canada Entities' total receipts were approximately \$29.5

million greater than projected in the CCAA Cash Flow Forecast. Management attributes this variance primarily to greater than anticipated interest in the retail stores following the announcement of the CCAA Proceedings and the Orderly Wind-down.

- 6.3 The Target Canada Entities' total disbursements during the Reporting Period were approximately \$63.0 million less than projected in the CCAA Cash Flow Forecast. Management attributes this variance primarily to timing differences as disbursement items such as rent, distribution centre/logistics, taxes and professional fees were delayed during the Reporting Period as TCC worked with vendors on post-filing payment terms and/or invoices for obligations incurred had not yet been received. It is anticipated that the majority of this variance will reverse as delayed disbursements are caught up.
- 6.4 Overall, during the Reporting Period, the Target Canada Entities experienced a positive net cash flow variance of approximately \$92.5 million relative to the CCAA Cash Flow Forecast. However, as noted above, it is anticipated that this variance will decline as the Orderly Wind-down progresses, and store sales trend closer to forecast amounts and delayed disbursements are caught up.
- 6.5 The closing cash balance as at January 24, 2015 was approximately \$79.8 million, as compared to the projected cash balance of \$10 million. The variance was due to the net positive variance in receipts and disbursements described above and a slightly higher opening cash position than projected, less USD \$16 million repaid on the DIP Facility (as discussed below).
- 6.6 The Initial Order entitled the Target Canada Entities to continue to utilize their existing Cash Management System, as described in the Pre-Filing report. The Cash Management System of the Target Canada Entities continues to operate in the same manner as it had prior to the commencement of the CCAA Proceedings.

## **7.0 DEBTOR-IN-POSSESSION FINANCING**

- 7.1 The Initial Order authorized the DIP Entities to borrow, on a joint and several basis, under a credit facility from Target Corporation (the “**DIP Lender**”) in order to finance the DIP Entities’ working capital requirements and other general corporate purposes and to allow them to make such other payments as permitted under the Initial Order and the DIP Facility Term Sheet (the “**DIP Facility**”), provided that borrowings under the DIP Facility are not to exceed USD \$175 million unless permitted by further Order of this Court.
- 7.2 Following the granting of the Initial Order, TCC borrowed USD \$35 million in order to fund an immediate payroll requirement of approximately \$17.4 million and payroll withholding taxes of approximately \$4.4 million, and to provide general liquidity.
- 7.3 In accordance with the terms of the DIP Facility Term Sheet, TCC subsequently repaid USD \$16 million against the DIP Facility during the Reporting Period, such that the outstanding borrowings under the DIP Facility as at January 24, 2015 are USD \$19 million.

## **8.0 UPDATED INFORMATION**

### Critical Service Providers

- 8.1 Since the date of the Initial Order, the Applicants with assistance of the Monitor, have been working to stabilize the business and to facilitate the Orderly Wind-down, including minimizing disruption to services essential to the Orderly Wind-down, such as distribution services. The Monitor has worked with the Target Canada Entities to stabilize the business and address critical service provider concerns. As authorized by the Initial Order, this has included the payment of certain pre-filing amounts to certain critical service providers to maintain an adequate level of service and otherwise facilitate the Orderly Wind-down. In most cases, these payments

represented negotiated partial payments against pre-filing amounts to suppliers involved in the Applicants' supply chain.

Notices to Disclaim or Resiliate Agreements

- 8.2 Since the granting of the Initial Order, the Monitor has worked closely with the Target Canada Entities to assist, in the case of pharmacies, in the timely transition of patients and pharmacists to alternative pharmacies, and in facilitating and implementing the Orderly Wind-down that will ultimately result in the cessation of the Target Canada Entities' operations. A key component of the Orderly Wind-down is the orderly disclaimer of contracts and corresponding reduction in costs and expenses to the estate in the interests of the stakeholders.
- 8.3 As outlined in the Second Wong Affidavit, immediately following the granting of the Initial Order, and in anticipation of the disclaimer of pharmacy franchise agreements as part of the Orderly Wind-down, the Target Canada Entities contacted each of the applicable pharmacy colleges across Canada to advise that the CCAA Proceedings will ultimately result in the closure and/or relocation of all 93 franchised Target branded pharmacies in Canada (outside of Quebec), and all 14 Target/Brunet co-branded pharmacies in Quebec. The Target Canada Entities, in consultation with the Monitor, then initiated extensive communications with pharmacy franchisees regarding the impact of the Initial Order and the Orderly Wind-down, and the steps that franchisees would be required to take to comply with regulatory and professional requirements regarding the safeguarding of patient files, communication with patients, and the ongoing sale and relocation of scheduled drug inventory. The Target Canada Entities' ongoing communications with the pharmacy franchisees have included a group conference call, establishing a dedicated email address to respond to franchisee questions, and replying to group and individual enquiries (in consultation with legal advisors).

8.4 On January 26, 2015, as provided for, and in accordance with, subsection 32(1) of the CCAA, the Target Canada Entities provided notice in the prescribed form and with the approval of the Monitor to:

- (a) approximately 55 vendors of the Target Canada Entities' intention to disclaim or resiliate their contracts or agreements. The counterparties to these agreements primarily provided employment agency, advertising and marketing, and merchandising services to the Target Canada Entities that are no longer required; and
- (b) 94 pharmacy franchisees of the Target Canada Entities' intention to disclaim or resiliate their franchise agreements and all other ancillary agreements. The Target Canada Entities are working with the pharmacy franchisees and a third-party IT services provider to help facilitate the franchisees' ability to obtain and/or transfer patient files and related customer data. The Target Canada Entities are also working with their telecommunications service provider to facilitate the transfer of telephone and/or facsimile numbers used in the pharmacy operations to the pharmacy that the franchisees designate.

8.5 To date, two franchised pharmacies have closed, with the Applicants having facilitated the transfer of related patient information to a pharmacy of the franchisees' direction. There is a closure plan in place with McMahon, such that the 14 Quebec-based pharmacies will be closed on or before February 11, 2015. With respect to the three corporate-owned pharmacies, an agreement regarding the orderly transfer of the patient information to Wal-Mart Canada Corp. was entered into on January 29, 2015 and the Applicants are in discussions regarding the potential sale of the corporate pharmacy scheduled drug inventory.



8.6 In addition to the foregoing, TCC Mobile and Glentel Inc. (“**Glentel**”) have agreed to a mutual termination of their agreement, and Glentel has removed its inventory, equipment and supplies from all of TCC’s stores. Similarly, TCC and Starbucks Coffee Canada, Inc. (“**Starbucks**”) have agreed to a mutual termination of their master licensing agreement, and Starbucks-branded cafes ceased operating within TCC’s stores on or before January 23, 2015.

Employee Trust

8.7 The Initial Order approved the creation of the Employee Trust on substantially the terms and conditions set out in the Employee Trust Agreement, including without limitation, the appointments of Hon. John D. Ground as Trustee and the Monitor as Administrator. The Initial Order also appointed Koskie Minsky as Employee Representative Counsel for all employees other than officers and directors of the Target Canada Entities in these CCAA Proceedings or any other Insolvency Proceedings which may be brought before this Court for any issues affecting Employees in the Insolvency Proceedings, including without limitation, with respect to the Employee Trust Agreement and the Claims Process.

8.8 On January 21, 2015, in accordance with the Employee Trust Agreement, Target Corporation provided the initial funding of the Employee Trust by paying \$52.5 million in trust to the Monitor’s legal counsel, Goodmans. Based on updated potential trust liability estimates, Target Corporation has increased the Maximum Required Trust Contribution from \$70 million to \$90 million and, on January 30, 2015, funded an additional \$37.5 million to Monitor’s counsel in trust for the Employee Trust. The Monitor has facilitated the opening of a new trust account at Royal Bank of Canada (the “**Employee Trust Account**”) and will initiate the transfer of the funds held by Monitor’s legal counsel in their entirety to that account as soon as possible.

8.9 On January 23, 2015 (the “**First Separation Date**”), TCC notified approximately 560 salaried Eligible Employees (the “**Notified Employees**”) that their services were no longer required. As

the First Separation Date corresponded with the end of TCC's bi-weekly payroll cycle, the Notified Employees will receive their final pay from TCC on January 30, 2015. It is anticipated that the first payment to the Notified Employees that is to be funded from the Employee Trust Account will be made on February 13, 2015, at the end of the following bi-weekly payroll cycle. To date, no hourly employees have been notified by TCC of their separation date.

Employee Representative Counsel

8.10 The Monitor is in regular contact with Employee Representative Counsel and understands that Employee Representative Counsel has/is:

- (a) established a website for the Target Canada Entities' employees in order to provide up-to-date information regarding the CCAA Proceedings, guidance on commonly asked questions and ready access to relevant documents including correspondence from Koskie Minsky to employees, communications from the Target Canada Entities and Court-filed documents;
- (b) established a toll-free telephone number and email address dedicated to the Target Canada Entities' employees through which employees can direct questions to Employee Representative Counsel. Messages are monitored and answered promptly by four dedicated communications personnel (including two who are bilingual), who refer questions to counsel for response as necessary. Employee Representative Counsel has informed the Monitor that to-date it has received approximately 450 inquiries and has responded to all of them (at a minimum to acknowledge the inquiry) and has addressed the specific questions in all but approximately 50 such inquiries, which will be responded to as further information becomes available;

- (c) issued a national press release upon the CCAA filing on January 15, 2015 with contact information for Employee Representative Counsel;
- (d) developed and recorded a webcast with a slide presentation to provide information regarding the CCAA process, the Employee Trust and other matters relevant to employees, which has been posted to Koskie Minsky's website;
- (e) held two information sessions, with question and answer periods, for head office employees at TCC's headquarters in Mississauga, Ontario on January 22, 2015;
- (f) met with the Monitor, TCC and the Trustee to discuss the operation of the Employee Trust;
- (g) discussed the role of Employee Representatives (as defined in the Employee Trust Agreement) with several interested employees, and is in the process of confirming its recommendations to this Court for the Court hearing scheduled on February 11, 2015;
- (h) exploring other approaches, in addition to the posted webcast and dedicated communications, to communicate with employees that work in the stores;
- (i) consulted with counsel in Quebec to provide advice, as necessary, regarding the impact of the CCAA Proceedings on employees located in that province; and
- (j) had discussions with Service Canada regarding potential services that Service Canada may be able to provide for employees.

Creditor Notifications

- 8.11 Pursuant to the Initial Order, the Monitor was required to: (i) without delay, publish in The Globe and Mail (National Edition) and La Presse a notice containing the information prescribed under the CCAA; (ii) within five days after the date of the Initial Order, (A) make the Initial Order publicly available in the manner prescribed under the CCAA, (B) send or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Target Canada Entities of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available.
- 8.12 A notice containing the information prescribed under the CCAA was published in each of The Global and Mail (National Edition) and La Presse on January 21, 2015 and January 27, 2015.
- 8.13 On the day of the Initial Order, the Monitor activated its Case Website and a copy of the entered Initial Order was posted to the website. On January 20, 2015, a notice was mailed by Prime Clerk, the Target Canada Entities' and Monitor's noticing agent, to every known creditor who may have a claim against the Target Canada Entities of more than \$1,000. On January 20, 2015, the Monitor prepared and posted to its website a list showing the names and addresses of every known creditor who may have a claim against the Target Entities of more than \$1,000, excluding the claims, names and addresses of individuals who may be creditors.

**9.0 EXTENSION OF THE STAY PERIOD**

- 9.1 Pursuant to the Initial Order, the Stay Period is to expire on February 13, 2015. The Applicants are seeking an extension of the Stay Period to May 15, 2015.

9.2 The Monitor supports the Applicants' motion to extend the Stay Period to May 15, 2015 for the following reasons:

- (a) the stay is required to provide the necessary stability and certainty to enable the Target Canada Entities to, forthwith following the granting of the requested Orders, begin implementing the Inventory Liquidation Process and Real Property Portfolio Sales Process in furtherance of the Orderly Wind-down;
- (b) the extension corresponds with the Targeted Outside Date under the Real Property Portfolio Sales Process and the date by which the Inventory Liquidation Process is required to be completed;
- (c) the stay will permit the Target Canada Entities to continue to take all other necessary steps in furtherance of the Orderly Wind-down;
- (d) management of the Target Canada Entities' have been focused on the Orderly Wind-down process, and need to maintain this level of focus to ensure the success of the Orderly Wind-down;
- (e) the DIP Facility remains available to the DIP Entities and is projected to provide the Applicants with sufficient liquidity to conclude the Orderly Wind-down process; and
- (f) the Applicants continue to act in good faith and with due diligence.

9.3 The Applicants are working to update and extend the CCAA Cash Flow Forecast through the week ending May 16, 2015. The extended cash flow forecast will be provided to the Court prior to the February 4, 2015 hearing.

#### **10.0 MONITOR'S ACTIVITIES TO DATE**

10.1 In addition to the Monitor's ongoing supervision and involvement with the Liquidation Agent Sales Process and Real Property Portfolio Sales Process as described above, the activities of the Monitor from the date of the Pre-Filing Report have included the following:

- assisting the Applicants with communications with employees, pharmacy franchisees, suppliers and other parties;
- assisting TCC in stabilizing its supply chain, including extensive communications with the third-party operator of TCC's distribution centres, vendors, freight forwarders and consolidators, ocean freight carriers and other transportation companies, with a view to minimizing supply disruption and continuing the movement of goods-in-transit to the distribution centres and stores;
- discussions and meetings with landlords, the Applicants, the Financial Advisor and counsel in respect of the CCAA proceedings and the proposed Inventory Liquidation Process and Real Property Portfolio Sales Process;
- numerous discussions with suppliers and other creditors, including with respect to requests for critical supplier status and a meeting with Monitor counsel, Applicants' counsel and counsel representing a number of suppliers to discuss various supplier issues;


- responding to a high volume of enquiries from stakeholders, including addressing questions or concerns of parties who contacted the Monitor on the toll-free number or email account established by the Monitor;
- assisting the Applicants in implementing an appropriate accounting cut-off to ensure proper determination of pre and post-filing obligations and liabilities;
- monitoring the receipts, disbursements, purchase commitments and arrangements for deposits with certain suppliers and creditors of the Applicants, including tracking outstanding balances and commitments due to critical service providers;
- assisting the Applicants in assessing certain components of the Orderly Wind-down, including the cancellation of open purchase orders, closure of the Starbucks-branded cafes and Glentel kiosks, disclaimer of contracts and agreements, employee reductions and other matters;
- in its capacity as Administrator, communications with and among Employee Representative Counsel, Monitor counsel, Applicants counsel and the Trustee regarding the Employee Trust and facilitating the opening of the Employee Trust Account;
- posting non-confidential materials filed with the Court to the website established by the Monitor for the CCAA Proceedings; and
- attending to the notice requirements as described above, completing the statutory filings pursuant to Section 23 of the CCAA and filing those forms with the Office of the Superintendent of Bankruptcy (Canada).


**11.0 MONITOR'S RECOMMENDATION**

11.1 For the reasons set out in this First Report, the Monitor is of the view that the relief requested by the Applicants is reasonable and respectfully recommends that this Court make the Orders granting the relief requested by the Applicants.

All of which is respectfully submitted to this Court this 30<sup>th</sup> day of January, 2015.

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Target Canada Co., and  
the other Applicants listed on Appendix "A"**

Per:   
Name: Douglas R. McIntosh  
Title: President

Per:   
Name: Alan J. Hutchens  
Title: Senior Vice President



## **APPENDIX “A”**

### **Applicants**

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 (SK) Corp.

Target Canada Pharmacy Corp.

Target Canada Property LLC

### **Partnerships**

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP

**IN THE MATTER OF A PLAN OR 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.**

Court File No.: CV-15-10832-00CL

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**FIRST REPORT OF THE MONITOR**

**GOODMANS LLP**

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mwagner@goodmans.ca

Jesse Mighton LSUC#: 62291J  
jmighton@goodmans.ca

Tel: 416.979.2211  
Fax: 416.979.1234

Lawyers for the Monitor

**APPENDIX “C”**

## Wagner, Melaney

---

**From:** Mark, Alan  
**Sent:** Tuesday, February 03, 2015 9:01 AM  
**To:** 'William Sasso'  
**Cc:** 'tsandler@osler.com'; 'jdacks@osler.com'; 'irving@osler.com'; 'rcarson@osler.com'; Sharon Strosberg; Jacqueline A. Horvat; Justin Levesque; 'dmcintosh@alvarezandmarsal.com'; Carfagnini, Jay; Rubenstein, Gale; 'ahutchens@alvarezandmarsal.com'; Wagner, Melaney; Mighton, Jesse  
**Subject:** RE: CCAA Target Canada Co., et al | Court File No. CV-15-10832-00CL | Our Client: Pharmacy Franchisee Association of Canada ("PFAC") Our File: 38.138.000  
**Attachments:** Sasso Letter Feb3.pdf

Bill,

Attached is a reply to your letter of January 29, 2015.

We acknowledge receipt of your letter of yesterday. We would of course be pleased to discuss your concerns with you. We suggest a call amongst counsel this Friday. Please let me know your availability.

Regards,

**Alan H. Mark**

Goodmans LLP

416.597.4264 - O  
416.505.8066 - M  
416.979.1234 - F  
[amark@goodmans.ca](mailto:amark@goodmans.ca)

Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, ON M5H 2S7  
[goodmans.ca](http://goodmans.ca)

---

**From:** Karen Peterson [<mailto:peterk@strosbergco.com>] **On Behalf Of** William Sasso  
**Sent:** Thursday, January 29, 2015 5:07 PM  
**To:** 'dmcintosh@alvarezandmarsal.com'; 'ahutchens@alvarezandmarsal.com'; Carfagnini, Jay; Mark, Alan; Rubenstein, Gale; Wagner, Melaney; Mighton, Jesse  
**Cc:** 'tsandler@osler.com'; 'jdacks@osler.com'; 'irving@osler.com'; 'rcarson@osler.com'; William Sasso; Sharon Strosberg; Jacqueline A. Horvat; Justin Levesque  
**Subject:** CCAA Target Canada Co., et al | Court File No. CV-15-10832-00CL | Our Client: Pharmacy Franchisee Association of Canada ("PFAC") Our File: 38.138.000

Please find attached letter from William V. Sasso.

Regards

---

**William Sasso**

phone: 519.561.6222  
fax: 519.561.6203  
e-mail: [wvs@strosbergco.com](mailto:wvs@strosbergco.com)

**SUTTS, STROSBERG**  
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February 3, 2015

Our File No.: 143291

Sutts, Strosberg LLP  
Lawyers  
251 Goyeau Street  
Suite 600  
Windsor, Ontario  
N9A 6V4

**Attention: William Sasso**

Dear Sirs:

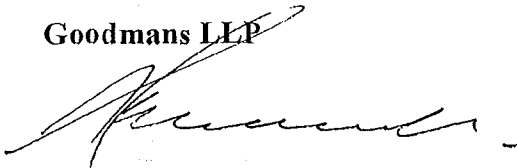
**Re: In the Matter of A Plan of Compromise or Arrangement of Target Canada Co., et al.**

Thank you for your letter of January 29, 2015.

The right of a party to a disclaimed contract to receive information with respect to the decision to disclaim is set out in section 32(8) of the *Companies' Creditors Arrangement Act*. We understand from correspondence which has been copied to us that you are indeed requesting such information from the Company.

Yours truly,

**Goodmans LLP**



Alan Mark  
AM:il  
MARKA\6418509.1

**IN THE MATTER OF A PLAN OR 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.**

Court File No.: CV-15-10832-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
Proceeding commenced at Toronto

**SECOND REPORT OF THE MONITOR**

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