

**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 PAYLESS HOLDINGS LLC, PAYLESS SHOESOURCE  
CANADA INC., PAYLESS SHOESOURCE CANADA GP INC. AND THOSE OTHER  
ENTITIES LISTED ON SCHEDULE "A" HERETO**

**APPLICATION OF PAYLESS HOLDINGS LLC UNDER SECTION 46 OF THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AFFIDAVIT OF MICHAEL SCHWINDLE  
(Sworn June 19, 2017)**

I, Michael Schwindle, of the City of Lawrence, in the State of Kansas, United States of America, MAKE OATH AND SAY:

1. I am the Senior Vice President and Chief Financial Officer of Payless Holdings LLC ("**Payless Holdings**" or the "**Foreign Representative**"), which is the ultimate parent company of 28 affiliated debtors and debtors in possession, including Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP (the "**Payless Canada Group**"), that have filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code (collectively with Payless Holdings, the "**Chapter 11 Debtors**"). As such, I have personal knowledge of the matters to which I hereinafter depose in this Affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such cases, believe it to be true.

2. I swear this Affidavit in support of the motion by Payless Holdings in its capacity as foreign representative of itself as well as the other Chapter 11 Debtors for an Order recognizing and

enforcing the terms of the Final Orders (as defined below) entered by the United States Bankruptcy Court for the Eastern District of Missouri (the “**U.S. Court**”).

3. Capitalized terms used herein and not otherwise defined shall have the meaning given to them in my affidavit, sworn April 6, 2017 in these proceedings (the “**Initial Affidavit**”). All dollar references in this Affidavit are in U.S. dollars unless otherwise specified.

**A. Background**

4. On April 4, 2017, each of the Chapter 11 Debtors filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code with the U.S. Court (the “**Chapter 11 Proceedings**”).

5. The U.S. Debtors also filed several motions with the U.S. Court and, on April 5, 2017, the U.S. Court heard motions (the “**First Day Motions**”) for various interim or final orders (the “**First Day Orders**”). The U.S. Court granted certain First Day Orders, a number of which were granted on an interim basis.

6. By Order dated April 7, 2017, Regional Senior Justice Morawetz of the Ontario Superior Court of Justice (the “**Ontario Court**”) recognized the Chapter 11 Proceedings as Foreign Main Proceedings and recognized the appointment of the Foreign Representative, and established related stays of proceedings in favour of the Chapter 11 Debtors (the “**Initial Recognition Order**”).

7. By Order dated April 12, 2017, Regional Senior Justice Morawetz recognized and enforced the Foreign Representative Order, the Joint Administration Order and certain of the First Day Orders granted by the U.S. Court in the Foreign Main Proceedings, and appointed Alvarez &

Marsal Canada Inc. as the Information Officer in respect of the CCAA Recognition Proceedings (the “**Supplemental Order**”).

**B. Update on the Chapter 11 Cases**

8. Since the Initial Affidavit, the Chapter 11 Debtors have continued to advance their restructuring objectives and have continued to operate in the ordinary course as contemplated in the Chapter 11 Proceedings.

Plan and Disclosure Statement

9. On April 25, 2017, the Chapter 11 Debtors filed the *Debtors’ Motion for Entry of an Order (I) Approving the Adequacy of the Disclosure Statement; (II) Fixing Dates and Deadlines Related to Confirmation of the Plan; (III) Approving Certain Procedures for Soliciting and Tabulating the Votes on, and for Objecting to, the Plan; (IV) Approving the Procedures Related to the Rights Offering and Authorizing the Retention of Financial Balloting Group LLC In Connection Therewith; and (V) Approving the Manner and Form of the Various Notices and Documents Relating Thereto* (the “**Disclosure Statement and Plan Solicitation Motion**”).

10. The plan of reorganization proposed by the Chapter 11 Debtors (as amended, the “**Plan**”) and related disclosure statement (as amended, the “**Disclosure Statement**”) were filed on the same date. The Disclosure Statement and Plan Solicitation Motion was adjourned by the US Court on May 29, 2017 until June 14, 2017 at 10:00 a.m. C.S.T. On June 14, 2017, the Disclosure Statement and Plan Solicitation Motion was granted.

11. On June 5, 2017, June 13, 2017, and June 15, 2017, the Chapter 11 Debtors filed amended versions of the Plan and Disclosure Statement.

12. The U.S. Court entered the order approving the Disclosure Statement and setting a schedule for solicitation of votes on, and confirmation of, the Plan on June 15, 2017. Solicitation on votes to accept or reject the Plan will begin on June 21, 2017. The hearing on confirmation of the Chapter 11 Debtors' Plan is set to begin on July 24, 2017.

13. The Plan provides that the claims of the unsecured creditors of Payless Canada Group are unaffected and will be reinstated following the effective date of the Plan. The Plan also preserves all of the Chapter 11 Debtors' defenses in respect of claims of the unsecured creditors of Payless Canada Group.

14. The Plan Motion seeks to establish a procedure and timetable for voting on the Plan. Key aspects of the Plan are discussed in more detail in the First Report of the Information Officer dated June 7, 2017 (the "**First Report**"). The following is the schedule of certain key dates for the approval of the Plan:

<b>Event/Deadline</b>	<b>Date</b>
Record Date	June 14, 2017 for all Claims filed before such date, or, for any Claims filed after such date, the Claims Bar Date
Solicitation Deadline	June 21, 2017
Deadline to Publish the Confirmation Hearing Notice	June 21, 2017
Plan Supplement Filing Date	July 10, 2017
Voting Resolution Deadline	July 12, 2017 at 4:00 p.m. (prevailing Central Time)

<b>Event/Deadline</b>	<b>Date</b>
Voting Deadline	July 17, 2017 at 4:00 p.m. (prevailing Central Time)
Plan Objection Deadline	July 17, 2017 at 4:00 p.m. (prevailing Central Time)
Deadline to Reply to Confirmation Objections	July 21, 2017 at 10:00 a.m. (prevailing Central Time)
Deadline to file Voting Report	July 21, 2017 at 10:00 a.m. (prevailing Central Time)
Confirmation Hearing	July 24, 2017 at 10:00 a.m.

*Status of the DIP Order*

15. On May 15, 2017, the US Court granted the *Final Order (i) Authorizing the Debtors to Obtain Postpetition Financing, (ii) Authorizing the Debtors to use Cash Collateral, (iii) Granting Liens and Providing Superpriority Administrative Expense Status, (iv) Granting Adequate Protection to the Prepetition Lenders, (v) Modifying the Automatic Stay, and (vi) Granting Related Relief* (the “**Final DIP Order**”).

16. The Final DIP Order was entered by the U.S. Court on May 17, 2017.

17. The Final DIP Order authorizes the Chapter 11 Debtors to borrow up to \$305 million under the DIP ABL Facilities and \$80 million under the DIP Term Loan Facility. Detailed descriptions of the DIP ABL Facilities and the DIP Term Loan Facility are contained in the Report of the Proposed Information Officer dated April 7, 2017 and the Initial Affidavit.

18. The Final DIP Order provides that the Foreign Representative may seek recognition of the Final DIP Order from the Ontario Court on such additional terms and conditions related solely to

the property of the Payless Canada Group as the Chapter 11 Debtors may determine are necessary and desirable in respect of the creditors of the Payless Canada Group to obtain the Ontario Court's recognition of the Final DIP Order.

19. As described in the First Report, the Chapter 11 Debtors have entered into a series of extension agreements with the DIP ABL Lenders (the "**Extension Agreements**") extending the milestones under the DIP ABL Agreement by which the foreign representative is required to seek recognition of the Interim DIP Order and the Final DIP Order from the Ontario Court. Until the Final DIP Order is recognized by the Ontario Court, the assets of the Payless Canada Group are not counted toward the borrowing base for the DIP ABL Facilities.

20. Pursuant to a recent amendment to the DIP ABL Facility, the requirement of the Foreign Representative to seek recognition of the Interim DIP Order and Final DIP Order has been reserved. As a result, the Foreign Representative is not seeking recognition by the Ontario Court of the Interim DIP Order or the Final DIP Order as part of its motion for recognition of the Final Orders.

*US Claims Bar Order*

21. On May 15, 2017, the U.S. Court granted the *Order Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* (the "**Claims Bar Order**"). The Claims Bar Order establishes dates by which proofs of claim must be filed against the Chapter 11 Debtors, other than the Payless Canada Group.

22. Pursuant to paragraph 23 of the Claims Bar Order, creditors of the Payless Canada Group are not required to file proofs of claim and are not subject to the General Bar Date or the Governmental Bar Date (as such terms are defined in the Claims Bar Order).

23. Pursuant to paragraph 24 of the Claims Bar Order, entry of the Claims Bar Order is without prejudice to the rights of the Chapter 11 Debtors to seek a further order of U.S. Court fixing a date by which creditors of the Payless Canada Group must file proofs of claim. I understand that a copy of the Claims Bar Order is attached to the affidavit of Michael Shakra, an associate at Osler, Hoskin & Harcourt LLP ("**Shakra Affidavit**").

Other Matters

24. Pursuant to the Extension Agreements, the US-domiciled Chapter 11 Debtors agreed not to sell, transfer or otherwise dispose of any assets to the Payless Canada Group, except inventory if sold on "cash-on-delivery" terms.

25. On or around April 18, 2017 the Chapter 11 Debtors temporarily ceased inventory shipments to the Payless Canada Group as a result of certain complications with converting the Chapter 11 Debtors' intercompany payment mechanisms to cash-on-delivery. The Chapter 11 Debtors subsequently modified their internal systems to allow for cash-on delivery payments and as of May 8, 2017, weekly inventory shipments to Canada have resumed.

26. As a result of the move to cash-on-delivery terms, the Payless Canada Group can no longer rely on the U.S.-domiciled Chapter 11 Debtors for short-term financing or credit on inventory purchasers. While the decision to move to cash-on-delivery terms has had an impact on the overall liquidity position of the Payless Canada Group, at this time, the Payless Canada Group expects to

remain cash flow positive and should have sufficient cash available to continue to replenish inventory as necessary.

**C. The Final Orders of the U.S. Court**

27. As discussed in greater detail in the Initial Affidavit, the U.S. Debtors filed a number of First Day Motions seeking a variety of interim and final orders in the Foreign Main Proceedings. On April 5, 2017, the U.S. Court held a hearing in respect of the First Day Motions and entered a number of the orders requested on an interim basis.

28. Subsequently, the Chapter 11 Debtors obtained final orders approving the relief granted in the interim orders on a final basis. As discussed in more detail below, the Foreign Representative is seeking recognition of the following final orders issued by the U.S. Court (collectively, the “**Final Orders**”), which may be summarized as follows:

- (a) *Final Order (I) Authorizing the Debtors to (A) Honor Certain Prepetition Obligations to Customers and Partners and (B) Continue Certain Customer and Partner Programs in the Ordinary Course of Business and (II) Granting Related Relief* (the “**Final Customer and Partner Order**”): This Order authorizes the Chapter 11 Debtors to honour and continue various customer programs that Payless offers, including but not limited to the following: customer gift card programs; returns, exchanges, and refunds; warranty programs related to Payless’ products, merchant credit card agreements, and other similar policies, programs and practices. It is essential that Payless maintain customer loyalty and goodwill by maintaining and honouring these programs.



- (b) *Final Order (I) Authorizing The Debtors to (A) Continue Insurance Coverage Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto and (B) Renew, Supplement, or Purchase Insurance Policies, and (II) Granting Related Relief* (the “**Final Insurance Order**”): This Order authorizes the Chapter 11 Debtors to pay certain prepetition amounts owing (policy audit fees, deductible fees and brokerage and insurance administrator fees) on account of the Chapter 11 Debtors’ insurance programs, which include a number of insurance programs that cover the Payless Canada Group. The Final Insurance Order also authorizes the Chapter 11 Debtors to continue the Insurance Policies (as defined in the Insurance Motion), and to renew, supplement, modify or purchase Insurance Policies to the extent that the Chapter 11 Debtors determine that such action is in the best interest of their estates.
- (c) *Final Order (A) Authorizing the Debtors to Pay Certain Prepetition Claims of (I) Critical Vendors and (II) Carrier, Warehousemen, and Section 503(B)(9) Claimants and (B) Granting Related Relief* (the “**Final Critical Vendors Order**”): This Order relates to critical brokers that provide specific merchandise, and critical carriers and warehousemen that transport and store that merchandise. The Order authorizes the Chapter 11 Debtors to pay certain pre-petition amounts, up to a maximum of \$113 million, owed to such critical third parties to avoid jeopardizing the Chapter 11 Debtors’ ability to serve their customers going forward.
- (d) *Final Order (I) Authorizing the Debtors to (A) Continue Using the Cash Management System and (B) Maintain Existing Bank Accounts and Business Forms; (II) Authorizing Continued Intercompany Transactions; (III) Granting*

*Superiority Administrative Expense Status to Post-Petition Intercompany Payments; and (IV) Granting Related Relief (the “**Final Cash Management Order**”)*: This Order authorizes, among other things, the Chapter 11 Debtors to continue using their cash management system, including the Canada Operations Accounts, and permits ongoing intercompany advances.

- (e) *Final Order (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief (the “**Final Prepetition Wages and Benefits Order**”)*: This Order authorizes the continuation of the Chapter 11 Debtors’ prepetition employee obligations in the ordinary course of business, and permits them to pay and honour certain prepetition claims relating to, among other things, wages, salaries and other compensation. With respect to Canada in particular, the Chapter 11 Debtors are authorized, among other things, to (i) pay all outstanding prepetition amounts on account of unpaid wage and salary obligations for the employees of the Payless Canada Group consistent with past practice, and to continue paying such wage and salary obligations in the ordinary course of business; (ii) pay in a manner consistent with historical practice any unpaid withholding obligations and to continue to honour withholding obligations in the ordinary course of business during the administration of the Chapter 11 Proceedings; (iii) to pay all outstanding prepetition amounts incurred by Payless Canada Group employees on account of reimbursable expenses, and continue to pay such reimbursable expenses on a postpetition basis; and (iv) continue paying obligations under the Canada Store Leader Extreme Rewards Incentive Program

and the Canada Group Leader Incentive Program (as both those terms are defined in the Employee Wages Motion) on a postpetition basis in the ordinary course of business and consistent with their prepetition practices.

- (f) *Final Order (I) Authorizing the Debtors to Continue and Renew the Surety Bond Program on an Uninterrupted Basis, and (II) Granting Related Relief* (the “**Final Surety Bond Order**”): In the ordinary course of business, certain third parties require the Chapter 11 Debtors to post surety bonds to secure their payment or performance of obligations, including customs and tax obligations. The Canada Customs and Revenue Agency is one such obligee. The Final Surety Bond Order authorizes the Chapter 11 Debtors to maintain the existing surety bond program, including paying premiums as they come due, and to remit certain prepetition premiums. Failure to maintain or replace the surety bonds may prevent the Chapter 11 Debtors from undertaking essential functions.
- (g) *Final Order (I) Authorizing the Payment of Certain Prepetition Taxes and Fees and (II) Granting Related Relief* (the “**Final Prepetition Taxes and Fees Order**”): In the ordinary course of business, the Chapter 11 Debtors collect, withhold, and incur various taxes and fees, and remit them to various federal, state, local and foreign governments, including taxing authorities in Canada. This Order authorizes the Chapter 11 Debtors, among other things, to pay certain taxes and fees accrued or incurred prepetition but not paid prepetition, and to maintain certain tax payments to avoid disruption to business operations.

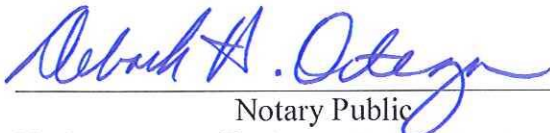
- (h) *Final Order (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Utility Services, (II) Determining Adequate Assurance of Payment for Future Utility Service, (III) Establishing Procedures for Determining Adequate Assurance of Payment, and (IV) Granting Related Relief* (the “**Final Utilities Order**”): This Order, among other things, (i) prohibits all Utility Providers from altering, refusing, or discontinuing service on account of any unpaid prepetition charges, the commencement of the Chapter 11 Proceedings, or any perceived inadequacy of the Proposed Adequate Assurance; (ii) authorizes the Chapter 11 Debtors to pay any prepetition or postpetition obligations related to Utility Agent Fees in accordance with their prepetition practices; and (iii) approves certain Adequate Assurance Procedures for future utility services (all capitalized terms not defined here as defined in the Motion for Continuation of Utility Service filed by the Chapter 11 Debtors).

I understand that copies of the Final Orders will be attached as exhibits to the Shakra Affidavit.

29. Except for the Final Utilities Order, the Ontario Court previously recognized and enforced the interim versions of each of the Final Orders in the Supplemental Order. The Payless Canada Group has been addressing a number of inquiries from Canadian utility providers and has determined that recognition of the Final Utilities Order is necessary to allow the Payless Canada Group and the other Chapter 11 Debtors to adopt a coordinated approach to addressing utility matters. Payless Holdings, the Payless Canada Group and the other Chapter 11 Debtors require the recognition of the Final Orders in order to maintain the status quo and protect the assets of the Chapter 11 Debtors, while permitting the Payless Canada Group to continue operating its business as usual in Canada during the Chapter 11 Proceedings.

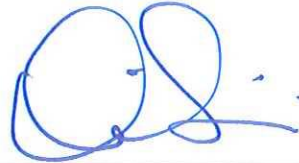
30. Recognition of the Final Orders by the Ontario Court is necessary for the protection of the Chapter 11 Debtors' property and the interests of their creditors. Accordingly, the Foreign Representative is requesting that the Ontario Court recognize and enforce the Final Orders pursuant to Section 49 of the CCAA.

SWORN BEFORE ME at the City of  
Topeka, in the State of Kansas, on June 19,  
2017.

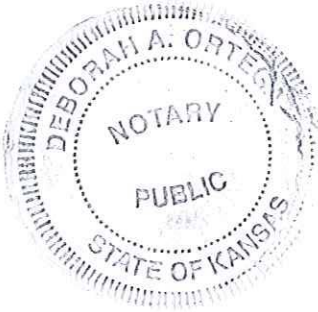


Notary Public

My Commission Expires: 12-2-20



Michael Schwindle



## **SCHEDULE "A"**

### **LIST OF ADDITIONAL CHAPTER 11 DEBTORS**

Payless Holdings LLC  
Payless Intermediate Holdings LLC  
WBG PSS Holdings LLC  
Payless Inc.  
Payless Finance, Inc.  
Collective Brands Services, Inc.  
PSS Delaware Company 4, Inc.  
Shoe Sourcing, Inc  
Payless ShoeSource, Inc  
Eastborough, Inc.  
Payless Purchasing Services, Inc.  
Payless ShoeSource Merchandising, Inc.  
Payless Gold Value CO, Inc.  
Payless ShoeSource Distribution, Inc.  
Payless ShoeSource LP  
Payless ShoeSource Worldwide, Inc.  
Payless NYC, Inc.  
Payless ShoeSource of Puerto Rico, Inc.  
Payless Collective GP, LLC  
Collective Licensing, LP  
Collective Licensing International LLC  
Clinch, LLC  
Collective Brands Franchising Services, LLC  
Payless International Franchising, LLC  
Collective Brands Logistics, Limited  
Dynamic Assets Limited  
PSS Canada, Inc.

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Applicant

Court File No: CV-17-11758-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF MICHAEL SCHWINDLE**  
(Sworn June 19, 2017)

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