

**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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT OF
BEN MOSS JEWELLERS WESTERN CANADA LTD.**

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

JUNE 13, 2016

TABLE OF CONTENTS

1.0	INTRODUCTION	1
2.0	PURPOSE OF THIS REPORT.....	3
3.0	TERMS OF REFERENCE.....	5
4.0	COMMUNICATIONS WITH THE APPLICANT’S STAKEHOLDERS	6
5.0	OPERATIONS AND RESTRUCTURING UPDATE.....	7
6.0	THE COMEBACK HEARING AND AMENDMENTS TO INITIAL ORDER.....	11
7.0	MATTERS INVOLVING UTOPIA, PMR AND DEMAND FOR FINANCIAL INFORMATION	13
8.0	RISP UPDATE	15
9.0	DEBTOR IN POSSESSION FINANCING	16
10.0	CASH FLOW RESULTS RELATIVE TO FORECAST	17
11.0	AMENDMENT TO THE DIP FACILITY	21
12.0	CASH FLOW FORECAST	22
13.0	RELIEF REQUESTED ON THE MOTION.....	24
14.0	MONITOR’S CONCLUSIONS AND RECOMMENDATIONS.....	29

INDEX TO APPENDICES

APPENDIX A PRE-FILING REPORT OF THE PROPOSED MONITOR DATED
MAY 17, 2016 (WITHOUT APPENDICES)

APPENDIX B CASH FLOW FORECAST, NOTES AND ASSUMPTIONS

1.0 INTRODUCTION

1.1 On May 18, 2016 (the “**Filing Date**”), Ben Moss Jewellers Western Canada Ltd. (“**Ben Moss**” or the “**Applicant**”) applied for and was 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 the Court dated May 18, 2018 (the “**Initial Order**”), Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Monitor**”) was appointed Monitor of the Applicant in the CCAA proceedings (the “**CCAA Proceedings**”).

1.2 The Initial Order, among other things:

- (a) granted a stay of proceedings (the “**Stay**”) to June 15, 2016 (the “**Stay Period**”) in favour of Ben Moss and in favour of J.S.N. Jewellery Inc. (“**JSN Inc.**”) with respect to the Applicant Related Liabilities¹;
- (b) authorized and directed Ben Moss to immediately commence, under the supervision and with the assistance of the Monitor, a refinancing and/or investment solicitation process (the “**RISP**”);
- (c) approved the retention of FAAN Advisors Group Inc. (“**FAAN**”) as Chief Restructuring Officer (the “**CRO**”) of Ben Moss;
- (d) authorized Gordon Brothers Canada ULC (“**GBC**” or the “**Agent**”) to conduct a sale (the “**Liquidation Sale**”) pursuant to the Consulting and Agency Agreement dated April 28, 2016 between GBC and Ben Moss (the “**Agency Agreement**”) to

¹ Applicant Related Liabilities are defined in paragraph 15 of the Amended and Restated Initial Order as any guarantee, contribution or indemnity obligation, liability or claim in respect of, or that relates to, any agreement involving the Applicant, or the obligations, liabilities and claims of, against or affecting the Applicant or its business.

liquidate the inventory, furniture, fixtures and equipment, in certain of the Applicant's stores;

- (e) authorized Ben Moss to obtain and borrow up to \$8 million under a debtor-in-possession facility (the "**DIP Facility**") from Salus CLO 2012-1 Ltd. ("**Salus CLO**" or the "**DIP Lender**"), provided that the borrowings under the DIP Facility could not exceed \$3.5 million prior to May 26, 2016, the date of the comeback hearing (the "**Comeback Hearing**"); and
- (f) approved the Administration Charge, the DIP Charge and the Directors' Charge (each as defined in the Initial Order) in the amounts and priority as set out in the Pre-Filing Report.

1.3 In connection with the Applicant's application for protection under the CCAA, A&M provided to this Court a pre-filing report (the "**Pre-Filing Report**") dated May 17, 2016 in its capacity as proposed monitor. A copy of the Pre-Filing Report (without Appendices) is attached as **Appendix "A"**.

1.4 On May 26, 2016, this Court issued an amended and restated Initial Order (the "**Amended and Restated Initial Order**", hereinafter, unless the context otherwise requires, the "**Initial Order**"), which made certain changes to the Initial Order that are described below. The Initial Order, the Amended and Restated Initial Order and other Court-filed documents and notices in connection with the CCAA Proceedings are available on the Monitor's website at www.alvarezandmarsal.com/benmoss.

2.0 PURPOSE OF THIS REPORT

2.1 The purpose of this report (the “**First Report**”) is to provide this Court with the following:

- (a) an update concerning communications with the Applicant’s stakeholders;
- (b) information regarding the Applicant’s operations and restructuring efforts since the Filing Date including matters related to:
 - (i) the Liquidation Sale;
 - (ii) negotiations with landlords and leases;
 - (iii) employees of Ben Moss;
 - (iv) the Applicant’s suspension of the Layaway Program (as defined below);
 - (v) communications with the Applicant’s suppliers and the treatment of consignment arrangements; and
 - (vi) the closure of the Applicant’s Halifax store due to fire and the temporary closure of the Applicant’s Fort McMurray store due to the wildfires that affected that region;
- (c) a description of the Comeback Hearing and the amendments to the Initial Order;
- (d) an update on matters involving Utopia Jewellery Co. (“**Utopia Jewellery**”) and Utopia Diamond Inc. (collectively with Utopia Jewellery, “**Utopia**”), P.M.R. Inc. (“**PMR**”) and Forever Jewellery Inc. (“**FJI**”) and a demand for financial

information that was made by the Monitor in respect of those entities as well as certain other entities related to the Applicant;

- (e) an update on the RISP;
- (f) an update on the DIP Facility and borrowings thereunder;
- (g) the receipts and disbursements of Ben Moss for the two-week period ended May 27, 2016, as compared to the cash-flow forecast previously filed with the Pre-Filing Report;
- (h) the notification by Salus Capital (as defined below) in respect of the negative variances shown in the cash-flow forecasts of the Applicant and the Other Borrowers (as defined below);
- (i) a proposed amendment to the DIP Facility to, among other things, address the negative cash flow variances described herein;
- (j) the Applicant's cash-flow forecast for the period ending July 15, 2016;
- (k) the Applicant's motion (the "**Motion**") seeking (i) approval of the amendment to the DIP Facility, (ii) approval of the sale guidelines regarding the conduct of the Agent in respect of the Liquidation Sale, (iii) an extension of the Stay Period until July 15, 2016, and (iv) approving the activities and conduct of the Monitor since the Filing Date; and
- (l) the Monitor's conclusions and recommendations in connection with the foregoing.

3.0 TERMS OF REFERENCE

3.1 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 certain senior management of Ben Moss and/or senior management of certain of Ben Moss's affiliated companies ("**Senior Management**") and discussions with Senior Management (collectively, the "**Information**").

3.2 With respect to any of Ben Moss's cash flow forecasts and projections:

- (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.

3.3 Future oriented financial information referred to in this First Report was prepared based on Senior 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, the variations could be significant.

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

3.5 This First Report should be read in conjunction with the Affidavit of Mr. Naveed Z. Manzoor, Managing Director of FAAN, CRO of Ben Moss, sworn June 12, 2016 (the “**Second Manzoor Affidavit**”).

4.0 COMMUNICATIONS WITH THE APPLICANT’S STAKEHOLDERS

4.1 Pursuant to the Initial Order, the Monitor was required to, without delay, publish in the Globe and Mail (National Edition) and the Winnipeg Free Press, a notice containing the information prescribed under the CCAA. In addition, within five days after the date of the Initial Order, the Monitor was required to (a) make the Initial Order publicly available in the manner prescribed under the CCAA; (b) send a notice in the prescribed manner to every known creditor who has a claim against Ben Moss 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 the list publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and its associated regulations.

4.2 A notice containing the information prescribed under the CCAA was published in each of the Winnipeg Free Press and Globe and Mail (National Edition) on May 24, 2016 and May 26, 2016, respectively.

4.3 On the day the Initial Order was made, the Monitor activated its website for the CCAA Proceedings, www.alvarezandmarsal.com/benmoss and posted a copy of the Initial Order to the website.

4.4 On May 20, 2016, a notice was mailed by the Monitor to every known creditor who may have a claim of more than \$1,000 against Ben Moss as well as the Applicant's landlords or property managers. On May 24, 2016, a notice was also sent to Salus Capital Partners, LLC ("**Salus Capital**" and together with Salus CLO, the "**Senior Secured Lenders**").

4.5 On May 22, 2016, the Monitor posted to its website a list showing the names and addresses of every known creditor who may have a claim of more than \$1,000 against Ben Moss.

4.6 The Monitor has established an e-mail account, monitor.benmoss@alvarezandmarsal.com, and a toll free number, 1-855-499-1480, where stakeholders can contact the Monitor in order to address questions or concerns.

5.0 OPERATIONS AND RESTRUCTURING UPDATE

5.1 Since the Filing Date, the Monitor has worked closely with Ben Moss and the CRO to stabilize and normalize its business and operations. These efforts have included assisting with the Liquidation Sale, engaging in extensive communications with various stakeholders (including landlords, employees, creditors, suppliers, representatives and stakeholders of affiliates of the Applicant and other interested parties) and participating in negotiations to amend the Initial Order to address the concerns of certain stakeholders, each of which are described in greater detail in the Second Manzoor Affidavit and summarized below.

The Liquidation Sale

5.2 Pursuant to the Agency Agreement, GBC has been engaged as the Applicant's agent to liquidate the merchandise, furniture, fixtures and equipment located in 11 of the Applicant's stores (the "**Clearance Locations**"). GBC commenced the Liquidation Sale prior to

the commencement of the CCAA Proceedings as part of the Applicant's operational restructuring efforts. As described above, the Initial Order authorized GBC to continue the Liquidation Sale.

5.3 The Liquidation Sale has performed below expectations (though sales have improved over the last two weeks). The Monitor, GBC and Senior Management have all been working collaboratively to consider the reasons why the Liquidation Sale is performing below initial expectations. Identified issues include the general weakness of the retail locations where the sale is taking place, historical trends in the mark-down structure that have impacted consumer expectations and the seasonal nature of the industry itself. Ben Moss worked closely with GBC and made certain changes to the Liquidation Sale, including advertising and mark-down structures, which have resulted, more recently, in an improvement in sales. The CRO, in conjunction with the Senior Secured Lenders, GBC and Senior Management have considered whether it is appropriate to reduce the number of locations conducting the Liquidation Sale, and at the current time, all parties are of the view that it should continue as originally planned. The Monitor has been extensively involved in these discussions and is supportive of the views of the parties.

Landlord and Lease Negotiations

Amendments to the Initial Order and Sale Guidelines

5.4 After the Filing Date, Ben Moss was contacted by certain of its landlords regarding the CCAA Proceedings and the Liquidation Sale. In particular, certain landlords requested that a comprehensive set of sale guidelines in respect of the Liquidation Sale be agreed upon. In addition, these landlords requested to be granted certain protections in connection with the Liquidation Sale and be permitted to enforce their rights against JSN Inc. in certain circumstances. Following discussions between Ben Moss, the Monitor and these landlords, the

parties agreed to amend the Initial Order to reflect the concerns of the landlords. The corresponding amendments to the Initial Order are discussed below in section 6.0.

5.5 Accordingly, Ben Moss, in consultation with the Monitor, has engaged in extensive negotiations with many of its landlords and settled on acceptable sale guidelines (the “**Sale Guidelines**”) in respect of the Liquidation Sale, which the Applicant seeks approval of as part of this Motion. The Sale Guidelines are described in section 13.0 below.

Disclaimers and Lease Amendments

5.6 In the Pre-Filing Report, the Monitor advised that the Applicant may close underperforming stores to improve operating performance and disclaim the leases associated with those stores. In consultation with the Monitor, Ben Moss is continuing its review of its real estate portfolio. Ben Moss and the Monitor have scheduled a number of meetings with its major landlords during the week of June 13, 2016 to discuss Ben Moss’s real estate portfolio and opportunities to improve the economic terms of certain underperforming locations. The Monitor understands that, at a minimum, Ben Moss anticipates disclaiming the leases associated with some of the Clearance Locations.

Employees

5.7 The Applicant, in consultation with the Monitor, is currently evaluating opportunities to reduce employee count. If Ben Moss closes any of the Clearance Locations following completion of the Liquidation Sale, it will likely result in termination of employees at those locations (though Ben Moss will attempt to place employees at its other store locations, where possible).

Layaway Program

5.8 As described in the Pre-Filing Report, Ben Moss offered a layaway program (the “**Layaway Program**”), which allows customers to pay for their goods over the course of six months. When the Initial Order was granted, the Layaway Program was temporarily suspended in an effort to ensure that arrangements could be made to protect participants. After consultation with the Monitor and the Senior Secured Lenders, Ben Moss has decided to discontinue the Layaway Program for the duration of the CCAA Proceedings. To the extent that a Ben Moss customer participated in the Layaway Program prior to its suspension, the customer can pay the balance owing for its goods and take possession of the item(s) placed on layaway.

Suppliers

5.9 After the Filing Date, Senior Management, with the participation of the Monitor in many cases, initiated calls with its significant suppliers to negotiate payment terms. The Monitor has also engaged directly with numerous suppliers. In general, Ben Moss’s suppliers have been supportive and have continued to accept orders and supply goods.

5.10 Certain parties (the “**Potential Consignment Suppliers**”) have asserted that their supply arrangements with Ben Moss constitute consignment arrangements, thereby entitling them to reclaim the goods that they supplied to Ben Moss.

5.11 The Monitor is currently working with its legal counsel to review the supply arrangements between Ben Moss and the Potential Consignment Suppliers to determine whether they meet the strict legal test of a true consignment. As described below, the Initial Order was amended at the Comeback Hearing to provide certain protections for parties with valid consignment arrangements. To the extent that a Potential Consignment Supplier has a true

consignment arrangement, the Applicant, in consultation with the Monitor, intends to formally document the business terms relating to the supply and payment of Consignment Goods.

Stores Closed Due to Fire

5.12 There was a small fire at the Applicant's Halifax store caused by construction activity taking place nearby in the mall. This store is one of the Clearance Locations from which the Liquidation Sale is being conducted. While damage to the store was quite extensive, the inventory located in that store was removed and is in the process of being redistributed throughout Ben Moss's retail network.

5.13 The Ben Moss store in Fort McMurray, Alberta has also been closed due to the wild fires in that region. It is expected that the store will reopen by the end of June.

5.14 The Applicant is communicating with its insurance company in respect of both of these stores in connection with both its claim for damages to the location as well as business interruption.

6.0 THE COMEBACK HEARING AND AMENDMENTS TO INITIAL ORDER

6.1 As contemplated in the Initial Order, the Applicant attended the Comeback Hearing on May 26, 2016. The Comeback Hearing was unopposed.

6.2 At the Comeback Hearing, this Court issued the Amended and Restated Initial Order which, as described above, included amendments to the Initial Order to address concerns raised by certain landlords in connection with the CCAA Proceedings and the Liquidation Sale, and concerns raised by suppliers in connection with goods on consignment. A blackline of the Initial Order and the Amended and Restated Initial Order showing the changes is attached as Exhibit "A" to the Second Manzoor Affidavit.

6.3 A summary of the key amendments made to the Initial Order are as follows

- (a) ***Stay Against JSN Inc. Regarding Applicant Related Liabilities:*** The Initial Order was amended to provide that the extension of the stay to JSN Inc. regarding Applicant Related Liabilities does not apply to a landlord of the Applicant, provided that it gives five days written notice that it intends to commence or continue a proceeding against JSN Inc. or exercise any right or remedy against it or its property;
- (b) ***Approval of Sale Guidelines:*** The Initial Order requires the Agent to conduct the Liquidation Sale in accordance with sale guidelines to be agreed to between the Applicant, the Agent, Salus Capital and the landlords of the Clearance Locations, which shall be consistent with standard Court-approved sale guidelines and which the Applicant shall seek approval of at its next motion before the Court. As described herein, in compliance with this provision of the Initial Order, Ben Moss is seeking approval of Sale Guidelines (which are defined and described in section 13.0 below) as part of the Motion;
- (c) ***Assigned Landlord Rights Regarding Agent Liability:*** The Initial Order now provides that to the extent that any landlord may have a claim against the Applicant arising solely out of the conduct of the Agent in conducting the Liquidation Sale, subject to certain exceptions and provided that the notice requirements are complied with, the claim is deemed to be assigned to the landlord. The Initial Order was also amended to provide each landlord with reasonable access to the applicable Clearance Locations following the end of the Liquidation Sale to assess whether they may have such a claim; and

- (d) **Consignment Goods:** The Initial Order now provides that the proceeds from the sale of any goods that were supplied by the Applicant on a consignment basis, as determined by the Monitor in its sole discretion (the “**Consignment Goods**”), shall be returned by the Applicant to the supplier of such Consignment Goods on terms to be agreed upon between the Applicant and each such supplier. In addition, Consignment Goods do not form part of the Property (as defined in the Initial Order) of Ben Moss.

7.0 MATTERS INVOLVING UTOPIA, PMR AND DEMAND FOR FINANCIAL INFORMATION

Utopia

7.1 As described in the Pre-Filing Report, Utopia operates manufacturing facilities for JSN Inc. and certain of its affiliates (collectively, the “**JSN Group**”) and its operations are funded directly by the JSN Group. Utopia is located in Bangkok, Thailand.

7.2 Also as described in the Pre-Filing Report, Salus Capital provides a credit facility to Ben Moss and the other borrowers thereunder, being JSN Inc., JSN UK and GMJ Corporation (collectively, the “**Other Borrowers**”) under a credit agreement dated as of July 18, 2013 (the “**Credit Facilities**”), which was in default as at the Filing Date.

7.3 Since the Filing Date, JSN Inc., among others, has had continued access to the Credit Facilities in accordance with the terms of an accommodation agreement (“**Accommodation Agreement**”) between Ben Moss, the Other Borrowers, Forever Jewellery Inc. (“**FJI**”), Always & Forever Family Collection Incorporated (“**AFFC**”), P.M.R. Inc. (“**PMR**”), Joseph Shilon and the Senior Secured Lenders. Through this funding, JSN Inc. has

continued to fund Utopia's manufacturing operations since the commencement of the CCAA Proceedings.

PMR

7.4 In the Pre-Filing Report, the Monitor advised that it was investigating certain payments that were made by PMR to a related party. The Monitor continues to investigate these payments. In addition, the Monitor became aware that two days prior to the Filing Date, a payment was made by PMR to an affiliated company. On May 26, 2016, counsel to Ben Moss issued a demand letter requesting return of the payment. As of the date of this First Report, the payment has not been returned and while the Monitor is aware that there have been some discussions between the CRO, representatives of PMR and the other affiliated company, a resolution has not been reached.

Demand for Financial Information

7.5 The Initial Order authorizes the Monitor to provide reporting to the DIP Lender relating to the Other Borrowers, FJI, AFFC, PMR and Joseph Shilon (collectively, the "**Guarantors**"), each of which provided a guarantee under the DIP Facility. The Monitor has become aware of payments that have been made by and between the Guarantors and other affiliated entities, which may have implications for Ben Moss and the CCAA Proceedings.

7.6 As a result, on May 27, 2016, the Monitor's counsel sent a letter to the principals and/or officers of certain of the Guarantors demanding the books, records and financial information, among other things, in respect of each of the Guarantors and other affiliated companies, including Utopia and Whitpay Inc. (the "**Requested Information**"). The Monitor

has received some, but not all, of the Requested Information and will update the Court when this work is concluded.

7.7 The Monitor continues to review and monitor the matters described above and intends to update the Court further as more information becomes available.

8.0 RISP UPDATE

8.1 As described in the Pre-Filing Report, the Applicant's overall Restructuring Plan includes the RISP. The RISP provides for the solicitation of the following potential transactions: (a) a refinancing of all or part of the Credit Facilities of the JSN Group; (b) an equity investment in JSN Inc. and/or Ben Moss; and/or (c) a sale of all or a portion of the business and property of Ben Moss.

8.2 Since the Filing Date, the Monitor has assisted the Applicant with the implementation of the RISP in accordance with its terms, by contacting prospective parties, distributing teaser letters, inviting parties to execute a non-disclosure agreement ("NDA") and providing those parties who have executed an NDA with access to an applicable confidential information memorandum ("CIM") describing the Applicant and sale or refinancing/investment opportunity and responding to information requests from those parties who have signed an NDA.

8.3 Salus Capital has engaged Consensus Advisory Services LLC ("**Consensus**") as its advisor to assist it with maximizing the outcome of the RISP. Consensus is a financial advisor, based in Boston, with particular strength in both retail and jewellery. Consensus has been working collaboratively with the Monitor to provide its assistance in contacting and identifying parties that may be interested in participating in the RISP.

8.4 The Monitor is of the view that strong interest has been expressed to-date from parties participating in the RISP. Numerous parties have executed an NDA and have been provided information to facilitate the preparation of letters of intent in accordance with the RISP.

8.5 On June 10, 2016, the Monitor provided all participants with a letter setting out the instructions for bid submission in accordance with Phase I of the RISP (the “**Phase I Bid Letter**”). The Phase I Bid Letter sets out, among other things, the requirement that participants submit their non-binding letters of intent by the Phase I Bid Deadline of 5:00 p.m. EDT on or before June 17, 2016.

8.6 At this time, the Monitor is satisfied that the RISP has been managed in accordance with its terms and that parties are being provided a reasonable opportunity to participate in the process. The Monitor will continue to undertake and supervise the RISP in accordance with its terms and the Initial Order and will provide a further update in its next report to the Court.

9.0 DEBTOR IN POSSESSION FINANCING

9.1 In accordance with the Initial Order and subject to the terms of the DIP Facility, the Applicant has access to maximum borrowings under the DIP Facility equal to the principal amount of the U.S. dollar equivalent of CDN\$8 million.

9.2 Ben Moss is only permitted to access the DIP Facility if the Credit Facilities are fully drawn. As at the Filing Date, the Credit Facilities were fully drawn and Salus Capital had facilitated the continued funding of Ben Moss and the Other Borrowers by permitting them to draw on the revolving credit facility despite the fact that such draws exceeded the maximum revolving loan available under the Credit Facilities (the “**Permitted Overadvance**”). As at the Filing Date, the total Permitted Overadvance was \$7.5 million. Accordingly, the May Cash Flow

Forecast projected that Ben Moss would need to access funding under the DIP Facility immediately upon commencement of the CCAA Proceedings.

9.3 As at June 7, 2016, Ben Moss had made ten borrowing requests and borrowed approximately \$4.6 million under the DIP Facility.

10.0 CASH FLOW RESULTS RELATIVE TO FORECAST

Cash Flow Results and Variances

10.1 Cash receipts and disbursements for the two-week period ended May 27, 2016 (the “Reporting Period”) as compared to the cash flow forecast found as Appendix A to the Pre-Filing Report (the “May Cash Flow Forecast”) are summarized in the table below:

Ben Moss Jewellers Western Canada Ltd.			
Schedule of Actual Receipts and Disbursements Compared to the Cash Flow Forecast (note 1)			
For the Two-Week Period Ended May 27, 2016			
(\$000's CAD)			
	<u>Forecast</u>	<u>Actual</u>	<u>Variance</u>
Cash Receipts			
Sales Receipts	3,169	2,398	(771)
Total Cash Receipts	<u>3,169</u>	<u>2,398</u>	<u>(771)</u>
Cash Disbursements			
Payroll & related payments	1,057	907	150
Occupancy costs	150	-	150
Trade vendor payments (third party)	629	129	500
Purchases of JSN product	1,277	-	1,277
Sales and business taxes	58	44	14
Capital leases and bank fees	44	44	-
Non-trade payments	351	57	294
Professional fees	210	233	(23)
Interest and fees (note 2)	85	62	23
Other Expenses	150	-	150
Total Cash Disbursements	<u>4,011</u>	<u>1,476</u>	<u>2,535</u>
Total Net Cash Flow	<u>(842)</u>	<u>922</u>	<u>1,764</u>
Beginning Cash Balance	-	(13)	(13)
Net operating cash flow	(843)	922	1,764
Net drawdown/(repayment)	843	(79)	(922)
Ending Cash Balance	<u>0</u>	<u>830</u>	<u>830</u>
Pre-filing revolving credit facility (balance at May 27)	49,903	52,987	(3,084)
DIP facility (balance at May 27)	4,012	2,149	1,863
Total Financing (note 3)	<u>53,915</u>	<u>55,136</u>	<u>(1,221)</u>
Note 1	Readers are cautioned to read the Terms of Reference as set out in the Pre-Filing Report of the Proposed Monitor dated May 17, 2016 for information regarding the preparation of the Cash Flow Forecast.		
Note 2	Interest and fees are non-cash and are paid in kind and applied directly to the balance of the pre-filing revolving credit facility and the DIP facility.		
Note 3	For continuity of financing including the pre-filing revolving credit facility and DIP Facility, please refer to Appendix A of the Pre-Filing Report of the Proposed Monitor dated May 17, 2016.		

10.2 During the Reporting Period, Ben Moss's total cash receipts were approximately \$771,000 lower than projected in the May Cash Flow Forecast. Senior Management attributes this variance to lower than anticipated sales in the retail stores following the announcement of the CCAA Proceedings. In particular, a significant portion of the variance relates to underperformance at the Clearance Locations during the Liquidation Sale as described in paragraph 5.3 above.

10.3 Ben Moss's total disbursements during the Reporting Period were approximately \$2.5 million less than projected in the May Cash Flow Forecast. Senior Management attributes this variance primarily to timing differences as disbursements for items such as inventory purchases (both from third parties and JSN Inc.) and the fact that certain sales and general expenses were delayed during the Reporting Period as Ben Moss worked with vendors to confirm payment terms. It is anticipated that the majority of this variance will reverse in the next several weeks as payments are made for these expenses.

10.4 Overall, during the Reporting Period, Ben Moss experienced a positive cash flow variance of approximately \$1.8 million relative to the May Cash Flow Forecast due to the timing of disbursements. As at May 27, 2016, Ben Moss had an ending cash balance of approximately \$830,000, due to timing differences.

DIP Facility and Credit Facilities

10.5 As at May 27, 2016, the amount outstanding under the DIP Facility was approximately \$2.2 million and the total amount outstanding under the Credit Facilities was approximately \$53.0 million. The outstanding balance under the DIP Facility as at May 27, 2016 was approximately \$1.8 million lower than forecast due to the timing of supplier payments at Ben Moss.

10.6 Notwithstanding the positive variance under the DIP Facility, the total amount of financing extended since the Filing Date (combined between the Credit Facilities (which includes the Permitted Overadvance) and the DIP Facility) is higher than forecast by approximately \$1.2 million. The negative variance in the estimated financing needs was due to (a) negative cash flow variances at other JSN Group entities, and (b) lower than anticipated collections at Ben Moss.

10.7 As described in the Pre-Filing Report and the Affidavit of Naveed Manzoor sworn May 16, 2016, the cash from Ben Moss's business operations is deposited into blocked deposit accounts at various institutions that are swept and transferred to Salus Capital to pay down the Credit Facilities. A condition of the DIP Facility is that the cash from the Applicant's operations continues to be deposited into blocked accounts and transferred to Salus Capital to (a) first, repay the Permitted Overadvance, (b) then repay obligations under the DIP Facility, and (c) finally, pay down pre-filing obligations under the Credit Facilities (the "**Repayment Waterfall**").

10.8 Pursuant to the Repayment Waterfall, collections from the Ben Moss operations are being applied against the Permitted Overadvance under the pre-filing Credit Facilities. Since the Filing Date, cash from the Applicant's operations have reduced the Permitted Overadvance to approximately \$5.8 million from \$7.5 million. Notwithstanding these payments however, due to the fact that the Applicant's collections are lower than anticipated, the Permitted Overadvance has not been reduced to the extent it was forecast to do so under the May Cash Flow Forecast, which as described in section 11.0 below, will impact the amount available to the Applicant under the DIP Facility.

Notification from the Senior Secured Lenders

10.9 As described above, the Other Borrowers have had continued access to the Credit Facilities in accordance with the terms of the Accommodation Agreement. The Accommodation Agreement requires Ben Moss and the Other Borrowers to operate their business consistent with the 13-week cash flow projections / budget under the DIP Facility set out therein (the “**13-Week Cash Flows**”), which are prepared on a consolidated basis for Ben Moss and the Other Borrowers.

10.10 Salus Capital notified Ben Moss and the Other Borrowers that the 13-Week Cash Flows for the two-week period ended May 27, 2016 show negative variances in excess of 10%, in among other items, cash receipts and net cash flows, which constitutes a breach of the Accommodation Agreement and the agreements in respect of the DIP Facility and the Credit Facilities. The Senior Secured Lenders have reserved their rights in connection with the breach. Notwithstanding, the Senior Secured Lenders continue to fund Ben Moss and the Other Borrowers subject to the Accommodation Agreement and the amendments to the DIP Facility described in section 11.0 below.

10.11 As described above, the negative variances in respect of Ben Moss are due, in part, to lower than anticipated retail sales in the Applicant’s stores, particularly the Clearance Locations, following the announcement of the CCAA Proceedings and timing differences that impact disbursements for items such as inventory purchases and disruption that resulted while Ben Moss was confirming payment terms with its vendors.

10.12 Since the Filing Date however, overall same store sales results for the Applicant’s stores (other than the Clearance Locations), have improved by approximately 10%. Senior

Management believes that as recent inventory balancing initiatives take effect, near-term improvements will continue.

10.13 With respect to Ben Moss's inventory balancing initiatives, new shipments from key, third party vendors have been received and are improving the overall inventory mix at the stores. Ben Moss has received positive feedback from both its customers and vendors.

10.14 Ben Moss has also reduced its operating costs in respect of store wages and jewellery repair costs and the costs of other service providers.

10.15 The Monitor is working with Ben Moss to provide the Senior Secured Lenders with information in respect of the negative variances to the extent they relate to the Other Borrowers.

11.0 AMENDMENT TO THE DIP FACILITY

11.1 In order to address the variances discussed above and simplify the completion of the diligence for the participants in the RISP by providing them with better visibility on Ben Moss's distinct funding requirements, the Senior Secured Lenders, the Applicant and the other parties to the Accommodation Agreement propose to amend the DIP Facility (the "**Amendment**") to revise the Repayment Waterfall such that cash receipts from Ben Moss's operations will first be applied to obligations under the DIP Facility rather than first being applied to reduce the Permitted Overadvance.

11.2 As discussed above, the outstanding balance of the Permitted Overadvance is approximately \$5.8 million. Accordingly, without the modification to the Repayment Waterfall, the Applicant's funding requirements would exceed the maximum borrowings available under the DIP Facility because Ben Moss's cash collections would first be applied to repay the

Permitted Overadvance. If the Amendment is approved, the outstanding balance of the Permitted Overadvance will not likely be further reduced.

11.3 The proposed amendment to the Repayment Waterfall is reflected in the Applicant's Cash Flow Forecast (as defined and described below).

12.0 CASH FLOW FORECAST

12.1 The Applicant has prepared an updated and extended cash flow forecast (the "**Cash Flow Forecast**") for the period ending July 15, 2016 (the "**Cash Flow Period**"). Pursuant to the Initial Order, the Stay Period is set to expire on June 15, 2016. The Applicant is seeking an extension of the Stay Period to July 15, 2016 and the Cash Flow Period corresponds with this extension request. A copy of the Cash Flow Forecast is attached as **Appendix "B"** to this report.

12.2 The Cash Flow Forecast is presented on a weekly basis during the Cash Flow Period and represents Senior Management's estimates of the projected cash flow during the Cash Flow Period. The Cash Flow Forecast has been prepared using the probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast (the "**Cash Flow Assumptions**").

12.3 The Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed Monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a Monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the Monitor's findings. Pursuant to this standard, the Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to information supplied to it by certain key members of management and employees of Ben Moss. The Monitor reviewed information provided by Senior Management for the Cash Flow Assumptions. Since the Cash Flow Assumptions need not be supported, the Monitor's procedures with respect to

them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast.

12.4 The Cash Flow Forecast has been updated for actual cash flow results through to the week ended May 27, 2016 and assumes the Amendment is approved and the corresponding amendment to the Repayment Waterfall is in effect. A summary of the Cash Flow Forecast is set out in the table below:

Ben Moss Jewellers Western Canada Ltd.	
Unaudited Summary of Forecast Cash Flow (Note 1)	
For the 6-week period ended July 15	
(\$000's)	
	<u>Amount (\$)</u>
Forecast Cash Inflow	
Collections	8,271
Forecast Total Receipts	<u>8,271</u>
Forecast Cash Outflow	
Occupancy, taxes, capital leases, SG&A and other	3,726
Payroll & related payments	2,117
Inventory purchases	1,964
Professional fees	510
Interest and fees	95
Total Forecast Outflow	<u>8,412</u>
Total Net Cash Flow	<u>(141)</u>
Note 1	Readers are cautioned to read the Terms of Reference as set out previously in this report for information regarding the preparation of the Cash Flow Forecast.
Note 2	For continuity of financing including the pre-filing revolving credit facility and DIP facility, please refer to Appendix B.

12.5 The Cash Flow Forecast projects total cash receipts of \$8.3 million and total cash disbursements of \$8.4 million for a total negative cash flow of approximately \$141,000. The Cash Flow Forecast includes purchases of approximately \$2 million of product from both third party vendors as well as from other entities in the JSN Group as well as \$95,000 of interest and fees to the DIP Lender in relation to the DIP Facility.

12.6 Total amounts advanced in aggregate under the DIP Facility and Credit Facilities is expected to increase by as much as \$1.5 million during the Cash Flow Period relative to current amounts, as other entities in the JSN Group will also require funding pursuant to the Credit Facilities. By the end of the Cash Flow Forecast, such incremental exposure is expected to reduce to approximately \$1.0 million. For additional detail surrounding the Cash Flow Forecast refer to **Appendix “B”**.

12.7 The Cash Flow Forecast has been prepared solely for the purpose described above and readers are cautioned that it may not be appropriate for other purposes.

13.0 RELIEF REQUESTED ON THE MOTION

13.1 As described above, on the Motion, the Applicant seeks the approval of the Court for the following, each of which is described further below:

- (a) amendment to the DIP Facility;
- (b) the Sale Guidelines;
- (c) the extension of the Stay Period to July 15, 2016; and
- (d) the activities and conduct of the Monitor.

Amendment to the DIP Facility

13.2 The Amendment is the result of negotiations between the DIP Lender, the Applicant, the CRO and the Senior Secured Lenders, in consultation with the Monitor, and will ensure that notwithstanding the cash flow variances described above, there will be sufficient funds available under the DIP Facility until July 15, 2016, the proposed extension of the Stay Period. The Monitor supports the requested Amendment.

Approval of the Sale Guidelines

13.3 As described above, the Amended and Restated Initial Order requires the Applicant to seek approval of the Sale Guidelines in its next motion before this Court, being this Motion.

13.4 The Sale Guidelines reflect extensive negotiations between the Applicant and certain of its landlords and are attached to the Second Manzoor Affidavit and are described in greater detail therein. The Sale Guidelines, among other things, provide for the following:

- (a) the Liquidation Sale will be conducted in accordance with the terms of the applicable leases, subject to certain exceptions. The Agent may sell the furniture fixtures and equipment owned by Ben Moss located in the Clearance Locations during the Liquidation Sale;
- (b) the Liquidation Sale will be conducted so that the Clearance Locations remain open during normal hours of operation provided for in the applicable leases;
- (c) the Agent may advertise the Liquidation Sale at the Clearance Locations, subject to certain restrictions that are imposed in respect of the appearance and location of signage. Among other things, the signage cannot use the words “bankruptcy”, “liquidation” or “going out of business”;
- (d) the Liquidation Sale will end no later than July 31, 2016. At the end of the Liquidation Sale, the applicable Clearance Locations shall be left in “broom-swept” and clean condition; and

- (e) GBC is permitted to augment the inventory included in the Liquidation Sale (the “**Additional Merchandise**”), provided it is of a like kind and category to the inventory sold by Ben Moss, in compliance with the use provisions in the applicable leases and subject to the requirements that the Additional Merchandise will not exceed a \$2 million cost cap (subject to increase in certain circumstances) and that no Clearance Location can receive more than 20% of the Additional Merchandise.

13.5 The Monitor is of the view that the Sale Guidelines are consistent with standard Court-approved guidelines for liquidation sales and supports the relief requested by the Applicant.

Extension of the Stay Period

13.6 Pursuant to the Initial Order, the Stay Period is to expire on June 15, 2016. The Applicant is seeking an extension of the Stay Period to July 15, 2016. This will have the result of extending the stay in favour of JSN Inc. solely with respect to the Applicant Related Liabilities. As described above, pursuant to the Amended and Restated Initial Order, landlords will continue to be excluded from the stay in favour of JSN Inc. in respect of Applicant Related Liabilities.

13.7 The Monitor supports the extension of the Stay Period to July 15, 2016 for the following reasons:

- (a) the stay is required to provide the necessary stability and certainty to enable Ben Moss to implement its operational restructuring and continue the RISP;

- (b) the DIP Facility remains available to the Applicant and, provided the Amendment is approved, is projected to provide Ben Moss with sufficient liquidity to continue operations during the proposed extension of the Stay Period; and
- (c) the Applicant continues to act in good faith and with due diligence in these CCAA Proceedings since the granting of the Initial Order.

Approval of the Activities and Conduct of the Monitor

13.8 The activities and conduct of the Monitor from the date of the Initial Order include the matters described herein and, among other things, the following:

- (a) assisting Ben Moss in stabilizing its supply chain, including extensive communications with suppliers with a view to minimizing supply disruption and continuing the movement of goods to the distribution centre and stores;
- (b) discussions with certain landlords, the Applicant, and counsel in respect of the CCAA Proceedings, lease concessions, the Liquidation Sale, the Sale Guidelines and amendments to the Initial Order;
- (c) responding to enquiries from stakeholders, including addressing questions or concerns of parties who contacted the Monitor on the toll-free number or general email account established by the Monitor;
- (d) assisting Ben Moss in implementing an appropriate accounting cut-off to ensure proper determination of pre and post-filing obligations and liabilities;

- (e) monitoring the receipts, disbursements, purchase commitments, and arrangements in respect to payment terms and for deposits with certain suppliers and creditors of the Applicant, including tracking outstanding balances and commitments;
- (f) assisting the Applicant in assessing certain components of its operational restructuring, including the Liquidation Sale and its strategic inventory rebalancing efforts in connection with its current on-hand inventory and forecast inventory requirements for the balance of Ben Moss's fiscal year and going forward;
- (g) supervising and assisting the Applicant with implementing the RISP in accordance with its terms, including (as described above) preparing and distributing the teaser letters, NDAs, the CIMs and the Phase I Bid Letter and engaging in discussions with Consensus and with numerous interested parties regarding the RISP and related matters;
- (h) providing extensive assistance to the CRO to understand the business and operations of the Other Borrowers;
- (i) posting materials filed with the Court to the Monitor's website;
- (j) attending to the notice requirements as described above, completing the statutory filings pursuant to Section 23 of the CCAA and filing the necessary forms with the Office of the Superintendent of Bankruptcy (Canada);
- (k) providing assistance to Ben Moss in its reporting to the DIP Lender, as required under the DIP Facility, reviewing Ben Moss' weekly DIP Facility draw requests and cash-flow variances, and extensive discussions with Senior Management and

the DIP Lender regarding same and the Amendment, and preparing and providing reporting to the DIP Lender in respect of supplier or other payments made by the Guarantors; and

- (l) preparing this First Report in consultation with the Monitor's legal counsel.

14.0 MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

14.1 For the reasons set out in this First Report, the Monitor is of the view that the relief requested by the Applicant in the Motion is reasonable and respectfully recommends that this Court grant the relief sought by the Applicant.

All of which is respectfully submitted to this Court this 13th day of June, 2016.

**Alvarez & Marsal Canada Inc., in its capacity
as Monitor of Ben Moss Jewellers Western Canada Ltd.**



Per: Alan J. Hutchens
Senior Vice-President

APPENDIX A

PRE-FILING REPORT OF THE PROPOSED MONITOR DATED MAY 17, 2016

(WITHOUT APPENDICES)

Court File No.

**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 PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT OF
BEN MOSS JEWELLERS WESTERN CANADA LTD.**

**PRE-FILING REPORT OF THE PROPOSED MONITOR,
ALVAREZ & MARSAL CANADA INC.**

MAY 17, 2016

TABLE OF CONTENTS

1.0	INTRODUCTION.....	1
2.0	TERMS OF REFERENCE	2
3.0	A&M'S QUALIFICATIONS TO ACT AS MONITOR.....	3
4.0	BACKGROUND INFORMATION.....	5
5.0	PROPOSED RESTRUCTURING PLAN AND RELIEF SOUGHT BY THE COMPANY IN THE INITIAL ORDER.....	15
6.0	CHIEF RESTRUCTURING OFFICER	16
7.0	OPERATIONAL RESTRUCTURING AND SALE BY GBC.....	17
8.0	PROPOSED REFINANCING AND/OR INVESTMENT SOLICITATION PROCESS.....	18
9.0	CASH MANAGEMENT SYSTEM	25
10.0	GIFT CARDS, STORE CREDIT AND LAYAWAY PROGRAM.....	25
11.0	PAYMENTS DURING CCAA PROCEEDINGS	26
12.0	STAY OF PROCEEDINGS	27
13.0	CCAA CASH FLOW FORECAST	27
14.0	DEBTOR IN POSSESSION FINANCING.....	30
15.0	COURT ORDERED CHARGES SOUGHT IN THE PROPOSED INITIAL ORDER.....	35
16.0	PROPOSED MONITOR'S CONCLUSIONS AND RECOMMENDATIONS.....	37

INDEX TO APPENDICES

APPENDIX A THIRTEEN WEEK CASH FLOW FORECAST, NOTES AND ASSUMPTIONS

APPENDIX B MANAGEMENT'S REPRESENTATION LETTER REGARDING THE CASH FLOW FORECAST

1.0 INTRODUCTION

Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Proposed Monitor**”) understands that Ben Moss Jewellers Western Canada Ltd. (“**Ben Moss**” or the “**Applicant**”) intends to bring an application before this Honourable Court seeking certain relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an initial order (the “**Proposed Initial Order**”) granting, among other things, a stay of proceedings until June 16, 2016 and appointing A&M as Monitor (the “**Monitor**”). The proceedings to be commenced by the Applicant under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

1.1 The purpose of this pre-filing report (the “**Pre-Filing Report**”) is to provide this Court with information regarding the following:

- (a) A&M’s qualifications to act as Monitor;
- (b) background information in respect of Ben Moss and its business;
- (c) the state of the business and affairs of Ben Moss and the causes of its insolvency;
- (d) Ben Moss’s refinancing and restructuring efforts to date;
- (e) the Applicant’s engagement of FAAN Advisors Group Inc. (“**FAAN**”) as chief restructuring officer (“**CRO**”);
- (f) the Applicant’s proposed operational restructuring, inventory clearance and potential closure of certain underperforming stores, including the Applicant’s consulting and agency agreement with Gordon Brothers Canada ULC (“**GBC**”);
- (g) the proposed refinancing and/or investment solicitation process;

- (h) the cash management system of Ben Moss;
- (i) the proposed continuance of Gift Cards and Store Credit (each as defined and described below);
- (j) proposed payments during the CCAA Proceedings to certain “critical” suppliers;
- (k) the requested stay of proceedings;
- (l) Ben Moss’s 13-week cash flow forecast;
- (m) the proposed debtor-in-possession financing facility;
- (n) Court ordered charges sought in the Proposed Initial Order; and
- (o) the Proposed Monitor’s conclusions and recommendations.

2.0 TERMS OF REFERENCE

2.1 In preparing this Pre-Filing Report, the Proposed Monitor has been provided with and has relied upon book, records and unaudited financial information prepared by certain senior management of Ben Moss and/or senior management of certain of Ben Moss’s affiliated companies (“**Senior Management**”) and discussions with Senior Management (collectively, the “**Information**”).

2.2 With respect to any of Ben Moss’s cash flow forecasts and projections:

- (a) the Proposed Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Monitor has neither audited nor 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 Proposed Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and

(b) any examination or review of such financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

2.3 Future oriented financial information referred to in this Pre-Filing Report was prepared based on Senior 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, the variations could be significant.

2.4 Unless otherwise stated, all monetary amounts contained in this Pre-Filing Report are expressed in Canadian dollars.

2.5 Capitalized terms not otherwise defined herein have the meanings ascribed to them in the affidavit of Mr. Naveed Z. Manzoor, Managing Director of FAAN, CRO of Ben Moss, sworn May 16, 2016 (the “**Manzoor Affidavit**”).

3.0 A&M’S QUALIFICATIONS TO ACT AS MONITOR

3.1 A&M is a trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada) and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA. The senior A&M professional personnel with carriage of this matter include experienced insolvency and

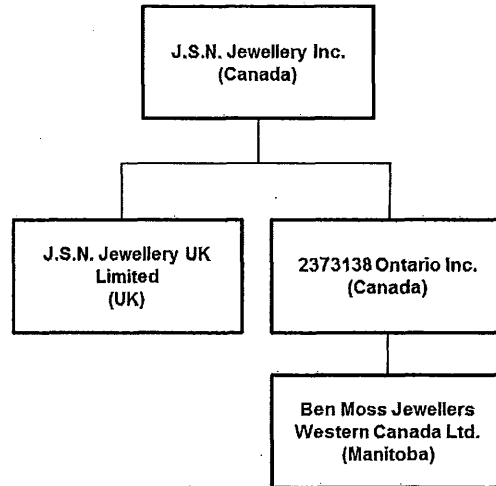
restructuring practitioners who are Chartered Professional Accountants, Chartered Insolvency and Restructuring Professionals, designated Corporate Finance Specialists and/or licensed Trustees in Bankruptcy (Canada), all of whom have acted in CCAA matters of a similar nature and scale in Canada.

- 3.2 Alvarez & Marsal Canada Securities ULC (“**A&M Securities**”), an affiliate of A&M, was engaged by an affiliate of the Applicant, JSN Inc. (as defined below) in August 2015 to provide: (a) advisory services in respect of the JSN Group’s (as defined below) efforts to raise debt capital to refinance its Credit Facilities (as defined and described below); and (b) assistance with the evaluation of various strategic alternatives. Alvarez & Marsal Canada ULC (“**A&M Advisory**”), which is also an affiliate of A&M, was engaged as financial advisor by JSN Inc. in March 2016 to provide consulting services in connection with its restructuring efforts following the unsuccessful refinancing of the Credit Facilities, including providing assistance to the Applicant in preparing for formal restructuring proceedings, should such a Court application become necessary. Both of the above mandates are ongoing but will be terminated immediately if A&M is appointed as the Monitor in the CCAA Proceedings.
- 3.3 The Proposed Monitor has retained Davies Ward Phillips & Vineberg LLP (“**Davies**”) to act as its independent legal counsel.
- 3.4 A&M has consented to act as Monitor of Ben Moss should this Court grant the Applicant’s request to commence the CCAA Proceedings. If appointed, the Monitor will maintain the following website for the CCAA Proceedings:
www.alvarezandmarsal.com/benmoss.

4.0 BACKGROUND INFORMATION

General and Business Operations

- 4.1 This Pre-Filing Report should be read in conjunction with the Manzoor Affidavit to provide for additional background and other information regarding the Applicant, its affiliated companies and the CCAA Proceedings.
- 4.2 Ben Moss is a jewellery retailing business that operates from 66 stores across Canada (27 of which are located in Ontario) as well as online through the Applicant's website www.benmoss.com. As at the date of this Pre-Filing Report, the Applicant has begun the process of clearing inventory in 11 stores pursuant to a consulting and agency agreement, which is described below.
- 4.3 The Applicant leases all 66 of its store locations and its head office located in Winnipeg, Manitoba.
- 4.4 Ben Moss employs approximately 549 individuals, comprised of 164 full time and 385 hourly employees. The Applicant's workforce is not unionized and it does not maintain a pension plan.
- 4.5 The Applicant is a Manitoba corporation that is a wholly-owned indirect subsidiary of J.S.N. Jewellery Inc. ("**JSN Inc.**"). The following abbreviated diagram depicts the organizational structure of JSN Inc. and its subsidiaries J.S.N. Jewellery UK Limited ("**JSN UK**"), 2373138 Ontario Inc. ("**237**") and Ben Moss (collectively, the "**JSN Group**"):



4.6 Ben Moss operates the only retail component of the JSN Group’s business. JSN Inc. is a privately held corporation that operates the Applicant’s wholesale business in Canada. JSN Inc. has a manufacturing and distribution facility in Toronto, Ontario. JSN UK is also part of the wholesale business and sells products manufactured by the JSN Group to retailers in the United Kingdom. 237 is an inactive holding company. Joseph Shilon is the sole shareholder of JSN Inc. and the president and CEO of the JSN Group.

4.7 As described in the Manzoor Affidavit, other companies affiliated with the JSN Group, which are directly or indirectly owned by Joseph Shilon, include:

- (a) P.M.R. Inc. (“**PMR**”): PMR operates and maintains equipment in Ben Moss retail locations that conducts metallurgic analysis on used jewellery provided by Ben Moss customers in exchange for cash or Ben Moss store credit. PMR then reclaims the raw materials or refurbishes the jewellery in order to sell it, or the raw components (i.e. gold and diamonds), to other members of the JSN Group;
- (b) Utopia Jewellery Co. (“**Utopia Jewellery**”) and Utopia Diamond Inc. (“**Utopia Diamond**”) and collectively with Utopia Jewellery, “**Utopia**”): As described in

the Manzoor Affidavit, Ben Moss acquires a significant portion of its diamond, gold and gemstone jewellery products from members of the JSN Group. Utopia Jewellery operates the JSN Group's jewellery manufacturing facilities in Bangkok, Thailand. Accordingly, Utopia Jewellery acquires the various materials including, diamonds, precious and semi-precious gemstones, gold and other related components required for jewellery manufacturing. Utopia Jewellery manufactures the JSN Group's products for use in its wholesale business from its leased premises in Bangkok and employs more than 500 individuals. Utopia Diamond has been inactive since January 2016; however, it was in the business of sourcing, cutting and polishing rough diamonds acquired from mines at its facilities in Chiang Mai, Thailand. The operations of Utopia are funded directly by the JSN Group; and

- (c) Global Diamond (G.D.) Ltd. ("**Global**") and My Diamond Private Limited: Each acts as a diamond broker for the JSN Group in Israel and India, respectively.

The Applicant's Secured Debt Obligations

The Senior Secured Lenders

- 4.8 As further detailed in the Manzoor Affidavit, Ben Moss and certain other members of the JSN Group are financed by Salus Capital Partners, LLC ("**Salus Capital**") (as administrative agent, collateral agent and lender) and Salus CLO 2012-1 Ltd. (as lender) ("**Salus CLO**" and together with Salus Capital, the "**Senior Secured Lenders**") through a \$50 million revolving credit facility ("**Revolving Credit Facility**") and three term loan credit facilities comprised of a \$7 million term loan ("**Term A Facility**"), a \$13 million term loan ("**Term B Facility**") and a US\$3.5 million term loan ("**Term C Facility**")

(collectively, the “**Credit Facilities**”) under a credit agreement dated as of July 18, 2013 (the “**Salus Credit Agreement**”). JSN Inc. is the lead borrower under the Salus Credit Agreement and JSN UK, Ben Moss and GMJ Corporation are borrowers (collectively, the “**Borrowers**”). As at the date of the Manzoor Affidavit, the amounts outstanding pursuant to the Salus Credit Agreement are approximately Cdn.\$63.6 million and U.S. \$3.5 million, comprised as follows:

Revolving Credit Facility:	\$53.9 million
Term A Facility:	\$4.8 million
Term B Facility:	\$4.9 million
Term C Facility:	US\$3.5 million

- 4.9 The performance of the Borrowers under the Salus Credit Agreement is guaranteed by 237, Forever Jewellery Inc. (a company that is not affiliated with the JSN Group) (“**FJI**”) and Joseph Shilon (collectively, the “**Guarantors**”).
- 4.10 The obligations of the Borrowers under the Salus Credit Agreement are secured by charges on substantially all of the assets of the Borrower, 237 and FJI (collectively, the “**Security**”); however, the recourse against FJI under its guarantee cannot exceed the sum of all amounts due by FJI to the Borrowers and other Guarantors from time to time. Joseph Shilon’s personal guarantee is not secured and is limited in recourse to the amount of \$3 million (subsequently increased to \$11 million pursuant to the Accommodation Agreement, as defined and discussed below).
- 4.11 Davies has provided an opinion on the Security in Ontario. In provinces where Davies does not have an office, but the Applicant has operations (being, Alberta, British Columbia, Saskatchewan, Manitoba, New Brunswick and Nova Scotia), local

independent counsel has been retained to provide opinions with respect to those jurisdictions. These opinions have been provided to the Proposed Monitor and confirm the validity and perfection of the Security, subject to usual qualifications and assumptions.

Other Secured Creditors

- 4.12 As described in the Manzoor Affidavit, Ben Moss has six secured creditors in addition to the Senior Secured Lenders: 4770693 Manitoba Limited, 4770715 Manitoba Limited and 4770685 Manitoba Limited (the “**Numbered Companies**”), National Leasing Group Inc. (“**National Leasing**”), HSBC Bank Canada (“**HSBC**”) and Xerox Canada Ltd. (“**Xerox**”, and collectively, the “**Other Secured Creditors**”).
- 4.13 The Numbered Companies sold Ben Moss to the JSN Group in 2013. In connection with that transaction, the Numbered Companies paid out a lease agreement with Wells Fargo and in exchange, Ben Moss provided the Numbered Companies with a promissory note and a purchase money security agreement. The amount of approximately \$29,000 remains owing to the Numbered Companies in respect of the lease payout.
- 4.14 National Leasing, HSBC and Xerox all financed the acquisition of certain equipment for use in the Ben Moss stores and head office. As at the date of the Manzoor Affidavit, there were no amounts outstanding under the Applicant’s leasing agreements with these parties.

Financial Difficulties and Insolvency

- 4.15 As described in the Manzoor Affidavit, Ben Moss has experienced a decline in its net sales and profitability over the last two years resulting from, among other things,

operational challenges (including poor inventory mixes), the depreciation of the Canadian dollar relative to the U.S. dollar and the weakened economy in western Canada due to declining energy prices. Since the JSN Group's acquisition of Ben Moss in 2013, sales peaked during the fiscal year ended March 29, 2014 at \$86.6 million. Subsequent to that, sales declined by \$1.2 million in fiscal year 2015 and further declined by \$6.7 million (7.8%) in fiscal year 2016.

- 4.16 Gross margins have declined from 49.8% in fiscal year 2014 to 47.2% in fiscal year 2016, with EBITDA declining from \$4.0 million to a loss \$(0.4) million over the same period. Negative EBITDA coupled with capital expenditure requirements has contributed to significant negative cash flow.
- 4.17 As a result of the above-noted factors and certain other operational challenges, which are described in detail in the Manzoor Affidavit, the Applicant has significantly depleted its cash resources and is experiencing a severe liquidity crisis.

Pre-Filing Refinancing Efforts

- 4.18 In August 2015, A&M Securities was engaged by JSN Inc. to initiate a process to refinance the Credit Facilities (the "**2016 Refinancing Process**").
- 4.19 A&M Securities commenced active solicitation of potential lenders in January 2016 and contacted 50 parties, including financial institutions in both Canada and the United States which, based on A&M Securities' experience, may have an interest in refinancing the Credit Facilities. Thirty-seven parties executed non-disclosure agreements and received a confidential information memorandum and access to non-public due diligence information related to Ben Moss and other members of the JSN Group. Ultimately, three

term sheets (which remained subject to due diligence) were received; however, none of the term sheets had the prospect of refinancing the Credit Facilities in full.

4.20 Over the course of February 2016, it became apparent to A&M Securities and the Applicant that as a result of, among other things, declining financial performance of the JSN Group (particularly at Ben Moss) and the corresponding increase in the leverage ratio¹ that would be required, the prevailing deterioration in the foreign exchange rate between the Canadian and U.S. dollar and feedback received from lenders, it would be unlikely that a refinancing solution would be achievable that would repay all of the Credit Facilities in full.

Pre-Filing Restructuring Efforts

4.21 Given the above, the JSN Group began to develop a contingency and restructuring plan. In that regard, in March 2016, JSN Inc. engaged Osler, Hoskin & Harcourt LLP as its legal advisor and A&M Advisory as its financial advisor, to assist with a review of strategic and restructuring alternatives and to assist in developing a restructuring plan for the JSN Group.

4.22 As described in the Manzoor Affidavit, Ben Moss implemented a series of operational and turnaround initiatives focused on achieving operational synergies and improving the performance of the business. These initiatives have included selecting GBC to conduct inventory clearance sales with respect to 11 stores that have been identified for potential closure (which is described in further detail in paragraph 7.3 below).

¹ A financial metric that is commonly used to determine the amount of debt that a business can support relative to its cash flow and is, in general, calculated as total funded debt divided by EBITDA. A higher leverage ratio typically suggests a higher relative risk to a lender and, among other things, decreases the likelihood of being able to obtain fresh financing.

4.23 However, despite the restructuring initiatives implemented by Ben Moss, it continued to suffer from a liquidity crisis. On April 4, 2016, in order to fund certain rent payments and other general operating requirements, Ben Moss received an overadvance of US\$855,048 (the “**Overadvance**”) under the Revolving Credit Facility. As a result of the Overadvance, the total amount drawn down on the Revolving Credit Facility exceeds the maximum amount available thereunder, which is an event of default. Ben Moss and the other Borrowers and Guarantors are unable to repay the Overadvance and have also caused other events of default under the Salus Credit Agreement. As a result, Salus Capital demanded repayment from, and issued notices of intention to enforce security to, each of the Borrowers, which had the effect of terminating the right of the Borrowers to receive any further extensions or accommodations of credit pursuant to the Salus Credit Agreement.

4.24 Notwithstanding efforts to pursue a restructuring outside of a formal insolvency proceeding, Ben Moss has been unable to cure the defaults under the Credit Facilities and the Applicant’s liquidity position continues to deteriorate.

4.25 As a result, the JSN Group, Salus Capital and A&M Advisory began to pursue a forbearance arrangement that culminated in the Accommodation Agreement (as defined and described below).

Accommodation Agreement

4.26 As described in the Manzoor Affidavit, Ben Moss, and each of the other Borrowers and the Guarantors under the Salus Credit Agreement, Always & Forever Family Collection Incorporated (“**AFFC**”) (a company that is not affiliated with the JSN Group) and PMR, entered into an accommodation agreement (the “**Accommodation Agreement**”) pursuant

to which Salus Capital agreed to forebear, subject to certain terms and conditions, from taking steps to proceed with the enforcement of the Security and to continue to make the Credit Facilities available to the Borrowers. The Accommodation Agreement expressly contemplates that the Applicant would pursue a restructuring plan (the “**Restructuring Plan**”) which has been developed by the Applicant with the assistance of its various advisors and with input from Salus Capital.

- 4.27 The Restructuring Plan involves Ben Moss filing for CCAA protection, entering into a debtor in possession financing (“**DIP**”) facility and implementing a comprehensive refinancing and/or investment solicitation process (the “**RISP**”) (as described below). In addition, the Restructuring Plan would allow Ben Moss to improve its financial position by reducing its cost structure, right sizing its operations and addressing inventory and merchandising imbalances in its stores.
- 4.28 As part of the Accommodation Agreement, Joseph Shilon amended his personal guarantee to include all obligations to the DIP Lender (as defined below) and increased its value to \$11 million. FJI similarly confirmed that its guarantee included all obligations to the DIP Lender. In addition, AFFC and PMR each provided guarantees of the obligations of Ben Moss to Salus Capital, including the Applicant’s obligations under the Salus Credit Agreement and the DIP Facility (as defined and described below).
- 4.29 The Accommodation Agreement also places certain restrictions and conditions on disbursements involving the JSN Group, Utopia and Global.
- 4.30 The inclusion of PMR, Utopia and Global in the Accommodation Agreement was to address some concerns with respect to the business arrangements between these companies and certain members of the JSN Group that were identified by the Proposed

Monitor during the weeks leading up to the commencement of the CCAA Proceedings. These concerns are described briefly below under “Recent Events Involving PMR and Utopia”.

- 4.31 The Accommodation Agreement does not require any of the other JSN Group entities to file for CCAA protection at this time because a CCAA filing by those businesses could jeopardize the supply chain and the viability of the JSN Group as a whole. Instead, JSN Inc. is seeking to refinance its obligations under the Credit Facilities, failing which, the Applicant may seek to include JSN Inc. in these CCAA Proceedings.

Recent Events Involving PMR and Utopia

PMR

- 4.32 In the week leading up to the CCAA filing by Ben Moss, the Proposed Monitor became aware of certain payments that were made by PMR to a related party, which may have implications for Ben Moss and its CCAA Proceedings. As a result, the Proposed Monitor is continuing to investigate the payments and will update the Court as to its findings when the work is concluded.

Utopia

- 4.33 On May 5, 2016, representatives of the Proposed Monitor, Salus and GBC travelled to Bangkok, Thailand to attend at Utopia’s offices and manufacturing facility for meetings and a site visit to meet with the executives of Utopia and obtain an understanding of its operations.

4.34 During the course of the visit, a number of inconsistencies with information previously provided to the Proposed Monitor came to light. The Proposed Monitor is investigating whether these findings have any impact on Ben Moss or its operations and will update the Court as to its findings when the work is concluded.

5.0 PROPOSED RESTRUCTURING PLAN AND RELIEF SOUGHT BY THE COMPANY IN THE INITIAL ORDER

5.1 The Proposed Initial Order contemplates that the Restructuring Plan will be implemented as part of the CCAA Proceedings. Key aspects of the Restructuring Plan which are reflected in the Proposed Initial Order, include the following, subject to the approval of this Court:

- (a) the appointment of FAAN as CRO of Ben Moss;
- (b) the implementation of an operational restructuring of the Ben Moss business, including the continuation of the sale by GBC of the inventory, furniture, equipment and fixtures (“FF&E”) located at 11 of its stores;
- (c) the implementation of the RISP, to be conducted with the assistance and under the supervision of the Proposed Monitor;
- (d) the continued use of the Applicant’s existing cash management system;
- (e) the ability, but not the requirement, to make certain payments, including payments owing in arrears, with the consent of the Monitor, to certain third parties that provide services that are critical to the Applicant’s ability to operate during the CCAA Proceedings;

- (f) the ability, but not the requirement, with the consent of the Monitor, to continue to honour Gift Cards and Store Credit (each as defined below) during the CCAA Proceedings;
- (g) a stay of proceedings, including a limited extension of the stay of proceedings to JSN Inc.;
- (h) a DIP facility to provide funding for the operations of Ben Moss as well as the funding of its operational restructuring and the implementation of the RISP and the CCAA Proceedings; and
- (i) the granting of certain charges over the property of Ben Moss to secure the fees and expenses of a number of parties identified by the Applicant who are integral to the successful restructuring of Ben Moss and implementation of the RISP, including its professional advisors, the CRO, its directors and officers and the DIP Lender (as defined below).

6.0 CHIEF RESTRUCTURING OFFICER

- 6.1 The Applicant is seeking the appointment of FAAN as CRO of Ben Moss. The Applicant is also asking the Court to provide certain protections from personal liability for the CRO in connection with the fulfillment of its duties as CRO. The agreement between Ben Moss and FAAN outlining the terms and conditions of FAAN's appointment is attached as Exhibit "A" to the Manzoor Affidavit on a redacted basis (the "**CRO Engagement Letter**").
- 6.2 On May 13, 2016, FAAN was retained as CRO by Ben Moss, and Joseph Shilon delegated his powers, signing authority and decision making authority in respect of the

Applicant to the CRO. In that regard, pursuant to the terms of the CRO Engagement Letter, the CRO has the authority to direct the operations and management of the Applicant, its restructuring and refinancing. The CRO has this power to the exclusion of any other person, including the board members of Ben Moss. FAAN has also been appointed as the CRO of the other members of the JSN Group, AFFC and PMR.

6.3 FAAN has been acting as the Applicant's interim Chief Financial Officer since April 18, 2016. FAAN also has experience with mandates of a similar nature and recently acted in a similar capacity with a national, Canadian retailer.

6.4 In light of FAAN's knowledge of the Applicant gained in its capacity as interim Chief Financial Officer and the events that have recently transpired with respect to Utopia and PMR, the Proposed Monitor supports the appointment of the CRO and the protections granted to it in the Proposed Initial Order.

7.0 OPERATIONAL RESTRUCTURING AND SALE BY GBC

Operational Restructuring

7.1 As part of its planned restructuring under these CCAA Proceedings, Ben Moss may close 11 underperforming stores (the "**Clearance Locations**") to improve operating performance. The Applicant is working with GBC to conduct clearance sales for the inventory and FF&E owned by Ben Moss at the Clearance Locations. GBC commenced inventory clearance sales on May 5, 2016 with advice, assistance and direction from FAAN in its capacity as interim Chief Financial Officer and in consultation with the Proposed Monitor.

- 7.2 As discussed in the Manzoor Affidavit, Ben Moss, in consultation with the Proposed Monitor, may also: (a) at the appropriate time, disclaim the leases for the Clearance Locations; (b) seek concessions from various landlords to renegotiate the terms of certain other economically unviable leases; (c) implement changes to optimize inventory management; and (d) evaluate opportunities to reduce other operating costs.

GBC Agreement

- 7.3 GBC and the Applicant entered into a consulting and agency agreement (the “**GBC Agreement**”) in respect of the sale to be conducted at the Clearance Locations, a copy of which is attached as Exhibit “K” to the Manzoor Affidavit and described therein.

- 7.4 The GBC Agreement provides that if Ben Moss commences CCAA proceedings, Ben Moss shall seek certain provisions in the Proposed Initial Order which are described in the Manzoor Affidavit, including authorization to conduct the Sale (as defined in the GBC Agreement). The Proposed Monitor believes that the Sale will benefit from the experience of GBC in conducting retail liquidations and will generate a superior result than would be achieved if the Applicant sold the inventory and FF&E at the Clearance Locations without professional assistance. As a result, the Proposed Monitor supports the relief requested.

8.0 PROPOSED REFINANCING AND/OR INVESTMENT SOLICITATION PROCESS

- 8.1 As described in the Manzoor Affidavit, the Applicant’s overall Restructuring Plan includes a proposed refinancing and/or investment solicitation process (the “**RISP**”). The RISP provides for the solicitation of the following potential transactions (“**Potential Transactions**”): (a) a refinancing of all or part of the Credit Facilities of the JSN Group

(a “**JSN Group Refinancing Proposal**”); (b) an equity investment in JSN Inc. and/or Ben Moss (a “**Reinvestment Proposal**”); and/or (c) a sale of all or a portion of the business and property of Ben Moss (a “**BM Sale Proposal**”). The RISP consists of two phases, which are described as follows:

Phase 1

8.2 The first phase (“**Phase 1**”) of the RISP will commence immediately upon Court approval and last for 30 days. Phase 1 includes the following:

- (a) the Monitor will contact potentially interested parties and solicit non-binding indications of interest from parties who may be interested in any of the Potential Transactions. In that regard, the Proposed Monitor has prepared: (i) a list of parties that may have an interest in a Reinvestment Proposal or a BM Sale Proposal, with assistance from Ben Moss and other members of the JSN Group, as well as input from Salus Capital; and (ii) a list of parties that may be interested in a JSN Group Refinancing Proposal, which list includes, among others, parties identified through the 2016 Refinancing Process;
- (b) interested parties who execute a confidentiality agreement will be provided with access to a preliminary electronic data room;
- (c) to participate in the RISP and be deemed a qualified bidder thereunder (a “**Qualified Bidder**”), each interested party must deliver to the Monitor no later than 30 days following the date of the Initial Order (unless that date is not a business day, in which case the next business day) (the “**Phase 1 LOI Deadline**”) a form of non-disclosure agreement and, among other things, a non-binding letter

of intent (the “LOI”) indicating, among other things, which Potential Transaction the interested party wishes to pursue;

- (d) LOIs must meet certain criteria set out in the RISP, including identifying the structure and financing of the Potential Transaction (to the extent applicable), providing evidence of the sources of capital for the Qualified Bidder and specifying due diligence required to be conducted in the second phase of the RISP (“Phase 2”). The Monitor, with the approval of Salus Capital and in consultation with the CRO, may waive compliance with any of the criteria set out in the RISP for LOIs.

Consideration Whether to Proceed to Phase 2 of the RISP

- 8.3 Within three business days of the Phase 1 LOI Deadline (or such later date as may be agreed by the Monitor, with approval of Salus Capital), the Monitor will, in consultation with the CRO and Salus Capital, assess the Qualified LOIs (as defined in and determined pursuant to the RISP) to determine whether there is a reasonable prospect of obtaining a Qualified Bid (as determined by and defined in the RISP).
- 8.4 If one or more Qualified LOIs are received, the Monitor, following consultation with Salus Capital, may make a recommendation to the CRO that the RISP continues into Phase 2. The Monitor also has the discretion, subject to Salus Capital’s approval, to recommend that the RISP continue into Phase 2 even in the event that no Qualified LOIs are received, if the Monitor believes that one or more LOIs may ultimately become a Qualified Bid.

- 8.5 If the LOIs received at the Phase 1 LOI Deadline are either not Qualified LOIs or do not have a prospect of becoming a Qualified Bid, the Monitor, Ben Moss, another member of the JSN Group or Salus Capital, may apply to the Court for advice and directions with respect to the termination of the RISP, Salus Capital may terminate the RISP or apply to the Court for approval of a Potential Transaction contemplated by a non-qualifying LOI.

Phase 2

- 8.6 If the RISP proceeds during Phase 2, each party with an LOI that has not been eliminated from the RISP (a “**Qualified Bidder**”) will be granted due diligence materials and information relating to the property and business of Ben Moss and the Credit Facilities as the Monitor deems appropriate, including on-site presentations and facility tours.
- 8.7 Qualified Bidders may deliver final, binding proposals (a “**Final Bid**”) to the Monitor on a date to be determined by the Monitor, the CRO and Salus Capital (the “**Phase 2 Bid Deadline**”). The Monitor, with the approval of Salus Capital and in consultation with the CRO, may extend Phase 2 for any period of time it deems appropriate; provided however, that pursuant to the Accommodation Agreement, the completion of Phase 2 of the RISP shall occur by no later than 60 days from the date of the Initial Order, subject to the ability of the Monitor to extend Phase 2 for an additional 15 days upon the consent of Salus Capital.
- 8.8 Following the Phase 2 Bid Deadline, the Monitor, in consultation with Salus Capital and the CRO, will review each Final Bid to determine whether it is a “**Qualified Bid**” within the meaning of the RISP using the evaluation criteria set out therein. The Monitor, with the approval of Salus Capital and in consultation with the CRO, may waive compliance with any of the criteria set out in the RISP for Qualified Bids. Following such evaluation,

the Monitor may, with the approval of Salus Capital, recommend to the CRO that the most favourable Qualified Bids be selected (or selected and aggregated) and that definitive documents be negotiated and settled. If the Monitor, after consultation with Salus Capital and the CRO, determines that no Qualified Bid has been received at the end of Phase 2, the Monitor, Salus Capital, Ben Moss or any member of the JSN Group may apply to the Court for further advice and directions, Salus Capital may terminate the RISP or apply to the Court for approval of the Potential Transaction contemplated in a non-qualifying Final Bid.

8.9 Qualified Bids are required to be irrevocable until the earlier of approval of the Successful Bid (as determined and defined in the RISP) and 10 days following the Phase 2 Bid Deadline. The RISP contemplates an outside date for the completion of any Potential Transaction of July 29, 2016, or such later date as may be agreed to by the CRO and Monitor in consultation with Salus Capital (the “**Outside Date**”).

8.10 The RISP is attached to the Manzoor Affidavit and is described in greater detail therein.

The RISP timeline is summarized below:

	Key Dates
Commencement of RISP	Upon granting of Initial Order
Phase 1	A period of 30 days after the date of Initial Order (unless a business day, in which case, the next business day)
Phase 1 LOI Deadline	5:00 pm ET on the 30th day following the granting of the Initial Order
Evaluation of LOIs	Within 3 business days of the Phase 1 LOI Deadline
Phase 2 Bid Deadline	5:00 pm ET on the date determined by the Monitor, the Applicant and Salus Capital, provided that it is no later than 60 days following the granting of the Initial Order*
Outside Date	July 29, 2016, unless extended

* unless extended with the consent of Salus Capital pursuant to the terms of the Accommodation Agreement

The Proposed Monitor's Comments and Observations Regarding the RISP

- 8.11 It is the Proposed Monitor's view that the RISP is commercially reasonable and is warranted at this time. The RISP was developed by way of extensive negotiations among the Applicant, Salus Capital, the Proposed Monitor and their respective legal advisors and the CRO. The RISP is intended to maximize the value of Ben Moss for the benefit of its stakeholders.
- 8.12 The Proposed Monitor believes that the duration of Phase 1 of the RISP is consistent with comparable sale and investment processes and is sufficient to allow interested parties to perform diligence and submit LOIs. The additional time sometimes contemplated in similar processes for preparation is not necessary in this case. On the basis that: (a) the Proposed Monitor, by way of its affiliates A&M Securities and A&M Advisory, has had an opportunity to work with the Applicant and its advisors, Senior Management and the CRO in advance of the commencement of these Proceedings; and (b) many of the parties that will be contacted by the Proposed Monitor in connection with a JSN Group Refinancing Proposal are familiar with Ben Moss given their participation in the 2016 Refinancing Process.
- 8.13 As described above, 37 parties signed confidentiality agreements and gained access to confidential information about Ben Moss and certain of its affiliated companies as part of that process. In addition, Phase 2 of the RISP is flexible and allows the Monitor, the Applicant and Salus Capital to determine the Phase 2 Bid Deadline, subject to certain restrictions, which the Proposed Monitor believes could promote a Qualified Bid.
- 8.14 While the 2016 Refinancing Process was ultimately unsuccessful, based on discussions that A&M Securities had with interested lenders as part of the 2016 Refinancing Process

and based on the Proposed Monitor's professional expertise, Ben Moss and the Proposed Monitor concluded that a refinancing through the RISP would be more likely through a court-approved CCAA process on the basis that Ben Moss's operations and financial performance, on a pro forma basis, would support a higher level of borrowings than it would be able to in the absence of a restructuring designed to improve the business' performance.

- 8.15 The timelines in the RISP also take into account the limited availability of credit for the Applicant, the need to manage costs during the CCAA Proceedings and the position of Salus Capital that the RISP be conducted on an expedited basis.
- 8.16 The Monitor will supervise all aspects of the RISP and any transactions resulting from it and make recommendations as to whether the RISP should proceed to Phase 2, whether it should be terminated and whether submitted Qualified LOI's constitute Qualified Bids. Ben Moss is required to assist and support the efforts of the Monitor as provided for in the RISP. In the event that clarification is required with respect to the RISP, the Monitor or the Applicant can seek the advice and direction of the Court.
- 8.17 The RISP and its timelines are supported by the Applicant, the JSN Group, the Senior Secured Lenders, the Monitor and the CRO and were developed to take into account the balance between the time required to administer all phases of a commercially reasonable sale/investment process and the available financial resources and business imperatives of the Applicant.
- 8.18 The Proposed Monitor is of the view that the proposed RISP and related milestones are reasonable given the timing of the Applicant's planned operational restructuring and its previous experience with transactions of a similar nature.

9.0 CASH MANAGEMENT SYSTEM

9.1 As described in the Manzoor Affidavit, the Applicant's bank accounts are maintained and controlled by JSN Inc. utilizing cash management systems established at Royal Bank of Canada ("**RBC**") and certain other banks. All debit and credit card receipts are deposited daily into a blocked deposit account with RBC. Each store maintains a "deposit only" account into which cash receipts are deposited daily. These deposit accounts are at various institutions and are automatically swept to a blocked account with the Bank of Montreal (together with the RBC blocked accounts, the "**Blocked Accounts**") and transferred to Salus Capital on a weekly basis to pay down the Credit Facilities. Salus Capital then re-advances funds to JSN Inc. and JSN Inc. then transfers the funds as needed to Ben Moss' operating accounts.

9.2 Ben Moss has advised the Proposed Monitor that the cash management system (the "**Cash Management System**"), as outlined in the Manzoor Affidavit, is critical to the orderly management of its business and as described below, is required for the DIP Facility (as defined below). Accordingly, the Applicant is seeking to continue to operate the Cash Management System during the CCAA Proceedings. The Proposed Monitor is of the view that the continued use of the existing Cash Management System is required and appropriate in order for Ben Moss to access the DIP Facility and successfully complete the CCAA Proceedings.

10.0 GIFT CARDS, STORE CREDIT AND LAYAWAY PROGRAM

10.1 As described in the Manzoor Affidavit, Ben Moss sells gift cards in-store and online that can be redeemed for merchandise ("**Gift Cards**") and in certain cases when merchandise is returned, provides an in-store credit ("**Store Credit**") that can be redeemed for merchandise in store. Ben Moss also offers a layaway program (the "**Layaway**

Program”), which requires an initial deposit of at least 20% of the purchase price and allows customers to pay for the balance of the purchase price to be paid over the course of six consecutive months; goods are made available only when fully paid for. Customer payments made under the Layaway Program are commingled with the Applicant’s other cash receipts and deposit accounts and are then transferred to Salus Capital’s concentration accounts as part of the Cash Management System. The Layaway Program will be temporarily suspended until arrangements can be made to protect participants. The Proposed Monitor will address this further at the next attendance.

10.2 The Applicant has advised that the Gift Cards and Store Credit increase sales and improve the customer experience. Ben Moss is seeking authorization, with the consent of the Proposed Monitor, to continue providing and to honour Gift Cards and Store Credit during these proceedings. The Proposed Monitor supports this request.

11.0 PAYMENTS DURING CCAA PROCEEDINGS

11.1 Ben Moss intends to make payments for goods and services supplied post-filing as contemplated in the Cash Flow Forecast. In addition, the Applicant is requesting as part of the Proposed Initial Order, the authority (but not the requirement) to pay pre-filing amounts, with the consent of the Monitor, to certain critical suppliers of goods or services, if required, to ensure the continuity of Ben Moss’s supply chain and the continued supply of other goods and services that are critical to its business. All such payments would be made under the supervision of and with the consent of the Proposed Monitor.

11.2 The Proposed Monitor is of the view that the above relief is reasonable and appropriate in the circumstances, taking into consideration the positive impact of minimizing disruption to the continued operation of the Applicant's business.

12.0 STAY OF PROCEEDINGS

12.1 As described in the Manzoor Affidavit, Ben Moss is seeking a stay of proceedings in respect of the Applicant, its directors and officers, the CRO and the Proposed Monitor until June 16, 2016. The Applicant is also asking the Court to extend the stay to protect JSN Inc. from any claims brought against it solely as a result of cross-default provisions related to agreements between Ben Moss and third parties, provided, as described in the Manzoor Affidavit, that such stay only applies with respect to amounts owing that are not currently in arrears and are contemplated in the cash flows as being paid in the ordinary course.

12.2 The Proposed Monitor believes the requested stay will, among other things, prevent the termination of contracts by key suppliers and compel parties to provide future product that is necessary to preserve the value of the Applicant's business and ensure the successful implementation of the RISP and the Applicant's restructuring. The Proposed Monitor also supports the extension of the stay to JSN Inc. As described in the Manzoor Affidavit, Ben Moss relies on the JSN Group for a significant portion of its inventory and as a result, extending the stay to JSN Inc. for cross-defaults will facilitate the ongoing operations of Ben Moss.

13.0 CCAA CASH FLOW FORECAST

13.1 The Applicant, with the assistance of the Proposed Monitor, has prepared a 13-week cash flow forecast (the "**Cash Flow Forecast**") for weeks ending May 20, 2016 to August 12,

2016 (the “**Cash Flow Period**”). A copy of the Cash Flow Forecast is attached to this Pre-Filing Report as **Appendix “A”**.

- 13.2 The Cash Flow Forecast is presented on a weekly basis during the Cash Flow Period and represents Ben Moss management’s estimates of the projected cash flow during the Cash Flow Period. The Cash Flow Forecast has been prepared using the probable and hypothetical assumptions set out in the notes to the Cash Flow Forecast (the “**Cash Flow Assumptions**”).
- 13.3 The Proposed Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed Monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a Monitor to review the debtor’s cash flow statement as to its reasonableness and to file a report with the Court on the Monitor’s findings. Pursuant to this standard, the Proposed Monitor’s review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussions related to information supplied to it by certain key members of management and employees of Ben Moss. The Proposed Monitor reviewed information provided by Senior Management for the Cash Flow Assumptions. Since the Cash Flow Assumptions need not be supported, the Proposed Monitor’s procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast.
- 13.4 Based on the Proposed Monitor’s review and relying on the representations of Senior Management, nothing has come to its attention that causes it to believe, in all material respects, that: (a) the Cash Flow Assumptions are not consistent with the purpose of the Cash Flow Forecast; (b) as at the date of this Pre-Filing Report, the Cash Flow Assumptions are not suitably supported and consistent with the plans of the Applicant or

do not provide a reasonable basis for the Cash Flow Forecast, given the Cash Flow Assumptions; or (c) the Cash Flow Forecast does not reflect the Cash Flow Assumptions.

13.5 A summary of the Cash Flow Forecast is set out in the table below:

Ben Moss Jewellers Western Canada Ltd.	
Unaudited Summary of Forecast Cash Flow (Note 1)	
For the 13-week period ended August 12	
(\$000's)	
	<u>Amount (\$)</u>
Forecast Cash Inflow	
Collections	20,569
Forecast Total Receipts	<u>20,569</u>
Forecast Cash Outflow	
Inventory purchases	11,763
Occupancy, taxes, capital leases, SG&A and other	6,785
Payroll & related payments	5,024
Professional fees	1,160
Interest and fees	404
Total Forecast Outflow	<u>25,136</u>
Total Net Cash Flow	<u>(4,568)</u>
Note 1	Readers are cautioned to read the Terms of Reference as set out previously in this report for information regarding the preparation of the Cash Flow Forecast.
Note 2	For continuity of financing including the pre-filing revolving credit facility and DIP facility, please refer to Appendix A.

13.6 The Cash Flow Forecast projects that the Applicant will require debtor-in-possession financing in the first week of the Cash Flow Period. The Applicant has no cash on hand as of today's date. Accordingly, the Company will require access to the DIP Facility (as defined below) immediately upon the commencement of the CCAA Proceedings.

- 13.7 The Cash Flow Forecast includes purchases of approximately \$11.8 million of product including \$8.3 million of JSN product and \$0.4 million of interest and fees to Salus in relation to the DIP Facility. For additional detail surrounding the Cash Flow Forecast refer to Appendix “A”.
- 13.8 The Cash Flow Forecast has been prepared solely for the purpose described above and readers are cautioned that it may not be appropriate for other purposes.

14.0 DEBTOR IN POSSESSION FINANCING

Overview

- 14.1 As described in the Manzoor Affidavit and demonstrated by the Cash Flow Forecast, Ben Moss requires interim financing to successfully operate its business during the CCAA Proceedings.
- 14.2 The Applicant is therefore seeking approval of: (a) an Amended and Restated Salus Credit Agreement pursuant to which Salus CLO (the “**DIP Lender**”) will provide financing (the “**DIP Facility**”) to Ben Moss in the maximum amount of the U.S. dollar equivalent of Cdn.\$8 million; and (b) the creation of a related charge in favour of Salus Capital as agent under the DIP Facility to secure obligations under the DIP Facility (the “**DIP Charge**”).

Summary of DIP Facility Terms

- 14.3 A copy of the draft DIP Facility is attached as Exhibit “J” to the Manzoor Affidavit and is summarized in the table below. Terms capitalized in the table have the meaning ascribed in the DIP Facility.

Ben Moss Summary of DIP Facility Terms	
Total Availability	<ul style="list-style-type: none"> • The lesser of: (a) the maximum amount of \$8 million, (b) the borrowing base plus extensions of credit required under and set out in the budget.
Effective Date	<ul style="list-style-type: none"> • Date of the Initial Order.
Purpose/Permitted Payments	<ul style="list-style-type: none"> • Limited to amounts set out in the Restructuring Plan and the budget approved by Salus CLO.
Significant Terms	<ul style="list-style-type: none"> • Initial Order must be issued and provide for a DIP Charge; • Access is subject to compliance with the Accommodation Agreement, cash flow budget and a restructuring plan that is satisfactory to the DIP Lender; • The DIP Lender shall have received control agreements with respect to the deposit accounts of the Borrower which effectively provides for a sweeping of the Borrower's gross receipts, such collections are to be applied to reduce the existing Revolving Credit Facility in amounts sufficient to correct the Overadvance; thereafter receipts will be applied against the DIP balance; and • Other covenants which appear customary under the circumstances.
Fees and Interest	<ul style="list-style-type: none"> • DIP Arrangement Fee of \$80,000 • Collateral monitoring Fee of \$5,000 per month • Commitment Fee of 0.675% per annum of the unused portion of the DIP • Interest Rate per annum: 20%
Security	<ul style="list-style-type: none"> • All assets and property of the Borrower and DIP Charge • Guaranteed by the JSN Group, AFFC, PMR, FJI and Joseph Shilon
Maturity	<ul style="list-style-type: none"> • July 31, 2016
DIP Charge	<ul style="list-style-type: none"> • DIP Charge to rank subordinate only to the Administration Charge (as defined below)

14.4 The DIP Facility contains various affirmative covenants, negative covenants, events of default and conditions that, in the Proposed Monitor's view, are reasonable and customary for this type of financing, including the granting of the DIP Charge.

14.5 The CRO advises that based on the information available, the amount available under the DIP Facility is sufficient to fund ongoing working capital needs, general corporate

expenses and post-filing costs in order to successfully restructure the Applicant's business during the CCAA Proceedings and implement the RISP.

14.6 As described in the Manzoor Affidavit, the Applicants' gross receipts will be swept by Salus Capital through the Blocked Accounts under the current Cash Management System, with the receipts being applied to the pre-filing obligations and DIP Facility according to the following conditions: (a) first to repay obligations under the pre-filing facility in amounts and for a time period required to reduce and eliminate the Overadvance; then (b) to repay obligations under the DIP Facility; and then (c) to pay down the pre-filing obligations. As a result, it is a condition of the DIP Facility that the Cash Management System remains operational during the CCAA Proceedings.

14.7 A condition of the DIP Facility is that Ben Moss would only be permitted to access the DIP Facility in the event that the existing Credit Facilities are fully drawn down. As a result, while the pre-filing Credit Facilities remain in an Overadvance position, disbursements will be funded under the DIP Facility. Thereafter, cash disbursements will be funded under the existing Credit Facilities up to an amount that would eliminate any availability, with any excess disbursements funded under the DIP Facility.

14.8 Post-filing operating and other costs of the Applicant during the period of the pay-down of the Overadvance (which should occur over the course of approximately four weeks after the DIP Facility becomes available to the Applicant), would be funded as required by advances from the DIP Facility.

14.9 The Applicant has advised that it does not intend the DIP Charge to prime any other secured parties' purchase money security interests or statutory deemed trusts, to the extent they exist, and as a result, the fact that the DIP Charge will increase while the

secured pre-filing Credit Facilities will be paid down should have no negative impact on other stakeholders.

Proposed Monitor's Views with Respect to the DIP Facility

- 14.10 The Proposed Monitor has considered the interest rate, the fees and the capitalized credit party expenses relative to other similar comparable facilities during the course of recent restructurings in Canada. The Proposed Monitor is of the view that while the pricing structure, including the fees and interest costs, as described above, are high, there are certain comparable precedents for arrangements in similar such proceedings.
- 14.11 As described in greater detail in the Manzoor Affidavit, there was no commercial advantage to pursuing other options for DIP financing for the following reasons:
- (a) the Senior Secured Lenders are the Applicant's largest creditor and the inter-related nature of the Borrowers under the Salus Credit Facility, would make it impractical, if not impossible, to introduce an additional lender into an already complicated capital structure and cash management system;
 - (b) one of the conditions of the Accommodation Agreement and Salus Capital's forbearance thereunder is the requirement that Ben Moss obtains an order from the Court approving the DIP Facility and the DIP Charge;
 - (c) Salus Capital has advised the CRO that it will oppose any other DIP financing arrangement which seeks to prime the Senior Secured Lenders and will demand that the other Borrowers seek protection under the CCAA.

- 14.12 The Proposed Monitor recommends that the Court approve the DIP Facility. In arriving at this recommendation, the Proposed Monitor considered: (a) the facts and financial circumstances of the Applicant; (b) section 11.2(4) of the CCAA; (c) the financial terms of the DIP Facility relative to comparable facilities; (d) the fact that the DIP Facility is the only realistic source of funding available given reasons articulated in the above paragraph and as described in the Manzoor Affidavit; (e) the stability and flexibility the DIP Facility will provide to ensure there is sufficient liquidity to facilitate the CCAA Proceedings and implement the RISP with the goal of maximizing realizations; (f) the interests of the Applicant's stakeholders; (g) the fact that the Other Secured Creditors would not be prejudiced by the DIP Facility or the DIP Charge; no amounts are outstanding under the Applicant's agreements with the Other Secured Creditors and the Cash Flow Forecast makes provision for the continued payment of amounts owing to the Other Secured Creditors; and (h) that, in light of the recent events discussed above concerning Utopia and PMR, it is unlikely that Ben Moss would successfully secure interim financing from a third party.
- 14.13 In providing this recommendation, the Proposed Monitor is aware that s. 11.2(1) of the CCAA prohibits the DIP Charge from securing an obligation that exists before the requested order is made. The Proposed Monitor, having consulted with its counsel, is of the view that since the Overadvance is being reduced by the use of the Applicant's cash generated from its business, the DIP Charge is only securing advances made post-filing under the DIP Facility.
- 14.14 For the above reasons, the Proposed Monitor is of the view that the DIP Facility is the best available option in the circumstances.

15.0 COURT ORDERED CHARGES SOUGHT IN THE PROPOSED INITIAL ORDER

15.1 The Proposed Initial Order (as previously defined) provides for three charges (collectively, the “**Charges**”), as described below.

Administration Charge

15.2 The Proposed Initial Order provides for a charge in an amount not to exceed \$600,000 in favour of the Monitor, counsel to the Monitor, counsel to Applicant and the CRO, and in favour of counsel to Joseph Shilon with respect to amounts incurred before the date of the Initial Order (the “**Administration Charge**”).

15.3 The Proposed Monitor assisted the Applicant in the calculation of the Administration Charge and is of the view that it is reasonable and appropriate in the circumstances, having regard to the scale of the proceedings, potential work involved at peak times, and the size of the charges approved in similar proceedings.

DIP Charge

15.4 The Proposed Initial Order provides for a DIP Charge as security for outstanding advances made under the DIP Facility, all as more fully described above. It is a condition of the DIP Facility that the DIP Charge is granted by the Court.

15.5 The Proposed Monitor is of the view that the DIP Facility represents necessary financing which affords the Applicant the opportunity to pursue the RISP and/or otherwise reorganize its affairs and it does not appear that there would be material financial prejudice to other Ben Moss stakeholders as a result of this financing.

- 15.6 The Proposed Monitor recommends that the Court approve the DIP Facility and accordingly, also supports the granting of the DIP Charge.

Directors' and Officers' Charge

- 15.7 The Proposed Initial Order provides that the Applicant jointly and severally indemnifies the directors and officers against obligations and liabilities that they may incur as directors and officers of the Applicant after the commencement of the CCAA Proceedings, except to the extent that the obligation or liability was incurred as a result of an officers' or directors' gross negligence or willful misconduct.
- 15.8 The Proposed Initial Order provides for a charge in the amount of \$1.5 million (the "**Directors' Charge**") in favour of the Applicants' directors and officers as security for any obligations or liabilities that may arise after the commencement of the CCAA Proceedings, except to the extent that such obligation or liability is incurred as a result of such directors' or officers' gross negligence or willful misconduct.
- 15.9 The Applicant's directors' and officers' insurance policy provides \$10 million primary coverage and expires on July 18, 2016 but there is no certainty that the policy can be renewed. The policy covers director statutory liabilities and contains typical exclusions, such as pension liabilities.
- 15.10 The Proposed Monitor assisted the Applicant in the calculation of the Directors' Charge, taking into consideration the amount of the Applicant's payroll, vacation pay and federal and provincial sales tax liabilities. The amount of the D&O Charge represents two to four weeks (depending on the nature of the item) of the Applicant's payroll obligations, source deduction obligations, vacation pay obligations and sales tax obligations that may

arise during the CCAA Proceedings. The Proposed Monitor is of the view that the Directors' Charge is required, is within a realistic range of liability and is reasonable in the circumstances.

Priority of Charges Created by the Initial Order

15.11 The priorities of the Charges are proposed to be as follows:

- (a) First – Administration Charge (to the maximum amount of \$600,000);
- (b) Second – DIP Charge (to the maximum amount of \$8 million); and
- (c) Third – Directors' Charge (to the maximum amount of \$1.5 million).

15.12 In summary, the Proposed Monitor has assisted in the preparation and/or reviewed the calculations that support the Administration Charge, the DIP Charge and the Directors' Charge, and believes the amounts are reasonable in the circumstances. The Proposed Monitor notes the quantum and priority ranking of all proposed charges is supported by the Senior Secured Lenders.

16.0 PROPOSED MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

16.1 For the reasons set out in this Pre-Filing Report, the Proposed Monitor is of the view that the relief requested by the Applicant is reasonable and respectfully recommends that this Court make the Order granting the relief sought by the Applicant.

All of which is respectfully submitted to this Court this 17th day of May, 2016.

**Alvarez & Marsal Canada Inc., in its capacity
as Proposed Monitor of Ben Moss Jewellers Western Canada Ltd.**



Per: Alan J. Hutchens
Senior Vice-President

APPENDIX B

CASH FLOW FORECAST, NOTES AND ASSUMPTIONS

APPENDIX B

Cash Flow Forecast for the 6-Week Period Ending July 15, 2016

Ben Moss Jewellers Western Canada Ltd.
Weekly Cash Flow Forecast
For the 6- week period ended July 15, 2016
(Unaudited, in \$000s CAD)

<i>Week Ended >>>></i>	Note	10-Jun-16	17-Jun-16	24-Jun-16	1-Jul-16	8-Jul-16	15-Jul-16	Total 6 - weeks
Sales Receipts	1	1,264	1,450	1,302	1,324	1,413	1,518	8,271
TOTAL RECEIPTS		1,264	1,450	1,302	1,324	1,413	1,518	8,271
DISBURSEMENTS								
Payroll & related payments	2	532	233	516	109	708	19	2,117
Occupancy costs	3	-	536	-	-	549	549	1,634
Inventory purchases	4	744	301	359	192	177	192	1,964
Sales and business taxes	5	-	3	94	354	8	3	462
Capital leases and bank fees	6	9	10	34	27	107	10	197
Non-trade payments	7	194	197	181	99	139	253	1,062
Professional fees	8	85	85	85	85	85	85	510
Interest and fees	9	-	-	-	95	-	-	95
Other Expenses	10	70	60	60	60	60	60	370
TOTAL DISBURSEMENTS		1,634	1,425	1,329	1,022	1,832	1,171	8,412
NET CASH FLOW		(370)	25	(27)	303	(419)	347	(141)
CONTINUITY OF FINANCING								
PRE-FILING REVOLVING CREDIT FACILITY								
Opening Balance		51,893	50,215	50,628	50,840	51,925	51,997	51,893
Draw / (repayment), net	11	(1,678)	413	211	1,086	72	(54)	50
ENDING BALANCE		50,215	50,628	50,840	51,925	51,997	51,943	51,943
DIP FACILITY								
Opening Balance		3,692	5,017	4,992	5,019	4,716	5,135	3,692
Draw / (repayment), net	11	1,326	(25)	27	(303)	419	(347)	1,097
ENDING DIP BALANCE		5,017	4,992	5,019	4,716	5,135	4,788	4,788
TOTAL FINANCING								56,731
Ending Position		55,233	55,621	55,859	56,642	57,132	56,731	56,731

To be read in conjunction with the attached Notes and Summary of Assumptions

Ben Moss Jewellers Western Canada Ltd.
Weekly Cash Flow Forecast
Notes and Summary of Assumptions

In the Matter of the CCAA Proceedings of Ben Moss Jewellers Western Canada Ltd. (“Ben Moss” or the “Company”)

Disclaimer

In preparing this cash flow forecast (the “Forecast”), Ben Moss has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. Since the Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Forecast period will vary from the Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Forecast is presented in thousands of Canadian dollars. Receipts and disbursements denominated in U.S. currency have been converted into Canadian dollars at the prevailing exchange rate throughout the period.

Note 1 Sales Receipts

Sales Receipts are forecast based on Management’s current sales forecast with adjustments made for the closure of underperforming stores. Collections are inclusive of sales taxes. Also included in sales receipts are proceeds under the inventory liquidation related to store closures, net of associated costs.

Note 2 Payroll & Related Payments

Payroll and related payments include salaries, wages, regular occurring annual bonuses, commissions, remittances and employee benefits for salaried and hourly employees and other employee related expenses. Payments are forecast based on historical run-rates and expected seasonal activity. Employees are paid bi-weekly. Payroll & related payments also includes payments for CRO services.

Note 3 Occupancy Costs

The Forecast assumes that rent and occupancy expenses are paid semi-monthly. Rent includes all store locations as well as the head office located in Winnipeg, Manitoba. Payments include occupancy costs, utilities (hydro, gas, internet and telephone), CAM, and realty taxes. Occupancy costs also include an estimate for percentage rent payments.

Note 4 Inventory Purchases

Ben Moss purchases inventory from both JSN and third party suppliers. The timing of disbursements for inventory purchases is based on expected shipping and delivery dates of on-order goods and future purchases.

Note 5 Sales and Business Taxes

Sales tax disbursements represent monthly remittances of sales tax collected, net of taxes paid. Business taxes include provincial and municipal licenses required for operating in certain jurisdictions. Taxes are paid monthly but timing varies based on the province.

Note 6 Capital Leases and Bank Fees

Capital lease disbursements relate to leasehold improvements in various stores and lease payments are made on a monthly basis. Bank and credit card fees are paid monthly at the beginning of each month relating to the prior month.

Note 7 Non-trade Disbursements

Non-trade disbursements relate to various day-to-day expenses including administrative costs, repairs, petty cash refills at stores, weekly refunds, packaging, advertising and promotion, security, POS systems, freight and other operating costs.

Note 8 Professional Fees

These disbursements include payments to Ben Moss's legal counsel, the Monitor and its legal counsel.

Note 9 Interest and Fees

During the current 6 week period, Interest and fees include interest and fees for the DIP facility.

Note 10 Other Expenses

These disbursements include provisions for various other unforeseen and miscellaneous payments required to be made in accordance with the Initial Order.

Note 11 Debt facility continuity

The pre-filing Revolving Credit Facility is made up of amounts outstanding at the commencement of the Forecast period. Up to and including the week ended June 10th sales receipts as presented in the 'Draw/(Repayment)' line represent collections from both JSN Inc. and Ben Moss which are applied to the pre-filing Revolving Credit Facility in accordance with the Salus Credit Facility and the terms of the DIP Facility. Commencing with the week ended June 17th, only collections from JSN Inc. are applied to the pre-filing Revolving Credit Facility.

Commencing with the week ended June 17th, Ben Moss sales receipts will be applied against the DIP in accordance with the DIP Amendment as described in the First Report and the DIP Facility will be utilized by the Company to fund its ongoing cash requirements through the Forecast period.

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BEN MOSS
JEWELLERS WESTERN CANADA LTD.**

***ONTARIO*
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

(PROCEEDING COMMENCED AT TORONTO)

FIRST REPORT OF THE MONITOR

**Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 3J7**

**Natasha MacParland (LSUC #42383G)
nmacparland@dwpv.com**

**Natalie Renner (LSUC #55954A)
nrenner@dwpv.com**

**Telephone: 416.863.0900
Facsimile: 416.863.0871**

**Lawyers for the Monitor
Alvarez & Marsal Canada Inc.**