



No. S-171026
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
SHOEME TECHNOLOGIES LIMITED AND
SHOES.COM TECHNOLOGIES INC.**

FOURTH REPORT OF THE RECEIVER

JANUARY 3, 2018



ALVAREZ & MARSAL

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
SHOEME TECHNOLOGIES LIMITED AND
SHOES.COM TECHNOLOGIES INC.**

FOURTH REPORT OF THE RECEIVER

TABLE OF CONTENTS

1.0	INTRODUCTION AND BACKGROUND.....	- 3 -
2.0	PURPOSE OF REPORT	- 4 -
3.0	RECEIVER'S ACTIVITIES.....	- 4 -
4.0	RECEIVER'S INTERIM STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS	- 5 -
5.0	SECURED CREDITORS	- 7 -
6.0	ESTIMATED DISTRIBUTION TO CALERES	- 8 -
7.0	RECEIVER'S CONCLUSION AND RECOMMENDATION	- 9 -

Appendix A – Settlement Agreement between Caleres Investments, Inc. and Mr. Daniel Gerler dated October 31, 2017

1.0 INTRODUCTION AND BACKGROUND

- 1.1 On February 3, 2017 (the “**Shoeme Receivership Date**”) Alvarez & Marsal Canada Inc. was appointed Receiver (“**A&M**” or the “**Receiver**”) of all of the assets, undertakings and properties of Shoeme Technologies Limited (“**Shoeme**”) pursuant to an order of Honourable Mr. Justice Macintosh (the “**Shoeme Receivership Order**”).
- 1.2 On February 15, 2017 (the “**Shoes.com Technologies Receivership Date**”), A&M was appointed the receiver of all of the assets, undertakings and properties of Shoeme’s parent company, Shoes.com Technologies Inc. (“**Shoes.com Technologies**” and together with Shoeme, the “**Companies**”) pursuant to an order of Honourable Mr. Justice Grauer (the “**Shoes.com Technologies Receivership Order**”). The receivership proceedings in respect of Shoeme and Shoes.com Technologies are referred to, collectively, as the “**Canadian Receivership**”.
- 1.3 On February 2, 2017, an order appointing a general receiver (the “**US Receiver**”) in the matter of Shoes.com, Inc. and Onlineshoes.com, Inc. (“**Onlineshoes**”) was entered by the Superior Court of Washington for King County (the “**US Receivership**”).
- 1.4 On June 30, 2017, an order (the “**Interim Distribution Order**”) was granted by this Honourable Court which provides for:
 - a) upon Wells Fargo Bank, N.A. (“**Wells Fargo**”), the senior secured creditor of Shoes.com Technologies, being paid in full from the proceeds of the concurrent US Receivership, authorization for the Receiver to make a payment to Deans Knight Capital Management Limited (“**Deans Knight**”) in the amount of \$10.9 million including interest;
 - b) authorization for the Receiver to make payment to Geodis Logistics LLC (“**Geodis**”) in the aggregate amount of \$300,937 in satisfaction of its statutory lien claim (the “**Geodis Lien Claim**”) in respect of Shoeme’s assets located at 300 Kennedy Road South, Unit B, Brampton, Ontario; and
 - c) authorization for and direction to the Receiver to hold the balance of the Canadian Receivership funds in trust pending further order of this Honourable Court, provided that the Receiver may make such expenditures and payments as are permitted pursuant to the Shoeme Receivership Order and Shoes.com Technologies Receivership Order.
- 1.5 On January 3, 2018, the Receiver filed a Notice of Application for an order (the “**Second Interim Distribution Order**”) which provides for:
 - a) authorization for the Receiver to make a payment to Caleres Investment Company, Inc. (“**Caleres**”) in the amount of \$682,000; and

- b) authorization for and direction to the Receiver to hold the balance of the Canadian Receivership funds in trust pending further order of this Honourable Court, provided that the Receiver may make such expenditures and payments as are permitted pursuant to the Shoeme Receivership Order and Shoes.com Technologies Receivership Order.
- 1.6 The Receivership Order and other motion materials are available on the Receiver's website at www.alvarezandmarsal.com/shoes.
- 1.7 Capitalized terms not defined in this fourth report of the Receiver (the "**Fourth Report**") are as defined in the Shoeme Receivership Order and Shoes.com Technologies Receivership Order.
- 1.8 All references to dollars are in Canadian currency unless otherwise noted.

2.0 PURPOSE OF REPORT

- 2.1 The Fourth Report is intended to provide this Honourable Court with the following:
 - a) an update on the activities of the Receiver since the Third Report of the Receiver dated June 19, 2017 (the "**Third Report**");
 - b) a summary of the Receiver's interim statement of cash receipts and disbursements for Shoeme for the period February 3, 2017 to December 15, 2017 and for Shoes.com Technologies for the period from February 15, 2017 to December 15, 2017;
 - c) a summary of secured claims against the Companies;
 - d) a summary statement of estimated realizations and pro forma distributions to Caleres;
 - e) information with respect to the Receiver's application for the Second Interim Distribution Order; and
 - f) the Receiver's conclusions and recommendations.

3.0 RECEIVER'S ACTIVITIES

- 3.1 The Receiver's activities since the date of the Third Report have included the following:
 - a) communicating with various stakeholders including Wells Fargo, Deans Knight, Caleres, Mr. Daniel Gerler, Geodis and their respective legal counsel;
 - b) administering distributions to Deans Knight and Geodis pursuant to the Interim Distribution Order;
 - c) preparing the Companies' 2016 corporate tax returns;
 - d) reviewing periodic correspondence and reports filed in respect of the US Receivership;

- e) reviewing correspondence from and periodic telephone conversations with the Receivers' legal counsel in respect of various matters including distribution of proceeds from the Canadian Receivership and priority thereto;
- f) responding to enquiries from trade suppliers, former employees, Canada Revenue Agency, Canada Border Services Agency and other creditors; and
- g) preparing this Fourth Report.

4.0 RECEIVER'S INTERIM STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

Shoeme

- 4.1 The Receiver's interim statement of cash receipts and disbursements with respect to Shoeme for the period February 3, 2017 to December 15, 2017 is summarized as follows:

Shoeme Technologies Limited - in Receivership Receiver's Interim Statement of Cash Receipts and Disbursements For the period February 3, 2017 to December 15, 2017 \$000s		
Receipts		
Cash on hand	\$	15
Receiver's borrowings		100
Sale of equipment		18
Sale of inventory		848
Sale of domain names and intellectual property		67
Cost recoveries from US Receiver		65
Other receipts		10
Total receipts		1,123
Disbursements		
Wages and contractor payments		141
Occupation rent		124
Utilities and services		10
Receiver's fees and expenses		315
Legal fees and expenses		61
Repayment of Receiver's borrowings and interest		103
Geodis lien claim		301
Other disbursements		5
Total disbursements		1,060
Closing cash balance	\$	63

- 4.2 Total receipts of approximately \$1.1 million include Receiver's borrowings of \$100,000, proceeds from the sale of inventory of \$848,000, proceeds from the sale of domain names and intellectual property of \$67,000, cost recoveries from the US Receiver of \$65,000 and approximately \$43,000 of other receipts.

- 4.3 Total disbursements include \$141,000 of wages and contractor payments, \$124,000 of occupation rent, \$376,000 of professional fees and disbursements for the Receiver and its legal counsel, \$103,000 for repayment of Receiver's borrowings including interest, \$301,000 to paid to Geodis in satisfaction of its lien claim and approximately \$15,000 of other disbursements.
- 4.4 Shoeme was the primary operating entity of the Companies while the majority of the Companies' asset values were held in Shoes.com Technologies and subsidiary entities. As a result, the professional fees and disbursements of the Receivers and its legal counsel in respect Shoeme represent a larger proportion of recoveries in Shoeme as compared to Shoes.com Technologies.

Shoes.com Technologies

- 4.5 The Receiver's interim statement of cash receipts and disbursements with respect to Shoes.com Technologies for the period February 15, 2017 to December 15, 2017 is summarized as follows:

Shoes.com Technologies Inc. - in Receivership	
Receiver's Interim Statement of Cash Receipts and Disbursements	
For the period February 15, 2017 to December 15, 2017	
\$000's	
Receipts	
Cash on hand	\$ 322
Sale of domain names and intellectual property	11,631
Other receipts	15
Total receipts	11,968
Disbursements	
Wages and contractor payments	50
Utilities and services	10
Receiver's fees and expenses	214
Legal fees and expenses	109
Distribution to Deans Knight	10,893
Other disbursements	3
Total disbursements	11,280
Closing cash balance	\$ 688

- 4.6 Total receipts of \$12.0 million are comprised of cash on hand at the Shoes.com Technologies Receivership Date of \$322,000, proceeds from the sale of domain names and intellectual property of \$11.6 million which is presented net of a loss on foreign exchange of \$350,000 and \$15,000 of other receipts.
- 4.7 Total disbursements include \$50,000 of wages and contractor payments, \$323,000 of professional fees and disbursements for the Receiver and its legal counsel, \$10.9 million distributed to Deans

Knight in respect of its secured debt and accrued interest (paid pursuant to the Interim Distribution Order) and \$13,000 of other disbursements.

5.0 SECURED CREDITORS

5.1 The amounts recorded as owing to secured creditors by the Companies as at June 12, 2017 are summarized in the following table:

Secured Parties	Description	Value	Security Interest
Wells Fargo	Loan due to Wells Fargo by Onlineshoes.com, Inc. and Shoes.com Holdings (USA), Inc. and guaranteed by Shoes.com Technologies	US\$4.2 million	All Shoes.com Technologies property including IP and domain names
Deans Knight	Secured Convertible Deventures	CAD\$10.9 million	All present and after-acquired property of Shoeme All present and after-acquired property of Shoes.com Technologies, subordinated to Wells Fargo
Caleres	Secured convertible note payable due to Caleres by Shoes.com Holdings (USA), Inc. and guaranteed by Shoes.com Technologies and Shoeme	US\$7.5 million (plus accrued interest and costs)	Shoeme inventory Shoes.com Technologies domain names

- 5.2 On June 13, 2017, the US Receiver confirmed that the Wells Fargo claim was paid in full by the US Receiver, subject to an adjustment for certain recoverable fees and expenses and subject to a refund from Wells Fargo in relation to certain expired letters of credit.
- 5.3 On July 7, 2017, the Receiver paid approximately \$10.9 million Deans Knight to repay its secured debt and accrued interest in full pursuant to the Interim Distribution Order.
- 5.4 As a result of the above noted transactions, Wells Fargo and Deans Knight have no further claims against the Companies and Caleres is the senior secured creditor of both Shoes.com Technologies and Shoeme in respect of its secured convertible notes payable in the amount of US\$7.5 million plus interest and costs.
- 5.5 The Receiver has obtained an independent legal opinion on the security interests held by Caleres against the Companies which indicates that Caleres has a priority claim against any net proceeds from the sale of the property of the Companies after Geodis and Deans Knight have been repaid, subject to standard qualifications.

Settlement Agreement between Caleres and Gerler

- 5.6 Caleres and Mr. Daniel Gerler, who is a senior secured creditor in the US Receivership, have each asserted that the other party's claims and security interests may be subject to attack resulting in one or the other party receiving all remaining receivership proceeds in the Canadian Receivership and the US Receivership.
- 5.7 On October 31, 2017, Caleres and Mr. Gerler entered into a settlement agreement (the "**Settlement Agreement**"), a copy of which is attached as Appendix "**A**". Key commercial terms of the Settlement Agreement are summarized as follows:
- a) Gerler waives any right or title to any proceeds in Canadian Receivership and assigns all of his right, title and interest in the same to Caleres;
 - b) Caleres waives any right or title to any proceeds in the US Receivership and assigns all of its right, title and interest in the same to Gerler, with the exception of US\$235,000 of the US Receivership proceeds (the "**Caleres US Proceeds**");
 - c) Gerler waives any right or title to the Caleres US Proceeds and assigns all of its right, title and interest in the same to Caleres; and
 - d) the agreement is conditional upon the Receiver and the US Receiver administering their respective estates and distributing the proceeds in a manner consistent with the Settlement Agreement.
- 5.8 On December 11, 2017, the US Receiver filed a motion in the US Receivership proceeding to be heard on January 16, 2018 for an order which provides for, among other things:
- a) authorization for the US Receiver to make a final distribution of the Caleres US Proceeds to Caleres; and
 - b) authorization for the US Receiver to make an interim distribution to Gerler in the amount of \$1.5 million.
- 5.9 The Second Interim Distribution Order will authorize the Receiver to make a distribution to Caleres in compliance with the Settlement Agreement and in coordination with the distribution order being sought by the US Receiver.
- 6.0 ESTIMATED DISTRIBUTION TO CALERES**
- 6.1 The Receiver estimates that there will be approximately \$722,000 available for distribution to Caleres as set out in the table below:

Shoes.com Technologies Inc. and Shoeme Technologies Ltd. - in Receivership
Estimated Net Realizations
As at December 15, 2017
\$000s

	Shoes.com Technologies	Shoeme	Combined
Cash held in Receiver's trust accounts	\$ 688	\$ 63	\$ 752
Estimated net realizations from remaining assets			
Post-filing GST receivable	10	20	30
Total assets available for realization	698	83	782
Less:			
Estimated cost to fund bankruptcy of Shoeme	-	(10)	(10)
Estimated cost to complete administration of the receivership	(25)	(25)	(50)
Estimated net realizations available to Caleres	<u>\$ 673</u>	<u>\$ 48</u>	<u>\$ 722</u>

6.2 The Receiver is currently holding approximately \$752,000 in its trust accounts and expects to realize additional recoveries from post-filing GST accounts receivable of approximately \$30,000.

6.3 The Second Interim Distribution Order provides for an immediate distribution of \$682,000 to Caleres, while the Receiver will retain cash of \$70,000 plus the GST receivable of \$30,000 to fund the remaining administration of the estate (the “**Holdback Funds**”) and to fund a further distribution of residual funds to Caleres.

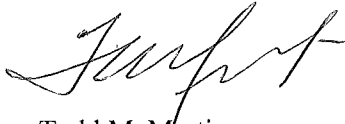
7.0 RECEIVER’S CONCLUSION AND RECOMMENDATION

7.1 The Second Interim Distribution Order, should it be granted by this Honourable Court, will authorize the Receiver to make a timely distribution to Caleres while satisfying the conditions of the Settlement Agreement. The Receiver estimates that the Holdback Funds will exceed the costs of administering the estates to their conclusion and the Receiver expects to seek authorization to make a final distribution to Caleres when seeking its discharge as Receiver.


7.2 Based on the foregoing, the Receiver respectfully recommends that this Honourable Court grant the Second Interim Distribution Order.

All of which is respectfully submitted to this Honourable Court this 3rd day of January, 2018.

Alvarez & Marsal Canada Inc.,
in its capacity as Receiver of
Shoeme Technologies Limited and
Shoes.com Technologies Inc.



Per: Todd M. Martin
Senior Vice President



Per: Tom Powell
Vice President

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("*Agreement*") is made effective as of the 31st day of October 2017, by and between **CALERES INVESTMENT COMPANY, INC.**, a Delaware corporation ("*Caleres*"), and **DANIEL GERLER**, a single man ("*Gerler*").

RECITALS

A. In July 2014, Gerler sold his capital stock in Gerler & Son, Inc. (later known as Onlineshoes.com Inc.), to Shoes.com Holdings (USA) Inc. (formerly known as A12345 Holdings Inc. and hereafter "*Holdings*"), and received a promissory note from Holdings in the principal amount of US\$3,000,000 as partial payment for his stock. In connection with this transaction, Onlineshoes.com, Inc. granted Gerler a security interest in its assets, including its inventory. In 2015, Shoes.com Inc. also granted Gerler a security interest in its assets to secure the Gerler obligation.

B. In December 2014, Caleres (fka Brown Shoe Investment Company, Inc.) sold its capital stock in Shoes.Com, Inc., to Holdings and received a promissory note from Holdings in the principal amount of US\$7,500,000 as partial payment for its stock. In connection with this transaction, Caleres received certain guaranties and security interests from Holdings and its various subsidiaries, parent company and affiliate company.

C. On February 2, 2017 the King County Superior Court of Washington (the "*US Court*") granted an order appointing the Oswego Group LLC dba Inverness Group ("*Inverness*") as general receiver over Onlineshoes.com Inc. and Shoes.com, Inc., and all of their property, in Wells Fargo Bank, National Association v. Onlineshoes.com Inc. and Shoes.com, Inc., King County Cause No. 17-2-02462-7SEA ("*US Proceeding*").

D. On February 3, 2017 the Supreme Court of British Columbia (the "*BC Court*") granted an order appointing Alvarez & Marsal Canada Inc. ("A&M") as receiver of all of the current and future assets, undertakings and properties of Shoeme Technologies Limited and on February 15, 2017 the BC Court granted an Order appointing A&M as receiver of all of the current and future assets, undertakings and properties of Shoes.com Technologies Inc. ("Shoes.com Technologies") in Deans Knight Capital Management Ltd v. Shoeme Technologies Limited and Shoes.com Technologies Inc., SCBC, Vancouver Registry, Action No. S-171026 ("*BC Proceeding*").

E. Shoeme Technologies Limited and Shoes.com Technologies Inc. are hereafter collectively referred to as "*Shoeme*". Shoeme and Onlineshoes are hereafter collectively referred to as "*SMOS*".

F. Caleres and Gerler thereafter each timely filed proofs of claims in the US Proceeding in the amounts of US\$8,260,238.31 and US\$3,013,750.00 through February 2, 2017, respectively.

G. Caleres also timely filed a proof of claim in the BC Proceeding in the amount of CAN\$9,946,179.86 (which amount corresponds with the amount of the Caleres claim filed in the US Court).

H. Caleres and Gerler each have made claims that the other party's claims and security interests are subject to attack resulting in one or the other party receiving all remaining receivership proceeds in the US Proceeding and the BC Proceeding.

I. The parties desire to settle all of their claims and objections each has with respect to the other relating to the US Proceeding and the BC Proceeding and to release each other from all such claims, all as more specifically provided below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual undertakings of the parties set forth below, the undersigned parties agree as follows:

1. Receivership Proceeds. The parties agree that with respect to any and all proceeds (i) in the BC Proceeding to which either Caleres or Gerler is entitled, Gerler waives any right or title to any such proceeds and hereby assigns all of his right, title and interest in the same to Caleres; (ii) in the US Proceeding, except as to Two Hundred Thirty-Five Thousand Dollars (\$235,000) of the US Proceeding proceeds ("*Caleres US Proceeds*"), Caleres waives any right or title to any such proceeds and hereby assigns all of its right, title and interest in all but the Caleres US Proceeds to Gerler; and (iii) Gerler waives any right or title to the Caleres US Proceeds and hereby assigns all of his right, title and interest in the same to Caleres. The parties further agree that distributions of proceeds in the US Proceeding and BC Proceeding should be made by their respective receivers in a manner consistent with the terms of this Agreement.

2. Conditions to Settlement; Cooperation with Receivers. The settlement and release envisioned under this Agreement are each expressly conditioned upon the receivers in the US Proceeding and BC Proceeding administering their respective estates and distributing the proceeds in a manner consistent with this Agreement. Moreover, Caleres and Gerler each agree to fully cooperate with the receivers, their respective counsel in the US Proceeding and BC Proceeding, and each other to ensure the estates are administered and proceeds distributed in a manner consistent with the settlement envisioned in this Agreement.

3. Mutual Release. Upon satisfaction of the conditions set forth in Section 2 above, each party hereby releases and forever discharges the other party and its respective parents, subsidiaries, affiliated companies and each of their respective directors, officers, employees, representatives, attorneys, agents, predecessors, successors and assigns, and all other persons acting for, under, or in concern with such other persons, and from any and all past, present or future claims, demands, obligations, actions, causes of action, costs (including without limitation attorneys' fees and costs actually incurred), expenses, damages, losses, claims, liabilities, suits, debts, demands, and compensation of any nature whatsoever, whether based on a tort, implied, oral or express contract or warranty, in

equity or other theory of recovery and whether known or unknown, suspected or unsuspected, from the beginning of time, all to the extent relating solely to their claims that were asserted or could have been asserted against any of SMOS, as well as their respective claims made in the US Court and BC Court and their rights to proceeds in the US Proceeding and BC Proceeding.

4. Execution. All persons executing this Agreement represent and warrant that each has been duly authorized by the party for which such person is signing and that each party executing this Agreement has the authority to enter into and perform all of the obligations required of hereunder.

5. Governing Law; Jurisdiction and Venue. This Agreement is entered into in Washington and shall be governed by and construed in accordance with the substantive laws of the State of Washington, without giving effect to conflicts of laws rules. The parties agree that the venue for any legal proceeding under this Agreement shall be in the state and federal courts located in Seattle, Washington.

6. Successors and Assigns. This Agreement shall inure to the benefit and be binding upon the parties to this Agreement and their successors and assigns.

7. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersede all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. No variations, modifications, or changes herein shall be binding upon any party unless set forth in a document executed by the parties.

8. Counterparts; Signature Pages. This Agreement may be executed in one or more counterparts, each of which shall constitute an original document but all of which when taken together shall constitute one and the same agreement. Delivery of an executed copy facsimile or email transmission or other means of electronic communication producing a printed copy will be deemed to be an execution and delivery of this Agreement on the date of such communication by the parties so delivering such a copy. Any party so delivering such a copy via electronic communication shall deliver an executed original of this Agreement to the other parties upon request.

9. Headings. The captions or headings provided in this Agreement are for convenience only and shall not be deemed to be a part of this Agreement.

[remainder of the page is blank]

IN WITNESS WHEREOF, Caleres and Gerler have executed and delivered this Agreement as of the date first above written.

GERLER:

By: _____
Daniel Gerler

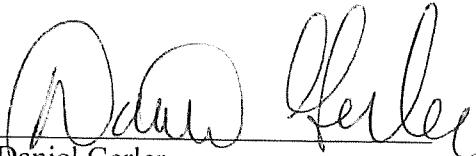
CALERES:

CALERES INVESTMENT COMPANY, INC.,
a Delaware limited liability company

By: _____
Name: THOMAS C. BURKE
Title: Vice President, General Counsel & Secretary

IN WITNESS WHEREOF, Caleres and Gerler have executed and delivered this Agreement as of the date first above written.

GERLER:

By: 
Daniel Gerler

CALERES:

CALERES INVESTMENT COMPANY, INC.,
a Delaware limited liability company

By: _____
Name: _____
Title: _____