



Court File No. CV-17-11785-00CL

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

THE HONOURABLE MR. )

JUSTICE HAINEY )

**FRIDAY**

~~WEDNESDAY~~, THE 8TH

DAY OF DECEMBER, 2017

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 EXPRESS FASHION APPAREL  
CANADA INC. AND EXPRESS CANADA GC GP, INC.

Applicants

**STAY EXTENSION &**  
**DISCHARGE & TERMINATION ORDER**

**THIS MOTION**, made by Express Fashion Apparel Canada Inc. and Express Canada GC GP, Inc. (collectively, the "**Applicants**" and together with Express Canada GC, LP, the "**Express Canada Entities**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order, *inter alia*, (a) extending the stay of proceedings until the earlier of June 29, 2018 or the termination of the CCAA proceedings, (b) discharging Alvarez & Marsal Canada Inc. ("**A&M**") as monitor in these CCAA proceedings (in such capacity and not its personal or corporate capacity, the "**Monitor**") on delivery of the Monitor's Plan Completion Certificate (as defined below), (c) terminating these CCAA proceedings upon the delivery of the Monitor's Plan Completion Certificate, (d) granting certain releases, (e) approving the actions, conduct and activities of the Monitor, and (f) approving the fees and disbursements of the Monitor and the Monitor's counsel, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion of the Applicants and the Fourth Report of the Monitor dated November 30, 2017, filed (the “**Fourth Report**”), and on hearing the submissions of respective counsel for the Applicants, the Monitor, The Cadillac Fairview Corporation Limited, Morguard Investments Limited, Ivanhoe Cambridge Inc., Brookfield Properties (PI) Inc., Oxford Properties Group, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Sean Stidwill sworn November 30, 2017:

**SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**DEFINITIONS**

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Sanction and Vesting Order of this Court granted on September 27, 2017.

**TERMINATION OF CCAA PROCEEDINGS**

3. **THIS COURT ORDERS** that upon the filing of the Monitor’s Plan Completion Certificate, the within CCAA proceedings shall be automatically terminated without any other act or formality (the “**CCAA Termination Time**”).

**DISCHARGE OF THE MONITOR**

4. **THIS COURT ORDERS** that the Monitor shall, at least seven (7) days prior to the proposed CCAA Termination Time, provide notice to the service list for these CCAA

proceedings (the “**Service List**”) of the Monitor’s intention to file the Monitor’s Plan Completion Certificate and that upon the filing of the Monitor’s Plan Completion Certificate, the release and discharge of the Subsequent Released Claims (as defined below) shall be deemed effective unless any objection is received by the Monitor in accordance with paragraph 9 hereof.

5. **THIS COURT ORDERS AND DECLARES** that effective at the CCAA Termination Time, the Monitor shall be discharged and relieved from any further obligations, liabilities, responsibilities or duties in its capacity as monitor pursuant to the Order of this Court granted on May 4, 2017 (as amended from time to time, the “**Initial Order**”) and any other Orders of this Court granted in these CCAA proceedings.

#### **TERMINATION OF CHARGES**

6. **THIS COURT ORDERS** that the Administration Charge and the Directors’ Charge (as each term is defined in the Initial Order) shall be and are hereby terminated, released and discharged at the CCAA Termination Time.

#### **RELEASES**

7. **THIS COURT ORDERS** that effective as of the date of this Order, in addition to the protections and releases in the Plan, any Order of this Court in these CCAA proceedings or the CCAA, each of A&M, the Monitor, the Express Canada Entities, and each of their respective affiliates and officers, directors, partners, current and former employees, legal counsel and agents (collectively, the “**Released Parties**”) are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or

unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order in any way relating to, arising out of or in respect of the within CCAA proceedings or with respect to their respective conduct in the within CCAA proceedings (collectively, the “**Released Claims**”), and any such Released Claims are hereby irrevocably and permanently released, stayed, extinguished and barred and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the Released Parties.

8. **THIS COURT ORDERS** that effective as of the CCAA Termination Time, in addition to the protections and releases in the Plan, any Order of this Court in these CCAA proceedings or the CCAA, the Released Parties are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place following the date of this Order in any way relating to, arising out of or in respect of the within CCAA proceedings or with respect to their respective conduct in the within CCAA proceedings (collectively, the “**Subsequent Released Claims**”), and any such Subsequent Released Claims are hereby irrevocably and permanently released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, provided that the Subsequent Released Claims shall not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the Released Parties.

9. **THIS COURT ORDERS** that in the event that any person objects to the release and discharge of the Subsequent Released Claims, that person must send a written notice of objection and the grounds therefor to the Monitor at the address set out on the Service List such that the objection is received by the Monitor prior to the proposed CCAA Termination Time. If no objection is received by the Monitor prior to the proposed CCAA Termination Time, the release and discharge of Subsequent Released Claims pursuant to paragraph 8 hereof shall be automatically deemed effective upon the CCAA Termination Time, without further Order of the Court.
  
10. **THIS COURT ORDERS** that if an objection to the release of the Subsequent Released Claims pursuant to paragraph 9 hereof is received by the Monitor, the release and discharge of the Subsequent Released Claims pursuant to paragraph 8 hereof shall only become effective if the objection is resolved consensually or upon further Order of the Court. For greater certainty, no objection received in accordance with paragraph 9 hereof shall affect the release and discharge of the Released Claims pursuant to paragraph 7 hereof, which shall be effective as of the date of this Order.

#### **APPROVAL OF ACTIVITIES, FEES AND DISBURSEMENTS**

11. **THIS COURT ORDERS** the Fourth Report, and the actions, conduct and activities of the Monitor as described therein are hereby approved.
  
12. **THIS COURT ORDERS** that (i) the fees and disbursements of A&M as proposed monitor from the period of April 23, 2017 to May 3, 2017 and the Monitor for the period of May 4, 2017 to October 21, 2017, inclusive, totaling CAD \$593,248.93 (including applicable taxes), and (ii) the fees and disbursements of the Monitor's counsel, Blake, Cassels & Graydon LLP and a local agent in New Brunswick, for the period of April 1, 2017 to

October 31, 2017 inclusive, totaling \$463,839.52 (including applicable taxes), be and are hereby approved.

13. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and the Monitor's counsel to complete the Monitor's remaining duties and administration of these CCAA proceedings (collectively, the "**Subsequent Fees**") shall only be subject to approval by further or of this Court, in the event that (i) the Subsequent Fees exceed an aggregate total of CAD \$125,000 (excluding applicable taxes) with respect to the Monitor and the Monitor's counsel (the "**Fee Approval Threshold**"), and (ii) each of the Landlord Creditors (as defined in the Plan) request that such approval be sought within three (3) business days of receiving written notice of the quantum by which the Subsequent Fees exceed the Fee Approval Threshold.

#### **STAY EXTENSION**

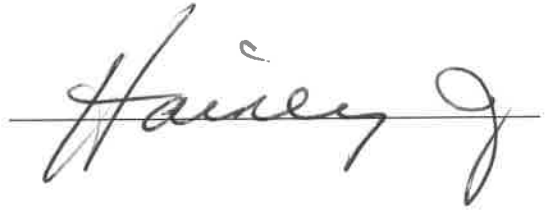
14. **THIS COURT ORDERS** that the Stay Period referred to in the Initial Order be and is hereby extended until the earlier of the CCAA Termination Time or June 29, 2018, or such later date as this Court may order.

#### **GENERAL**

15. **THIS COURT ORDERS** that, notwithstanding any provision of this Order and the termination of the within CCAA proceedings upon filing of the Monitor's Plan Completion Certificate, nothing herein shall affect, vary, derogate from, limit or amend, and the Monitor shall continue to have the benefit of, any of the protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order, the Plan or any other Order of this Court in the within CCAA proceedings or otherwise.

16. **THIS COURT ORDERS** that the Monitor shall have the authority from and after the date of this Order to complete any matters set out in the Fourth Report and any matters that may be incidental to the termination of these CCAA proceedings or any other matters necessary to complete these CCAA proceedings as requested by the Applicants and agreed to by the Monitor.
17. **THIS COURT ORDERS** that the Express Canada Entities and the Monitor may apply to this Court from time to time for advice and direction with respect to any matter arising from or under this Order.
18. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories of Canada and abroad as against all persons and parties against whom it may otherwise be enforced.
19. **THIS COURT ORDERS** that the Express Canada Entities (at their sole election) are hereby authorized to seek an order of any court of competent jurisdiction to recognize this Order, to confirm this Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Express Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order.
20. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Express Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Express Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Express Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Hainey J.", written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

DEC 11 2017

PER / PAR:

Handwritten initials "MB" in a stylized, cursive font.



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

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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT TORONTO

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**STAY EXTENSION &  
DISCHARGE & TERMINATION ORDER**

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