

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

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

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

APPLICANT

MOTION RECORD OF THE APPLICANT
(Stay Extension and Approval of Sale Guidelines)

June 12, 2016

OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSUC#44066M)
Tel: 416.862.4908

Michael De Lellis (LSUC#: 48038U)
Tel: 416.862.5997

Karen Sachar (LSUC#: 59944E)
Tel: 416.862.5949
Fax: 416.862.6666

Counsel for the Applicant

TO: SERVICE LIST

SERVICE LIST

<i>Counsel/Party</i>	<i>Telephone</i>	<i>Facsimile</i>	<i>Party</i>
<p>Osler Hoskin & Harcourt LLP P.O. Box 50, 1 First Canadian Place Toronto, ON M5X 1B8</p> <p>Marc Wasserman mwasserman@osler.com</p> <p>Michael De Lellis mdelellis@osler.com</p> <p>David Rosenblat drosenblat@osler.com</p> <p>Karin Sachar ksachar@osler.com</p>	<p>416.862.4908</p> <p>416.862.5997</p> <p>416.862.5673</p> <p>416.862.5949</p>	416.862.6666	Counsel for the Applicant
<p>Alvarez & Marsal Canada Inc. Royal Bank Plaza, South Tower 200 Bay Street, Suite 2900 Toronto, ON M5J 2J1</p> <p>Adam Zalev azalev@alvarezandmarsal.com</p> <p>James Belcher jbelcher@alvarezandmarsal.com</p> <p>Al Hutchens ahutchens@alvarezandmarsal.com</p>	<p>416.847.5154</p> <p>416.847.5164</p> <p>416.847.5159</p>	416.847.5201	Monitor
<p>Davies Ward Phillips & Vineberg LLP 155 Wellington Street West 40th Floor Toronto, ON M5V 3J7</p> <p>Jay Swartz jswartz@dwpv.com</p> <p>Natasha MacParland nmacparland@dwpv.com</p>	<p>416.863.5520</p> <p>416.863.5567</p>	416.863.0871	Counsel for the Monitor

<i>Counsel/Party</i>	<i>Telephone</i>	<i>Facsimile</i>	<i>Party</i>
Aird & Berlis LLP Brookfield Place Suite 1800, Box 754 181 Bay Street Toronto, ON M5J 2T9 Sam Babe sbabe@airdberlis.com	416.865.7718	416.863.1515	Counsel for Salus Capital Partners, LLC
Chaitons LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9 Harvey Chaiton harvey@chaitons.com	416.218.1129	416. 218.1849	Counsel for Joseph Shilon President and CEO JSN Jewellery Inc.
Cassels Brock & Blackwell LLP Suite 2100, Scotia Plaza 40 King Street West Toronto, ON M5H 3C2 Jane Dietrich jdietrich@casselsbrock.com	416.860.5223	416.640.3144	Counsel for Gordon Brothers Canada ULC
Longview Communications Inc. Suite 612 - 25 York Street Toronto, ON M5J 2V5 Joel Shaffer jshaffer@longviewcomms.ca Robin Fraser rfraser@longviewcomms.ca Christine Bennett cbennett@longviewcomms.ca	416.649.8000 416.649.8006	416.649.8001	

<i>Counsel/Party</i>	<i>Telephone</i>	<i>Facsimile</i>	<i>Party</i>
<p>McLean & Kerr 130 Adelaide St. West, Suite 2800 Toronto, ON M5H 3P5</p> <p>Walter Stevenson wstevenson@mcleankerr.com</p> <p>Linda Galessiere lgalessiere@mcleankerr.com</p>	<p>416.369.6602</p> <p>416.369.6609</p>	416.366.8571	
<p>Torys LLP 79 Wellington St. W. 30th Floor Box 270, TD South Tower Toronto, ON M5K 1N2</p> <p>David Bish dbish@torys.com</p>	416.865.7353	416.865.7380	
<p>Revenue and Taxation Group Legal Services Branch Ministry of Justice 400 – 1675 Douglas Street Victoria, BC V8W 2G5</p> <p>Aaron Welch Aaron.Welch@gov.bc.ca</p> <p>Revenue and Taxation Group Legal Services Branch AGLSBRevTax@gov.bc.ca</p>	250.356.8513	250.387.0700	Counsel for the Province of British Columbia
<p>West Edmonton Mall Property Inc. 3000, 8882 170 Street Edmonton, AB T5T 4M2</p> <p>Theresa Paquette theresa.paquette@wem.ca</p> <p>John Colbert john.colbert@wem.ca</p>	780.444.8138	780.444.5223	

<i>Counsel/Party</i>	<i>Telephone</i>	<i>Facsimile</i>	<i>Party</i>
<p>Oxford Properties Group Royal Bank Plaza, North Tower 200 Bay Street, Suite 900 Toronto, ON M5J 2J2</p> <p>Karen Tsang ktsang@oxfordproperties.com</p>	416.865.8447	416.868.3751	
<p>Gowling WLG (Canada) LLP One Main Street West Hamilton, ON L8P 4Z5</p> <p>Robert C. Dunford robert.dunford@gowlingwl.com</p>	905.540.8208 905.540.2472	905.528.5833 905.523.2948	Counsel for Movado Group of Canada Inc.
<p>Blaney McMurtry LLP Barristers and Solicitors 1500 - 2 Queen Street East Toronto, ON M5C 3G5</p> <p>John C. Wolf jwolf@blaney.com</p>	416.593.1221 416.593.2994	416.593.5437	Counsel for White Oaks Mall Holdings Ltd.
<p>HSBC Bank Canada 1500 – 888 Dunsmuir St. Vancouver, BC V6C 3K4</p>			
<p>HSBC Bank Canada Leasing 885 West Georgia St., 6th Floor Vancouver, BC V6C 3G1</p>			
<p>National Leasing Group Inc. 1525 Buffalo Place Winnipeg, MB R3T 1L9</p> <p>Anna Neustaedter Anna9093@nationalleasing.com</p>	1.877.211.4061 204.954.9093	1.866.408.4852	
<p>XEROX Canada Ltd. 33 Bloor St. E., 3rd Floor Toronto, ON M4W 3H1</p> <p>Stephanie Grace Stephanie.Grace@xerox.com</p>	416.413.2805	416.972.5530	

<i>Counsel/Party</i>	<i>Telephone</i>	<i>Facsimile</i>	<i>Party</i>
4770685 Manitoba Limited C/O 1700 - 360 Main Street Winnipeg, MB R3C 3Z3			
4770715 Manitoba Limited C/O 1700 - 360 Main Street Winnipeg, MB R3C 3Z3			
4770693 Manitoba Limited C/O 1700 - 360 Main Street Winnipeg, MB R3C 3Z3			
Forever Jewellery Inc. 132 Jardin Drive Suite # 123952756 Concord, ON L4K 1X9 Gila Althuser Gila@jsnjewellery.com			

TABLE OF CONTENTS

Tab	Document	Page
1	Notice of Motion, returnable June 15, 2016	1
A	Draft Order	10
2	Affidavit of Naveed Z. Manzoor, sworn June 10, 2016	14
A	Exhibit A - Blackline of the Amended and Restated Initial Order	30
B	Exhibit B - First Manzoor Affidavit, sworn May 16, 2016	58
C	Exhibit C - Ben Moss Press Release	110
D	Exhibit D - Globe and Mail and Winnipeg Free Press Notices	114
E	Exhibit E - Sale Guidelines	117

Tab 1

Court File No. CV-16-11397-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

APPLICANT

**NOTICE OF MOTION
(Stay Extension and Approval of Sale Guidelines
Returnable June 15, 2016)**

The Applicant will make a motion before the Honourable Justice Newbould of the Ontario Superior Court of Justice (Commercial List) on June 15, 2016 at 10:00AM, or as soon after that time as the motion can be heard, at 330 University Ave, Toronto, Ontario.

THE MOTION IS FOR:

1. An Order substantially in the form attached hereto as Schedule "A":
 - (a) abridging the time for and validating service of this Notice of Motion and supporting materials such that the motion is properly returnable on June 15, 2016 and dispensing with further service thereof;
 - (b) extending the Stay Period, as defined in paragraph 14 of the Amended and Restated Initial Order of Justice Newbould (as defined below) until and including July 15, 2016;

- (c) approving sale guidelines in the form attached as Schedule “A” to the Order being sought (the “Sale Guidelines”), as contemplated by paragraph 35 of the Amended and Restated Initial Order;
 - (d) approving the DIP Amendment (as defined below); and
 - (e) approving the activities and conduct of the Monitor; and
2. Such further and other relief as counsel may advise and as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

A. Initial Order and Amended and Restated Initial Order

3. On May 18, 2016, this Honourable Court granted protection to Ben Moss Jewellers Western Canada Ltd. (“Ben Moss” or the “Applicant”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended (the “CCAA”) pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) (the “Initial Order”);
4. In the Initial Order, the Court, among other things,
- (a) granted a stay of proceedings in favour of Ben Moss until and including June 15, 2016, or such later date as the Court may order (the “Stay Period”);
 - (b) authorized Ben Moss to obtain and borrow up to CAD\$8 million under a revolving credit facility from one of its senior secured lenders, Salus CLO 2012-1 Ltd. (and with the consent of its other senior secured lender, Salus Capital

Partners, LLC (“Salus Capital”), subject to the condition that borrowing could not exceed \$3.5 million before the comeback hearing;

- (c) appointed FAAN Advisors Group Inc. as Chief Restructuring Officer of Ben Moss (the “CRO”);
 - (d) appointed Alvarez & Marsal Canada Inc. as the monitor of the Applicant (the “Monitor”); and
 - (e) approved a Refinancing, Investment and/or Sale Solicitation Process (the “RISP”);
5. At the comeback hearing on May 26, 2016, Ben Moss sought and obtained approval of an amended and restated initial order (the “Amended and Restated Initial Order”);
6. In the Amended and Restated Initial Order, the Court, among other things,
- (a) established the treatment of proceeds from Consignment Goods (as defined in the Amended and Restated Initial Order);
 - (b) clarified the rights of real property landlords as against J.S.N. Jewellery Inc. during the Stay Period and as against Gordon Brothers Canada ULC (the “Agent”); and
 - (c) required that the Agent conduct sales at Ben Moss’s stores in accordance with sale guidelines to be agreed to between Ben Moss, the Agent, Salus Capital and certain landlords, which sale guidelines were to be consistent with standard court-approved sale guidelines and which Ben Moss would seek approval of at its next motion before the Court;

7. Since the granting of the Initial Order, Ben Moss has been operating its business as a going concern in close consultation with the Monitor, including working with the Agent and the Monitor to maximize the value of Ben Moss's inventory at stores undergoing inventory clearance sales;

B. Stay Extension

8. The Initial Order granted a stay of proceedings until and including June 15, 2016, or such later date as this Court may order;

9. Since the granting of the Initial Order, Ben Moss, in close consultation and with the assistance of the Monitor, has acted and continues to act in good faith and with due diligence to complete a restructuring under the CCAA;

10. Pursuant to the Amended and Restated Initial Order, Ben Moss and the Monitor commenced Phase 1 of the RISP on May 18, 2016 and Ben Moss, the CRO and the Monitor have been working diligently to conduct the RISP pursuant to its terms;

11. Ben Moss has implemented a comprehensive communications plan to provide information to, and answer inquiries from, its various stakeholders and has contacted many of its suppliers;

12. Ben Moss anticipates that it will begin the process of closing certain underperforming stores in June 2016, which will result in notices of termination being delivered to employees at such locations and disclaimer notices being delivered in respect of applicable real property leases;

13. Ben Moss, with the assistance of the Monitor, has commenced discussions with several of its landlords to renegotiate the terms of leases and has scheduled in-person meetings for the week of June 13, 2016;

14. An extension of the Stay Period until July 15, 2016 is appropriate in the circumstances as it will allow Ben Moss, in close consultation with the Monitor, to continue to conduct the RISP in accordance with its terms and to engage in discussions and consultations with its stakeholders;

15. It is necessary and in the best interests of Ben Moss and its stakeholders that the Stay Period be extended and that Ben Moss be afforded the “breathing space” it needs to allow for continued operations, the continuation of the RISP and the continuation of discussions with stakeholders, including landlords, employees, suppliers and creditors;

16. It is forecast that Ben Moss has sufficient liquidity to be able to continue operating in the ordinary course during the requested Stay Period;

17. The extension of the Stay Period is supported by the Monitor;

C. Sale Guidelines

18. Ben Moss, Salus Capital, the Agent and certain landlords have agreed to the Sale Guidelines;

19. The Sales Guidelines are fair and reasonable and consistent with standard Court-approved sale guidelines;

D. DIP Amendment

20. Capitalized terms in this section that are not otherwise defined have the meaning ascribed to them in the Naveed Z. Manzoor, sworn June 12, 2016;

21. In accordance with the Accommodation Agreement and the DIP Facility, and consistent with the Cash Management System, Ben Moss's cash from business operations is required to be deposited into the Blocked Accounts and swept by Salus Capital in order to reduce obligations in the following order: (i) first, obligations classified as a "Permitted Overadvance" under the Credit Facilities; (ii) second, obligations under the DIP Facility; and (iii) third, outstanding obligations under the Credit Facilities (the "**Repayment Waterfall**");

22. Since the Filing Date, cash from Ben Moss's operations deposited to the Blocked Accounts have been applied against the Permitted Overadvance;

23. The Permitted Overadvance has been used to fund operations of both Ben Moss and other Borrowers under the Salus Revolving Credit Facility, including JSN Inc;

24. Since the Filing Date, Salus Capital has continued to provide JSN Inc. with overadvances under the Salus Revolving Credit Facility;

25. Salus Capital and Ben Moss are working on an amendment to the DIP Facility to amend the Repayment Waterfall to provide that Ben Moss's cash from business operations will be applied first to obligations under the DIP Facility, without any application to the Permitted Overadvances (the "**DIP Amendment**");

26. The DIP Amendment will ensure adequate availability for Ben Moss under the DIP Facility for the requested Stay Period extension and is reflected in Ben Moss's cash flows;

27. The DIP Amendment is being sought to, among other things, (i) simplify the completion of diligence for participants in the RISP and (ii) address the volatility in the JSN Inc. and Ben Moss cash flows;

E. General

28. The provisions of the CCAA and, in particular, Section 11 thereof;

29. The inherent and equitable jurisdiction of this Honourable Court;

30. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and section 106 of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, as amended; and

31. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

32. The Affidavit of Naveed Z. Manzoor, sworn June 12, 2016 and the exhibits attached thereto;

33. The Affidavit of Naveed Z. Manzoor, sworn May 16, 2016;

34. An Affidavit of Naveed Z. Manzoor, to be sworn, appending the DIP Amendment, once executed;

35. The Pre-Filing Report of the Proposed Monitor, dated May 17, 2016;

36. The First Report of the Monitor;
37. The Amended and Restated Initial Order dated May 18, 2016, as amended May 26, 2016;
and
38. Such further and other material as counsel may advise and this Honourable Court may permit.

June 12, 2016

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8
Fax: 416.862.6666

Marc Wasserman (LSUC#: 44066M)
Tel: 416.862.4908

Michael De Lellis (LSUC#: 48038U)
Tel: 416.862.5997

Karin Sachar (LSUC#: 59944E)
Tel: 416.862.5949

Lawyers for the Applicant

TO: THE SERVICE LIST

Court File No. CV-16-11397-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	WEDNESDAY, THE 15TH
)	
JUSTICE NEWBOULD)	DAY OF JUNE, 2016

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.

Applicant

STAY EXTENSION AND APPROVAL OF SALE GUIDELINES ORDER

THIS MOTION, made by Ben Moss Jewellers Western Canada Ltd. (the “**Applicant**”), pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Order, *inter alia*: (i) extending the Stay Period (as defined in paragraph 14 of the Amended and Restated Initial Order dated May 18, 2016) until and including July 15, 2016; (ii) approving the sale guidelines attached hereto as Schedule “A” (the “**Sale Guidelines**”); (iii) approving the DIP Amendment (as defined below); and (iv) approving the activities and conduct of Alvarez & Marsal Canada Inc., in its capacity as monitor in respect of the Applicant (the “**Monitor**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Naveed Manzoor sworn June 12, 2016, the affidavit of Naveed Manzoor sworn June ●, 2016 (the “**Supplementary Affidavit**”), and the First Report of the Monitor dated June ●, 2016, and on hearing the submissions of counsel for the Applicant, Salus Capital Partners, LLC (“**Salus**”), the Monitor and such other counsel as were present and on being advised that the Service List was served with the Motion Record herein,

SERVICE AND DEFINITIONS

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

THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Consulting & Agency Agreement dated as of April 28, 2016 between Gordon Brothers Canada ULC (the “**Agent**”) and the Applicant (the “**Agency Agreement**”).

EXTENSION OF THE STAY PERIOD

THIS COURT ORDERS that the Stay Period is hereby extended until and including July 15, 2016.

SALE GUIDELINES

THIS COURT ORDERS that the Sale Guidelines are hereby approved.

THIS COURT ORDERS that the Agent is authorized to conduct the Sale in accordance with the Sale Guidelines and to advertise and promote the Sale in accordance with the Sale Guidelines. If there is a conflict between any Order in these proceedings, the Agency Agreement and the Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows: (1) the applicable Order in these proceedings; (2) the Sale Guidelines; and (3) the Agency Agreement.

THIS COURT ORDERS that until the applicable vacate date for each Store (which shall be no later than July 31, 2016), the Agent shall have access to the Stores in accordance with the applicable leases and the Sale Guidelines on the basis that the Agent is an agent for the Applicant and the Applicant has granted the right of access to the Stores to the Agent.

THIS COURT ORDERS that nothing in this Order shall amend or vary, or be deemed to amend or vary the terms of the leases of the Stores. Nothing contained in this Order or the Sale Guidelines shall be construed to create or impose upon the Applicant or the Agent any additional restrictions not contained in the applicable lease or other occupancy agreement.

DIP AMENDMENT

THIS COURT ORDERS THAT the DIP Agreement Amendment dated June ●, 2016 and attached as Schedule “A” to the Supplementary Affidavit (the “**DIP Amendment**”) is hereby approved.

THIS COURT ORDERS THAT all references to the “DIP Agreement” in the Amended and Restated Initial Order shall be deemed to be references to the DIP Agreement, as amended by the DIP Amendment.

APPROVAL OF THE MONITOR’S ACTIVITIES

THIS COURT ORDERS that the activities and conduct of the Monitor prior to the date hereof in relation to the Applicant and these CCAA proceedings are hereby ratified and approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

GENERAL

THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, 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 Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

**IN THE MATTER OF 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.
APPLICANT**

Court File No. CV-16-11397-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**STAY EXTENSION AND SALE GUIDELINES
APPROVAL ORDER**

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Michael De Lellis (LSUC #: 48038U)
Tel: 416.862.5997

Karin Sachar (LSUC#: 59944E)
Tel: 416.862.5949

Lawyers for the Applicant

Matter No: 1172245

**IN THE MATTER OF 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.**

APPLICANT

Court File No. CV16-11397-00CL

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

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION
(Stay Extension and Approval of Sale Guidelines,
Returnable June 15, 2016)

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8
Fax: 416.862.6666

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Michael De Lellis (LSUC #: 48038U)
Tel: 416.862.5997

Karin Sachar (LSUC #: 59944E)
Tel: 416.862.5949

Lawyers for the Applicant

Matter No: 1172245

Tab 2

Court File No. CV-16-11397-00CL

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

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

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

APPLICANT

**AFFIDAVIT OF NAVEED Z. MANZOOR
(Sworn June 12, 2016)**

**(Stay Extension and Approval of
Sale Guidelines)**

I, Naveed Z. Manzoor, of the Town of Oakville, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the managing director of FAAN Advisors Group Inc. ("FAAN"). Pursuant to the Initial Order (defined below), among other things, FAAN was appointed as CRO of Ben Moss Jewellers Western Canada Ltd. ("Ben Moss" or the "Applicant"). As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources for information, I have so stated and I believe them to be true. I swear this Affidavit in support of the motion brought by Ben Moss seeking an Order, among other things: (i) extending the Stay Period (as defined below) to July 15, 2016; (ii) approving the sale guidelines (the "Sale Guidelines") that have been agreed to between the Applicant, Gordon Brothers Canada ULC (the "Agent"), Salus

Capital Partners, LLC (“Salus Capital”) and certain landlords; (iii) approving the DIP Amendment (as defined below); and (iv) approving the activities and conduct of the Monitor.

2. This Affidavit is divided into the following sections:

A. Background	2
B. Update Regarding Ben Moss	4
C. Communication with Stakeholders	5
(a) Employees	6
(b) Suppliers.....	7
(c) Landlords.....	8
D. Layaway Program	10
E. DIP Facility.....	11
(a) Update	11
(b) Amendment	11
F. Borrowers’ Variance Report	13
G. Liquidation Assistance.....	13
H. Refinancing and/or Investment Solicitation Process	14
I. Stay Extension Is Appropriate	15

A. Background

3. On May 18, 2016 (the “Filing Date”), Ben Moss was granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”), pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) (the “Initial Order”). In the Initial Order, the Court, among other things:

- (a) granted a stay of proceedings in favour of the Applicant until and including June 15, 2016, or such later date as the Court may order (the “Stay Period”);

- (b) authorized Ben Moss to obtain and borrow up to CAD\$8 million under the DIP Facility from Salus CLO, subject to the condition that borrowing could not exceed \$3.5 million before the comeback hearing; and
- (c) appointed Alvarez & Marsal Canada Inc. (“A&M”) as the monitor in respect of the Applicant (the “Monitor”).

4. Ben Moss sought approval of and was granted an amended and restated Initial Order (the “Amended and Restated Initial Order”) at the comeback hearing held on May 26, 2016. As further described below, the Amended and Restated Initial Order:

- (a) established the treatment of proceeds from Consignment Goods (as defined in the Amended and Restated Initial Order);
- (b) clarified the rights of real property landlords as against J.S.N. Jewellery Inc. (“JSN Inc.”) during the Stay Period and as against the Agent; and
- (c) required that the Agent conduct sales at the Applicant’s stores in accordance with sale guidelines to be agreed to between Ben Moss, the Agent, Salus Capital and certain landlords, which sale guidelines were to be consistent with standard Court-approved sale guidelines and which the Applicant would seek approval of at its next motion before the Court.

5. A blackline of the Amended and Restated Initial Order compared against the Initial Order is attached hereto as Exhibit “A”.

6. I swore an affidavit on May 16, 2016 (the “First Manzoor Affidavit”) in support of Ben Moss’s initial application. A copy of the First Manzoor Affidavit, without exhibits, is attached as

Exhibit “B”. Capitalized terms contained herein that are not otherwise defined have the meaning ascribed to them in the First Manzoor Affidavit.

B. Update Regarding Ben Moss

7. Since the granting of the Initial Order, Ben Moss has been operating its business as a going concern in close consultation with the Monitor.

8. As part of the continued operations of its business, Ben Moss has, among other things, developed and executed an extensive communications plan in order to inform its stakeholders about the CCAA proceedings. Furthermore, Ben Moss has engaged with its various stakeholder groups and commenced the Court-approved RISP, all in an effort to continue going concern operations and maximize value for its stakeholders.

9. Since the granting of the Initial Order, the Applicant has continued to comply with the existing Cash Management System (described further in the First Manzoor Affidavit) in connection with Salus Capital’s provision of financing under the DIP Facility in order to fund the Applicant’s operations. As I understand will be more particularly described in the First Report of the Monitor (the “First Report”), to be filed with the Court, the Applicant’s draws under the DIP Facility are lower than forecast, largely due to the timing of supplier payments. In accordance with the DIP Facility and the Accommodation Agreement, the Applicant’s cash receipts are currently being swept to reduce the Permitted Overadvance under the Credit Facilities.

10. The Applicant’s updated cash flow forecast indicates that, subject to the DIP Amendment, it will have access to sufficient liquidity to fund operations during the requested extension of the Stay Period. However, as I understand will be more particularly described in the First Report, I am advised that during the forecast period it is projected that the aggregate exposure under the Credit

Facilities and the DIP Facility will initially rise and then eventually decrease to a net increase of approximately \$1 million at the end of the forecast period. I understand that a copy of the updated cash flow forecast will be attached to the First Report.

11. On June 1, 2016, a Ben Moss store located in the Halifax Shopping Centre sustained significant damage due to a fire. This store was one of the eleven (11) locations that had been identified for potential closure (the “Closing Stores”) and where the Agent was liquidating inventory. In addition, a Ben Moss store located in Fort McMurray, Alberta has been closed due to the fires in Fort McMurray. The inventory in the Halifax store was moved back to head office. The Fort McMurray store is expected to reopen before the end of June. Ben Moss has notified and is dealing with its insurer and is in the process of making claims with respect to both of these store closures.

C. Communication with Stakeholders

12. Ben Moss has implemented a comprehensive communications plan for its employees, customers, creditors and suppliers. Following the granting of the Initial Order, Ben Moss sent employees an email providing information about the CCAA proceedings and held a town hall meeting to discuss same. Since the Filing Date, Ben Moss has responded and continues to respond to numerous inquiries from its various stakeholders. In addition, a general hotline and general email address were established by the Monitor to deal with inquiries from all stakeholders related to the CCAA proceedings.

13. In accordance with the Initial Order, on May 18, 2016, the Monitor made the Initial Order publicly available in the manner prescribed under the CCAA. On May 20, 2016, the Monitor sent a notice to all of Ben Moss’s known creditors (excluding Salus Capital) to whom Ben Moss owed more than CAD\$1,000, as well as Ben Moss’s landlords or property managers. On May 22, 2016,

the Monitor made a list of the names, addresses and amounts owing to applicable creditors (excluding individuals) publically available on its website. On May 24, 2016, the Monitor sent a notice to Salus Capital. On May 26, 2016, the Monitor made the Amended and Restated Initial Order publicly available in the manner prescribed under the CCAA.

14. Ben Moss issued a press release advising of the CCAA Proceedings and the RISP on the Filing Date, a copy of which is attached as Exhibit “C” hereto. In accordance with the Initial Order, I understand the Monitor published in the Winnipeg Free Press and the Globe and Mail (National Edition) notices containing the information prescribed under the CCAA on May 24, 2016, and May 26, 2016, respectively, copies of which are attached as Exhibit “D” hereto.

(a) Employees

15. Ben Moss has been working diligently to engage in communications with its employees across Canada. Following the granting of the Initial Order, Ben Moss held a town hall meeting for its head office employees in Winnipeg. During this meeting, employees were advised that, among other things, the Applicant had obtained CCAA protection, FAAN had been appointed as CRO, A&M had been appointed as Monitor, the Agent had been retained to assist in the liquidation of Closing Stores, the RISP had been approved and the inventory at certain underperforming retail locations would be liquidated. This information was also communicated to Ben Moss’s regional managers and store managers by way of conference calls following the granting of the Initial Order. Since the Filing Date, the Applicant’s employees have continued to work in the ordinary course.

16. The Applicant anticipates that it will begin the process of closing certain underperforming stores this month. The decision to close these stores will result in notices of termination being given to employees at such locations and disclaimer notices being delivered in respect of

applicable real property leases. If viable, Ben Moss will offer certain terminated employees jobs in other locations.

(b) Suppliers

17. After the Initial Order was granted, Ben Moss's CRO and senior management team initiated calls with Ben Moss's significant suppliers to advise them that Ben Moss would continue going concern operations during its CCAA proceedings and to negotiate payment terms for goods and services during such proceedings. The Monitor participated in certain of these calls. I also understand that the Monitor has had extensive one-on-one communications with numerous suppliers that contacted the Monitor directly.

18. In addition, the CRO and certain members of Ben Moss's senior management team attended a major annual jewellery trade show in Las Vegas, Nevada between June 3, 2016 and June 5, 2016, which provided the Applicant with an opportunity to meet with key suppliers and other stakeholders in person to discuss Ben Moss's restructuring and go-forward arrangements.

19. All of Ben Moss's most significant suppliers have continued to supply goods to Ben Moss, albeit on shorter payment terms than were previously in place in certain cases.

20. Certain consignment suppliers reached out to Ben Moss following the filing for CCAA protection. As a result, Ben Moss sought, and was granted, the Amended and Restated Initial Order, which, among other things: (i) clarified that Consignment Goods were not included in the definition of Property contained in the Amended and Restated Initial Order; and (ii) required that proceeds from the sale of any Consignment Goods, as determined by the Monitor in its sole discretion, that were sold both before and after the date of the Initial Order are to be returned by the Applicant to the supplier of such Consignment Goods on terms to be agreed upon between the

Applicant and such supplier. At this time, the Monitor is reviewing arrangements with various suppliers to ascertain the nature of the supply terms and whether they constitute valid consignment arrangements, as well as what steps can be taken with respect to the proceeds from any such valid consignments that were collected. Upon completion of this analysis, Ben Moss, in consultation with the Monitor, will work with identified consignment suppliers to document key terms related to the supply of, and payment for, Consignment Goods.

21. Additionally, as provided in the Amended and Restated Initial Order, Ben Moss has continued to pay suppliers for goods and services supplied during the CCAA proceedings.

(c) Landlords

(i) Negotiations related to liquidation procedures and leases

22. Following the granting of the Initial Order, counsel to the Applicant was approached by counsel to a group of landlords to discuss certain concerns with respect to the Initial Order and the CCAA Proceedings and the Closing Stores. As a result of these discussions, Ben Moss sought, and was granted, the Amended and Restated Initial Order, which, among other things: (i) required that the Applicant, the Agent, Salus Capital and certain landlords would agree to sale guidelines consistent with standard Court-approved sale guidelines; (ii) required that the Applicant seek Court approval of such sale guidelines; and (iii) clarified the landlords' rights as against JSN Inc. during the Stay Period and as against the Agent.

23. The parties have agreed to the Sale Guidelines, a copy of which is attached to this affidavit as Exhibit "E". The Sale Guidelines are fair, reasonable and consistent with standard Court-approved sale guidelines. The Sale Guidelines provide, among other things, that:

- (a) subject to certain exceptions, the sale to liquidate certain merchandise, inventory, furniture, fixtures, and equipment (the “Sale”, as further described in the First Manzoor Affidavit) pursuant to the Agency Agreement shall be conducted in accordance with the terms of the applicable leases or other occupancy agreements for each of the applicable stores (the “Stores”, and each a “Store”);
- (b) the Sale at the Stores shall end by no later than July 31, 2016; and
- (c) the Agent shall be entitled, as agent for Ben Moss, to include in the Sale additional inventory, including inventory from JSN Inc. and other goods from similar vendors not currently supplying goods to Ben Moss (“Additional Merchandise”), to the extent permitted under the Agency Agreement; provided that: (i) the Additional Merchandise will not exceed \$2 million at cost in the aggregate (the “Additional Merchandise Cap”); (ii) the Additional Merchandise will be distributed among the Stores such that no Store will receive more than 20% of the Additional Merchandise; and (iii) the Additional Merchandise is of like kind and category and no lessor quality to the merchandise and inventory sold at the Stores, and consistent with any restriction on usage of the Stores set out in the applicable leases; provided however that, in the event that there are more than 11 Stores, the Additional Merchandise Cap shall be increased in an amount equal to \$181,818 multiplied by the number of such additional Stores.

24. In addition to the above, Ben Moss, with the assistance of the Monitor, has been in discussions with several of its landlords regarding the terms of its leases. Ben Moss is seeking modifications to those real estate leases which it has determined are not consistent with market rates and/or are unviable. Ben Moss has scheduled several in-person meetings with certain of its

landlords during the week commencing June 13, 2016 to negotiate revised lease terms that improve the economic viability of applicable locations.

(ii) Disclaimers

25. As noted above, Ben Moss anticipates that it will take steps to close certain underperforming stores and disclaim the associated leases this month. In consultation with the Monitor, Ben Moss is in the process of reviewing all of its leases and identifying any leases to be disclaimed. Once this process is complete, Ben Moss will deliver disclaimer notices to applicable landlords.

D. Layaway Program

26. As described in the First Manzoor Affidavit, prior to the Filing Date, Ben Moss offered a layaway program (the "Layaway Program") in its retail locations to allow customers to pay for products over the course of no more than six (6) months. As of the Filing Date, Ben Moss stopped accepting new deposits with respect to the Layaway Program, both from existing Layaway Program customers and with respect to new purchases, with the exception of existing Layaway Program customers who decide to pay the remaining balance in full and who will then receive the fully paid-for merchandise.

27. After consultations with the Monitor, Ben Moss has decided not to resume the Layaway Program; however, customers who have previously made a deposit under the Layaway Program may still pay the full remaining balance owed and receive the applicable merchandise.

E. DIP Facility**(a) Update**

28. Pursuant to the Initial Order, Ben Moss was authorized to obtain and borrow up to CAD\$8 million under the DIP Facility from Salus CLO, subject to the condition that borrowing could not exceed \$3.5 million before the comeback hearing. Approximately \$2.1 million had been borrowed under the DIP Facility as of the date of the comeback hearing. The comeback hearing was unopposed and Ben Moss's entitlement to the remainder of the principal amount under the DIP Facility after May 26, 2016 was not disputed.

29. As of June 7, 2016, Ben Moss has made ten (10) borrowing requests. As of June 7, 2016, CAD\$51.3 million remains outstanding under the Salus Revolving Credit Facility and CAD\$4.6 million under the DIP Facility. As required by the DIP Facility, Ben Moss has delivered a borrowing base certificate to Salus Capital on a weekly basis.

(b) Amendment

30. In accordance with the Accommodation Agreement (as defined and described further in the First Manzoor Affidavit) and the DIP Facility, and consistent with the Cash Management System, Ben Moss's cash from business operations is required to be deposited into the Blocked Accounts and swept by Salus Capital in order to reduce obligations in the following order (the "Repayment Waterfall"): (i) first, obligations classified as a "Permitted Overadvance" under the Credit Facilities; (ii) second, obligations under the DIP Facility; and (iii) third, outstanding obligations under the Credit Facilities. Since the Filing Date, cash from Ben Moss's operations have continued to be deposited to the Blocked Accounts have been applied against the Permitted

Overadvance. As of June 7, 2016, the Permitted Overadvance has decreased to approximately CAD\$5.8 million.

31. The Permitted Overadvance has been used to fund operations of both Ben Moss and other Borrowers under the Salus Revolving Credit Facility, including JSN Inc. Since the Filing Date, Salus Capital has continued to provide JSN Inc. with overadvances under the Salus Revolving Credit Facility and JSN Inc. continues to supply Ben Moss.

32. At the time of swearing of this affidavit, Salus Capital and Ben Moss are working on an amendment to the DIP Agreement, which will then be presented to all parties to the DIP Agreement, to amend the Repayment Waterfall to provide that Ben Moss's cash from business operations will now only be applied to obligations under the DIP Facility, without any application to the Permitted Overadvance. This amendment to the DIP Facility (the "DIP Amendment") will ensure adequate liquidity for Ben Moss under the DIP Facility for the requested Stay Period extension and will be reflected in Ben Moss's cash flows. As a result of this modification to the Repayment Waterfall, the Permitted Overadvance will remain relatively static at approximately CAD\$5.8 million, except to the extent that the other Borrowers' cash receipts are swept and applied to pay down the Permitted Overadvance. Ben Moss will be seeking Court-approval of the DIP Amendment, which will be provided to the Court before the return date of this motion by way of a supplementary affidavit upon execution.

33. The modification is being sought, among other things, (i) to simplify the completion of diligence for participants in the RISP; and (ii) to address the volatility in the JSN Inc. and Ben Moss cash flows. As I understand will be more particularly described in the First Report, without the DIP Amendment, the Ben Moss DIP Facility would exceed the authorized amount of \$8 million.

34. Salus Capital currently continues to fund the other Borrowers subject to and in accordance with the terms and conditions of the Accommodation Agreement.

F. Borrowers' Variance Report

35. Salus Capital has notified Ben Moss and the other Borrowers under the Credit Facilities that the Borrowers' variance report for the two-week period ended May 27, 2016 shows a negative variance materially in excess of 10% in, among other items, cash receipts and cash flows. I understand that further information regarding the variances is contained in the Monitor's Report. Pursuant to the Accommodation Agreement, the Borrowers are required to not permit such a variance. Salus Capital has reserved its rights in connection with this variance. Pursuant to paragraph 59(b) of the Amended and Restated Initial Order, Salus Capital must obtain Court approval before exercising any rights against Ben Moss in connection with the variance. Salus Capital has advised that it supports the stay extension and approval of the Sale Guidelines and that it has agreed to the DIP Amendment being sought by Ben Moss on this motion.

G. Liquidation Assistance

36. As described in the First Manzoor Affidavit, and pursuant to the terms of the DIP Facility, on April 28, 2016, Ben Moss engaged a third party liquidation consultant, the Agent, to assist Ben Moss with the liquidation of inventory at Ben Moss stores identified for potential closure.

37. Ben Moss has been working closely with the Agent and the Monitor with respect to maximizing value from the inventory at the liquidating stores. Inventory clearance sales have been ongoing at these stores since May 5, 2016.

38. While sales levels at the liquidating stores were initially below expectation, sales have improved over the last two weeks amidst increased store traffic, changes to signage and phased

discounting. Sales at the liquidating stores have contributed to Ben Moss's improved year-to-date sales as compared to year-to-date sales as of the Filing Date. The non-liquidating stores' average sales per day have also increased since the commencement of the inventory clearance sales.

H. Refinancing and/or Investment Solicitation Process

39. Pursuant to the terms of the RISP, Phase 1 of the RISP commenced on the Filing Date. Since then, Ben Moss has been working with the Monitor to implement the terms of the RISP.

40. I understand that numerous parties were contacted after the Filing Date to determine if they were interested in participating in the RISP. Such parties were provided with an initial offering summary that notified recipients of the RISP and invited them to express an interest in accordance with the RISP's terms.

41. Parties that expressed an interest in participating in the RISP were provided with a form of non-disclosure agreement ("NDA"). In order to qualify as a "Potential Bidder" under the RISP, parties must, among other things, execute an NDA.

42. Ben Moss, in consultation with the Monitor, has negotiated and signed a number of NDAs to date. Parties who have executed an NDA have been provided with either a confidential refinancing information memorandum or a confidential sale information memorandum, depending on which potential transaction each party was interested in. Additionally, the Monitor, with the assistance of Ben Moss, has been dealing with information requests from parties that have executed an NDA.

43. Qualified Bidders that wish to pursue a refinancing, sale or investment proposal must submit non-binding letters of intent ("LOIs") to the Monitor by 5:00PM EST on June 17, 2016 (the "Phase 1 Bid Deadline"). The RISP provides that the Monitor, in consultation with Salus

Capital, will assess any LOIs received by the Phase 1 Bid Deadline. Ongoing updates will be provided with respect to the RISP in subsequent affidavits.

I. Stay Extension Is Appropriate

44. In the Initial Order, the Court granted a stay of proceedings in favour of Ben Moss, its directors and officers, the CRO and the Monitor during the Stay Period. The Court also granted a limited stay of proceedings in favour of JSN Inc. for the duration of the Stay Period.

45. Ben Moss has continued to operate the business in the normal course with the benefit of the stay of proceedings and the DIP Facility, which has provided stability to the business and helped to alleviate the liquidity crisis that Ben Moss faced.

46. Ben Moss seeks an extension of the Stay Period up to and including July 15, 2016. The extension is necessary and appropriate in the circumstances to allow for the continued operations of Ben Moss's business, the continuation of the RISP in accordance with its terms, and the continuation of discussions with Ben Moss's stakeholders.

47. I believe that Ben Moss has acted and is continuing to act in good faith and with due diligence in these CCAA proceedings since the granting of the Initial Order. As described above, Ben Moss has been working diligently with the Monitor to carry out the RISP and has been in discussions with its stakeholders, including landlords, employees, suppliers and creditors.

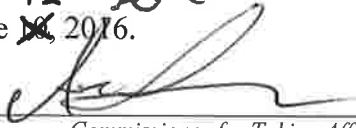
48. As set out in the Applicant's updated cash flows, with the DIP Facility (as amended by the DIP Amendment), Ben Moss will have access to sufficient liquidity to fund operations during the requested extension of the Stay Period.

49. The Monitor and Salus Capital have each expressed their support for the extension of the Stay Period to July 15, 2016.

SWORN BEFORE ME at the City of Toronto,


in the Province of Ontario on

June ~~10~~¹² 2016.



Commissioner for Taking Affidavits

}



NAVEED Z. MANZOOR

**Adriano Lapore,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 5, 2019.**

TAB A

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF NAVEED Z. MANZOOR, SWORN BEFORE ME
THIS ~~10th~~^{12th} DAY OF JUNE, 2016.



A Commissioner for taking Affidavits, etc.

Adriano Lepore,
a Commissioner, etc., **Province of**
Ontario, while a Student-at-Law.
Expires April 5, 2019.

Court File No.
CV-16-11397-00

CL

ONTARIO
 SUPERIOR COURT OF JUSTICE
 COMMERCIAL LIST

THE HONOURABLE) WEDNESDAY, THE 18TH
)
 MR. JUSTICE NEWBOULD) DAY OF MAY, 2016

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.

Applicant

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Ben Moss Jewellers Western Canada Ltd. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Naveed Manzoor sworn May 16, 2016 and the Exhibits thereto (the "**Initial Affidavit**"), the pre-filing report of Alvarez & Marsal Canada Inc. ("**A&M**"), in its capacity as proposed monitor of the Applicant dated May 17, 2016, and on hearing the submissions of counsel for the Applicant, Salus Capital Partners, LLC ("**Salus**"), and A&M and on reading the consent of A&M to act as the monitor of the Applicant (the "**Monitor**"),

SERVICE

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

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), which for greater certainty does not include Consignment Goods (as defined below). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, appraisers, valuers, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled to continue to utilize the Cash Management System (as defined and described in the Initial Affidavit) or, with the consent of the Monitor and Salus, replace it in part or in whole with another substantially similar central cash management system and that any present or future bank or other Person (as hereinafter defined) providing any part of the Cash Management System, including without limitation,

Canadian Imperial Bank of Commerce, Bank of Montreal, the Royal Bank of Canada, the Toronto-Dominion Bank and the Bank of Nova Scotia, shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person other than the Applicant and Salus, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that, subject to availability under the DIP Facility (as defined herein) and in accordance with the Budget (as defined in the DIP Agreement), the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and reasonable expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) amounts necessary in order to continue to honour or comply with existing return policies, gift cards, and similar programs offered by the Applicant;
- (c) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges;
- (d) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicant prior to the date of this order or to obtain the release of goods contracted for prior to the date of this Order by third party suppliers if, in the opinion of the Applicant, the supplier is critical to the Business and ongoing operations of the Applicant;

- 4 -

- (e) any other costs or expenses that are deemed necessary for the preservation of the Property and/or the Business by the Applicant with the consent of the Monitor and Salus.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, and subject to availability under the DIP Facility and in accordance with the Budget, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance and directors and officers tail and/or run off insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- 5 -

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that, except as specifically permitted herein and subject to the Budget and the terms of the DIP Facility, the Applicant is hereby directed, until further Order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date, provided however that the Applicant is hereby authorized and directed to make all such payments under the DIP Agreement, including the Pre-Petition Liabilities (as defined in the DIP Agreement) in accordance with the DIP Facility;
- (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and
- (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

10. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

- 6 -

RESTRUCTURING

11. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$200,000 in any one transaction or \$500,000 in the aggregate provided that, with respect to any leased premises, the Applicant may permanently but not temporarily cease, downsize or shut down unless provided for in the applicable lease;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) in accordance with paragraphs 12 and 13, with the prior consent of the Monitor or further Order of the Court, vacate, abandon or quit the whole but not part of any leased premises and/or disclaim any real property lease and any ancillary agreements relating to any leased premises, in accordance with Section 32 of the CCAA, on such terms as may be agreed upon between the Applicant and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) disclaim, in whole or in part, with the prior consent of the Monitor or further Order of the Court, such of their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with Section 32 of the CCAA, with such disclaimers to be on such terms as may be agreed upon between the Applicant and such counter-parties, or failing such agreement, to deal with the consequences thereof in the Plan;
- (e) under the supervision of the Monitor, pursue all avenues of refinancing the Business or Property, in whole or part, and market the Business and the Property in accordance with the RISP (as defined herein).

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. THIS COURT ORDERS that until and including June 15, 2016, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant, the CRO (as defined below) or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting

the Business or the Property are hereby stayed and suspended pending further Order of this Court.

15. THIS COURT ORDERS that during the Stay Period, no Proceeding shall be commenced or continued: (i) against or in respect of J.S.N. Jewellery Inc. (“**JSN**”) with respect to 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 the Business (collectively, the “**Applicant Related Liabilities**”); (ii) against or in respect of any of JSN’s current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**JSN Property**”) with respect to any Applicant Related Liabilities (the matters referred to in (i) and (ii) being, collectively, the “**Proceedings Against JSN**”), except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings Against JSN currently under way by any Person are hereby stayed and suspended pending further order of this Court, provided however that this paragraph shall only be effective as against Persons to whom there are no amounts due and owing by the Applicant as of the date of this Order and to whom the ongoing payment of amounts that will become payable in the ordinary course are provided for in the Applicant’s cash flow statements, and provided further that this paragraph shall not apply to a real property landlord of the Applicant that provides the Applicant and Salus with five (5) days’ written notice that it intends to commence or continue a Proceeding Against JSN.

NO EXERCISE OF RIGHTS OR REMEDIES

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicant, the CRO or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

- 9 -

17. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any Person against or in respect of any of JSN or JSN Property in respect of any Applicant Related Liabilities are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower JSN to carry on any business which JSN is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien, provided however that this paragraph shall only be effective as against Persons to whom there are no amounts due and owing by the Applicant as of the date of this Order and to whom the ongoing payment of amounts that will become payable in the ordinary course are provided for in the Applicant's cash flow statements, and provided further that this paragraph shall not apply to a real property landlord of the Applicant that provides the Applicant and Salus with five (5) days' written notice that it intends to exercise any right or remedy against or in respect of any of JSN or JSN Property in respect of any Applicant Related Liabilities.

NO INTERFERENCE WITH RIGHTS

18. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

19. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, disaster recovery, centralized banking services, payroll and benefits services, insurance, transportation services, freight services, utility, customs clearing, gemstone grading, warehouse and logistics services, security services or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers,

- 10 -

facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

APPOINTMENT OF CRO

22. THIS COURT ORDERS that FAAN Advisors Group Inc. (“**FAAN**”) be and is hereby appointed Chief Restructuring Officer of the Applicant (“**CRO**”). The CRO shall have the authority to direct the operations and management of the Applicant and the Restructuring, and the officers of the Applicant shall report to the CRO. For greater certainty, the CRO shall be entitled to exercise any powers of the Applicant set out herein, to the exclusion of any other Person (including any board member of the Applicant). The CRO shall provide timely updates to the Monitor in respect of its activities.

23. THIS COURT ORDERS that the CRO shall not be or be deemed to be a director, officer or employee of the Applicant.

24. THIS COURT ORDERS that nothing in this Order shall be construed as resulting in FAAN or the CRO being an employer, successor employer, responsible person or operator within the meaning of any statute, regulation or rule of law, or equity for any purpose whatsoever.

25. THIS COURT ORDERS that the CRO shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on the part of the CRO.

26. THIS COURT ORDERS that (i) any indemnification obligations of the Applicant in favour of the CRO and (ii) the payment obligations of the Applicant to the CRO shall be entitled to the benefit of and shall form part of the Administration Charge set out herein.

27. THIS COURT ORDERS that any claims of the CRO shall be treated as unaffected in any Plan filed by the Applicants under the CCAA or any proposal ("**Proposal**") under the *Bankruptcy and Insolvency Act* (the "**BIA**").

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

28. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

29. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1.5 million, as security for the indemnity provided in paragraph 28 of this Order. The Directors' Charge shall have the priority set out in paragraphs 58 and 60 herein.

- 12 -

30. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 28 of this Order.

REFINANCING AND/OR INVESTMENT SOLICITATION PROCESS

31. THIS COURT ORDERS AND DIRECTS the Applicant to immediately commence, under the supervision and with the assistance of the Monitor, a Refinancing and/or Investment Solicitation Process in accordance with the terms attached hereto as Schedule "A" to this Order (the "**RISP**") for the purpose of offering the opportunity for potential investors to refinance all or part of the Credit Facilities (as defined in the RISP), to invest in the Applicant and/or JSN., and/or purchase all or a portion of the Property.

32. THIS COURT ORDERS that the RISP is hereby approved and the Applicant, the CRO and the Monitor are hereby authorized and directed to perform each of their obligations thereunder.

33. THIS COURT ORDERS that: (i) nothing in the RISP shall amend or vary, or be deemed to amend or vary the terms of a real property lease; and (ii) where any real property leases are not, in accordance with their terms, transferrable or assignable to a Successful Bidder(s) who has submitted the Successful Bid(s) (as such terms are respectively defined in the RISP), without first obtaining the consent of the applicable landlord, no such real property leases shall be transferred conveyed, assigned or vested in any such successful bidder(s), save and except: (A) to the extent that the respective consents have been obtained from the applicable landlords; or (B) upon further Order of this Court.

STORE SALE

34. THIS COURT ORDERS that with respect to the Consulting & Agency Agreement dated as of April 28, 2016 between Gordon Brothers Canada ULC (the "**Agent**") and the Applicant (the "**Agency Agreement**"), the Agent is authorized to conduct a sale (the "**Sale**") to liquidate the

- 13 -

Merchandise and FF&E, as applicable (as both terms are defined in the Agency Agreement), in the Applicant's stores (the "Stores") in accordance with this Order and, subject to paragraph 35 below, the Agency Agreement, and to advertise and promote the Sale within the Stores in accordance with the terms hereof and thereof.

35. THIS COURT ORDERS that notwithstanding the terms of the Agency Agreement, the Agent shall conduct the Sale in accordance with sale guidelines to be agreed to between the Applicant, the Agent, Salus and the landlords of the Stores that have contacted the Applicant (the "Sale Guidelines"), which Sale Guidelines shall be consistent with standard court-approved sale guidelines and which the Applicant shall seek approval of at its next motion before this Court.

36. 35--THIS COURT ORDERS that the Agent, in its capacity as agent of the Applicant, is authorized to market and sell the Merchandise and FF&E free and clear of all liens, claims, encumbrances, security interests, mortgages, charges, trusts, deemed trusts, executions, levies, financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to the date of this Order or came into existence following the date of this Order, (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively "Claims"), including, without limitation the Charges (as defined below), and all Claims, charges, security interests or liens evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal or removable property registration system (all of such Claims, charges (including the Charges), security interests and liens collectively referred to herein as "Encumbrances"), which Encumbrances, subject to this Order, will attach instead to the proceeds of sale of such Merchandise or FF&E received or to be received by the Applicant under the Agency Agreement from and after the date hereof, in the same order and priority as they existed on the date the Sale was commenced.

37. 36--THIS COURT ORDERS that subject to the terms of this Order, the Agent shall have the right to enter and use the Store locations and all related Store services and all facilities and all furniture, trade fixtures and equipment, including the FF&E, located at the Store locations, and other assets of the Applicant as designated under the Agency Agreement, for the purpose of conducting the Sale and, for such purposes, the Agent shall be entitled to the benefit of the

- 14 -

Applicant's stay of proceedings provided under this Order, as such stay of proceedings may be extended by further order of the Court.

AGENT LIABILITY

38. ~~37.~~ THIS COURT ORDERS that the Agent shall act solely as an agent to the Applicant and that it shall not be liable for any claims against the Applicant other than as expressly provided in the Agency Agreement. More specifically:

- (a) the Agent shall not be deemed to be an owner or in possession, care, control or management of the Stores, of the assets located therein or associated therewith or of the Applicant's employees located at the Stores or any other property of the Applicant;
- (b) the Agent shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labour standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and shall not incur any successorship liabilities whatsoever; and
- (c) the Applicant shall bear all responsibility for any liability whatsoever (including without limitation losses, costs, damages fines, damages or awards) relating to claims of customers, employees and any other persons arising from events occurring at the Stores during and after the term of the Agency Agreement, or otherwise in connection with the Sale, except in accordance with the Agency Agreement.

39. THIS COURT ORDERS 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 Sale for which the Applicant has claims against the Agent under the Agency Agreement, then the Applicant shall be deemed to have assigned free and clear such claims to the applicable landlord (the "Assigned Landlord Rights"); provided that each such landlord shall only be permitted to advance each such claim against the Agent if: (i) written notice, including the reasonable details of such claim (the "Landlord Damage Claim"), is provided by such landlord to the Agent and the Applicant within 15 days of the date that the landlord is provided with access to the leased premises to

- 15 -

inspect the leased premises (which access shall be provided by the Applicant within fifteen (15) days following the Sale Termination Date (as defined in the Agency Agreement)) (the "Landlord Notice of Claim"); (ii) the Applicant has not commenced a claim against the Agent for the Landlord Damage Claim in a commercially reasonable manner within twenty (20) business days of receipt of the Landlord Notice of Claim; and (iii) the landlord has commenced its Landlord Damage Claim within 45 business days of the date of its Landlord Notice of Claim.

AGENT AN UNAFFECTED CREDITOR

40. 38--THIS COURT ORDERS that the Agency Agreement, including the Assigned Landlord Rights contained therein, shall not be repudiated, resiliated or disclaimed by the Applicant nor shall the claims of the Agent pursuant to the Agency Agreement be compromised or arranged pursuant to any Plan filed by the Applicant under the CCAA, or any Proposal filed by the Applicant under the BIA.

41. 39--THIS COURT ORDERS that the Agent shall be treated as an unaffected creditor in these proceedings and under any Plan or Proposal. For greater certainty, the Agent shall not be affected by any stay of proceedings with respect to non-payment under the Agency Agreement and the Agent shall, subject to the terms of the Agency Agreement, be entitled to exercise its remedies for non-payment under the Agency Agreement.

BULK SALES ACT AND OTHER LEGISLATION

42. 40--THIS COURT ORDERS AND DECLARES that the transactions contemplated under the Agency Agreement shall be exempt from the application of any applicable *Bulk Sales Act* and any other equivalent federal or provincial legislation.

43. 41--THIS COURT ORDERS that pursuant to clause 7(3) (c) of the Canada *Personal Information Protection and Electronic Documents Act* ("PIPEDA"), the Applicant is authorized and permitted to disclose to the Agent all human resources and payroll information in the Applicant's records pertaining to the Applicant's past and current employees and that the Agent shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects similar to the prior use of such information by the Applicant.

CONSIGNMENT GOODS

44. THIS COURT ORDERS that the proceeds from the sale of any goods that were supplied to the Applicant on a consignment basis, as determined by the Monitor in its sole discretion (“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 such supplier. For greater certainty, this paragraph shall apply to the proceeds from Consignment Goods that were sold both prior to and following the date of this Order.

APPOINTMENT OF MONITOR

45. ~~42.~~ THIS COURT ORDERS that A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

46. ~~43.~~ THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) liaise with the CRO, the Agent and Assistants with respect to all matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (d) assist the Applicant, to the extent required by the Applicant, in its dissemination of, to the DIP Lender and its counsel, financial and other information as agreed to between

- 17 -

the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;

- (e) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis in accordance with the Definitive Documents;
- (f) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (g) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and/or data held by third parties, and other financial documents of the Applicant (whether held by the Applicant or by a third-party and regardless of whether such third party is an affiliate or related party of the Applicant), to the extent that is necessary to adequately assess the Applicant's business and historical and/or prospective financial affairs or to perform its duties arising under this Order;
- (i) consult with the Applicant, the CRO, the Agent and any Assistants retained in connection with the Restructuring;
- (j) supervise and assist the Applicant with the implementation of the RISP;
- (k) be at liberty to engage independent legal counsel or such other persons, or utilize the services of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

47. ~~44.~~ THIS COURT ORDERS that the Monitor is hereby authorized to prepare and provide reporting relating to the Guarantors (as defined in the DIP Agreement) to the DIP Lender, including in respect of supplier or other payments made by the Guarantors.

48. 45.—THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

49. 46.—THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

50. 47.—THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

51. 48.—THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save

- 19 -

and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

52. ~~49.~~ THIS COURT ORDERS that the CRO, the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges by the Applicant as part of the costs of these proceedings subject to any assessments of the Court. The Applicant is hereby authorized and directed to pay the accounts of the CRO, the Monitor, counsel for the Monitor, counsel for the Applicant and counsel to Joseph Shilon (to the extent the Applicant has agreed to pay such accounts to counsel to Joseph Shilon) on a weekly basis and, in addition, the Applicant is hereby authorized to pay or to have paid to, as applicable, the CRO, the Monitor, counsel to the Monitor and counsel to the Applicant retainers in the amounts of \$25,000, \$100,000, \$50,000 and \$75,000 respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

53. ~~50.~~ THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

54. ~~51.~~ THIS COURT ORDERS that the CRO, the Monitor, counsel to the Monitor, the Applicant's counsel and counsel to Joseph Shilon shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$600,000, as security for their professional fees and disbursements incurred by the Applicant at the standard rates and charges of the CRO, the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings, provided however that the Administration Charge shall not secure the professional fees and disbursements of Joseph Shilon's counsel that are incurred by the Applicant after the date of this Order. The Administration Charge shall have the priority set out in paragraphs 58 and 60 hereof.

DIP FINANCING

55. ~~52.~~ THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a revolving credit facility (the "**DIP Facility**") in order to finance the

- 20 -

Applicant's working capital requirements and other general corporate purposes and other expenditures in accordance with the Applicant's cash flow statements pursuant and subject to the terms and conditions set forth in the Credit Agreement between Salus as collateral and administrative agent (the "**DIP Agent**"), the lenders thereunder (the "**DIP Lenders**"), the Applicant and various guarantors dated as of May 17, 2016 (the "**DIP Agreement**"), provided that borrowings under such DIP Facility shall not exceed the principal amount of the U.S. dollar equivalent to CDN\$8,000,000 unless permitted by further Order of this Court and further provided that borrowings under the DIP Facility shall not exceed \$3.5 million prior to May 26, 2016, the date of the Comeback Hearing ~~(as defined herein)~~.

56. ~~53.~~ THIS COURT ORDERS that the DIP Facility and the DIP Agreement be and are hereby approved and the Applicant is hereby authorized and directed to executed and deliver the DIP Agreement.

57. ~~54.~~ THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees, amendments and other definitive documents (collectively, and together with the DIP Agreement, the "**Definitive Documents**"), as are contemplated by the DIP Agreement or as may be reasonably required by the DIP Agent pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

58. ~~55.~~ THIS COURT ORDERS that the DIP Agent shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on the Property, which DIP Charge shall be in the aggregate amount of the obligations outstanding at any given time under the DIP Facility. The DIP Charge shall not secure any obligation that exists before this Order is made. The DIP Charge shall have the priority set out in paragraphs 58 and 60 hereof.

59. ~~56.~~ THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- 21 -

- (a) the DIP Agent may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents, the DIP Agent, upon 2 business days' notice to the Applicant and the Monitor and upon approval of this Court, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Definitive Documents and the DIP Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lenders to the Applicant against the obligations of the Applicant to the DIP Lenders under the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the DIP Agent shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

60. ~~57.~~ THIS COURT ORDERS AND DECLARES that the DIP Lenders and the lenders under the Credit Facilities shall be treated as unaffected in any Plan filed by the Applicant under the CCAA, or any Proposal filed by the Applicant under the BIA, with respect to all advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

61. ~~58.~~ THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the DIP Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$600,000);

Second – DIP Charge; and

Third – Directors' Charge (to the maximum amount of \$1.5 million).

- 22 -

62. ~~59.~~ THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge or the DIP Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

63. ~~60.~~ THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other Encumbrances in favour of any Person, other than any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or such other applicable provincial legislation.

64. ~~61.~~ THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Charges, or further Order of this Court.

65. ~~62.~~ THIS COURT ORDERS that the Charges and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- 23 -

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Definitive Documents caused by or resulting from the Applicant entering into the DIP Agreement, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

66. ~~63.~~ THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

67. ~~64.~~ THIS COURT DECLARES that, pursuant to Section 7(3)(c) of PIPEDA and any regulations promulgated under authority of that Act, as applicable (the "**Relevant Enactment**"), the Applicant and the Monitor, in the course of these proceedings, are permitted to, and hereby shall, disclose personal information of identifiable individuals in their possession or control to stakeholders, their advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Applicant and the Monitor binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall, upon the request of the Applicant or the Monitor, return the personal information to the Applicant and the Monitor or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal

information in a manner which is in all respects identical to the prior use thereof by the Applicant.

SERVICE AND NOTICE

68. ~~65.~~ THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail (National Edition) and the Winnipeg Free Press a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

69. ~~66.~~ THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/> shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.alvarezandmarsal.com/benmoss (the "**Monitor's Website**").

70. ~~67.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to

be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

71. ~~68.~~ THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

72. ~~69.~~ THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

73. ~~70.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, 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 Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

74. ~~71.~~ THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

75. ~~72.~~ THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

- 26 -

76. ~~73.~~ A comeback hearing in this matter shall be held on May 26, 2016 (the “**Comeback Hearing**”).

77. ~~74.~~ THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Daylight Time on the date of this Order.

**IN THE MATTER OF 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.
APPLICANT**

Court File No.

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

PROCEEDING COMMENCED AT
TORONTO

INITIAL ORDER

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Michael De Lellis (LSUC #: 48038U)
Tel: 416.862.5997

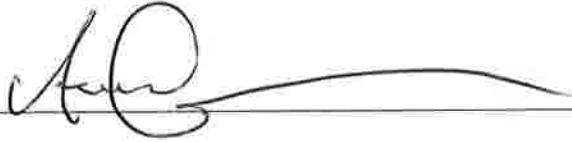
Karin Sachar (LSUC#: 59944E)
Tel: 416.862.5949

Lawyers for the Applicant

Matter No: 1172245

TAB B

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF NAVEED Z. MANZOOR, SWORN BEFORE ME
THIS 13th DAY OF JUNE, 2016.

A handwritten signature in black ink, appearing to read 'Adriano', is written over a horizontal line.

A Commissioner for taking Affidavits, etc.

Adriano Lepore,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 5, 2019.

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

APPLICANT

**AFFIDAVIT OF NAVEED Z. MANZOOR
(Sworn May 16, 2016)**

I, Naveed Z. Manzoor, of the Town of Oakville, in the Province of Ontario, the Chief Restructuring Officer (“CRO”) of the Applicant, Ben Moss Jewellers Western Canada Ltd. (“Ben Moss” or the “Applicant”), MAKE OATH AND SAY:

1. This Affidavit is made in support of an application by Ben Moss for an Initial Order and related relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”), including the following:

- (a) appointing Alvarez & Marsal Canada Inc. as Monitor pursuant to s. 11.7 of the CCAA to monitor Ben Moss’s business and financial affairs (the “Proposed Monitor”);
- (b) appointing FAAN Advisors Group Inc. as CRO;
- (c) staying all proceedings taken or that might be taken in respect of Ben Moss, its directors and officers, the CRO, and/or the Proposed Monitor;

- 2 -

- (d) staying all proceedings taken or that might be taken in respect of Ben Moss's parent company, J.S.N. Jewellery Inc. ("JSN Inc."), to the extent that these proceedings arise as a result of cross-default provisions related to agreements between Ben Moss and third parties, provided that such stay applies only with respect to amounts owing that are currently not in arrears and that are contemplated in the cash flows as being paid in the ordinary course;
- (e) authorizing Ben Moss to file with this Court a plan of compromise or arrangement between Ben Moss and, *inter alia*, one or more of its classes of secured and/or unsecured creditors pursuant to the provisions of the CCAA;
- (f) authorizing Ben Moss to obtain, and borrow pursuant to, a debtor-in-possession ("DIP") credit facility in order to finance its working capital requirements and other general corporate purposes as well as its post-filing expenses and costs;
- (g) granting the following charges over the property of the Applicant, listed in order of priorities:
 - (i) a charge (1) in favour of counsel to Ben Moss, the Proposed Monitor, counsel to the Proposed Monitor and the CRO, and (2) in favour of counsel to Joseph Shilon with respect to amounts incurred before the date of the Initial Order;
 - (ii) a charge in favour of the DIP Lender (as defined below); and
 - (iii) a charge in favour of the directors and officers of Ben Moss;
- (h) ordering that the CRO shall not have any liability with respect to any losses, claims, damages, or liabilities, of any nature or kind, except to the extent that such result from the gross negligence or wilful misconduct on the part of the CRO;

- 3 -

- (i) authorizing Ben Moss to make pre-filing payments to certain “critical” suppliers;
and
- (j) approving a refinancing, investment and/or sale solicitation process.

2. I am the managing director of FAAN Advisors Group Inc. (“FAAN”). FAAN was retained by Ben Moss on April 18, 2016 to act as Interim CFO of Ben Moss. On May 13, 2016, FAAN was retained by Ben Moss and certain related companies to act as CRO for the duration of these proceedings. Pursuant to the terms of FAAN’s engagement letters, I led the Ben Moss Interim CFO engagement and am now leading the CRO engagement in respect of Ben Moss and certain related companies. A copy of the redacted Ben Moss CRO Engagement Letter is attached to this affidavit at Exhibit “A”. Although my engagement as Interim CFO lasted only a few weeks, my responsibilities as Interim CFO included, among other things, assessing Ben Moss’s business, identifying cost reduction and operations improvement opportunities, and exploring restructuring alternatives. In addition to the forgoing, my mandate as CRO includes the authority to direct the operations, management, restructuring and refinancing of Ben Moss, including any refinancing, investment and/or sale solicitation process. The senior management of Ben Moss now report directly to me. As such, I have personal knowledge of the matters deposed to herein. Where I have relied on other sources for information, I have so stated and I believe them to be true. In preparing this Affidavit I have also consulted with other members of Ben Moss’s senior management team, senior management of certain of Ben Moss’s affiliated companies, and reviewed certain information provided by Ben Moss’s financial and legal advisors.

3. This Affidavit is divided into the following sections:

A. Introduction.....	5
B. Corporate Structure.....	10

(a)	Description of the Applicant	10
(b)	Chief Place of Business.....	12
C.	The Business of the Applicant	13
(a)	The Jewellery Retail Industry	13
(b)	Ben Moss Retail Business	14
(c)	Leases and Retail Stores.....	14
(d)	Employees	16
(e)	Gift Cards, Store Credit and Layaway Program	17
(f)	Critical Suppliers.....	18
(g)	Banking and Cash Management Systems	18
D.	Financial Position of Ben Moss	21
(a)	Assets	22
(b)	Liabilities.....	23
(c)	Revenue.....	24
(d)	Secured Debt and Credit Facility	25
(e)	Other Creditors.....	27
E.	Accommodation Agreement	28
F.	Urgent Need for Relief.....	31
G.	Restructuring Efforts to Date	32
(a)	Efforts to Refinance Credit Facilities.....	32
(b)	Efforts to Improve Profitability of Ben Moss Stores	33
H.	Relief Sought	34
(a)	Stay of Proceedings.....	34
(b)	Debtor In Possession Financing and DIP Charge	36
(c)	Payments During the CCAA Proceedings	40
(d)	RISP	41
(e)	Liquidation Consultant.....	45
(f)	Monitor.....	48
(g)	Administration Charge	48
(h)	Directors' and Officers' Protection	49
(i)	Cash Flow Forecast.....	50

A. Introduction

4. Ben Moss is a jewellery retailing business with 66 stores across Canada. It is headquartered in Winnipeg, Manitoba and is incorporated under the laws of Manitoba. Ben Moss employs approximately 549 hourly and salaried employees in Canada. Other stakeholder groups (discussed in greater detail below) include unrelated suppliers, customers, landlords, certain affiliated companies that supply goods to Ben Moss, and the Applicant's senior secured lenders, Salus Capital Partners, LLC ("Salus Capital") and Salus CLO 2012-1 Ltd. ("Salus CLO", and collectively with Salus Capital the "Senior Secured Lenders").

5. The Applicant is part of the JSN group of affiliated companies (collectively, the "JSN Group" or the "Companies"), which is principally comprised of two separate operating businesses: the Ben Moss jewellery retail business and the JSN jewellery wholesale business. In 2013, the JSN Group acquired Ben Moss to provide the wholesale business with an additional sales outlet. At the time of the acquisition, the JSN Group's management recognized an opportunity to vertically integrate manufacturing, wholesale and retail activities across the Companies. In order to finance the acquisition, the Companies utilized equity from the founder of the JSN Group and debt financing provided by Salus Capital.

6. Since the acquisition, there has been a significant decrease in Ben Moss's net sales and profitability, as a result of, *inter alia*, softness in western Canada due to declining energy prices and the appreciation of the U.S. dollar relative to the Canadian dollar, which has caused difficulties with inventory levels, merchandising and product mix at Ben Moss's stores. Furthermore, certain poorly performing stores, the expense of certain economically unviable leases and fixed overhead costs that are out of line with the level of total sales have consumed much needed capital. As a result of the foregoing, Ben Moss has impaired cash flow and is

- 6 -

experiencing a severe liquidity crisis. As described in detail below, these challenges have necessitated a restructuring under the CCAA. Without the relief sought in this application, Ben Moss will not be able to continue as a going concern. Notwithstanding the foregoing, I am advised by the President of the JSN Group's parent company that the wholesale business, which has a diversified group of top-tier customers in addition to Ben Moss, would be adversely affected by a filing and accordingly, without Salus Capital's objection, is not included as part of the proposed restructuring.

7. As described in greater detail below, Ben Moss and certain other members of the JSN Group are financed through a revolving credit facility (the "Revolving Credit Facility") and three term loan credit facilities (collectively with the Revolving Credit Facility, the "Credit Facilities") under a Credit Agreement dated as of July 18, 2013, as amended pursuant to the First Amending Agreement dated September 25, 2014 and as will be amended by an Accommodation Agreement substantially in the form described below (the "Accommodation Agreement"), between, the Applicant and certain other members of the JSN Group, as co-borrowers, Salus Capital, as administrative agent, collateral agent and lender and Salus CLO as lender (the "Salus Credit Agreement"). As at May 16, 2016, there was approximately CAD\$68.1 million outstanding under the Credit Facilities.

8. As a result of the financial challenges currently facing Ben Moss, an overadvance of USD\$855,048 (the "Overadvance") was requested under the Revolving Credit Facility on March 30, 2016. Salus Capital, in its capacity as administrative agent under the Salus Credit Agreement, granted the Overadvance on April 4, 2016. The Overadvance was used to make certain rent payments that had been due on April 1, 2016, along with payments relating to other general operating and working capital amounts. Since the Overadvance, the Senior Secured Lenders have

- 7 -

continued to fund the Borrowers (as defined below) notwithstanding the overadvance position under the Credit Facilities. In total there have been 21 additional permitted funding requests totalling approximately \$12 million in aggregate.

9. Since receiving the Overadvance, Ben Moss has continued to face financial difficulty and the Credit Facilities have remained in an overadvance position under the Salus Credit Agreement. As a result of the Overadvance, the total amount drawn down on the Revolving Credit Facility exceeds the maximum amount available by approximately \$7.5 million. Neither Ben Moss, the other Borrowers, nor the Guarantors (defined below) are able to repay the excess amount and this constitutes an Event of Default (as defined in the Salus Credit Agreement). In addition, Ben Moss and the other Borrowers breached the Collateral Coverage Ratio covenant (as defined in the Salus Credit Agreement), which also constitutes an Event of Default.

10. Salus Capital consequently issued to each of the Borrowers and Guarantors (i) demands for repayment (the "Demands") and (ii) Notices of Intention to Enforce Security (collectively, the "BIA Notices") pursuant subsection 244(1) of the *Bankruptcy and Insolvency Act*, all dated May 16, 2016. The Demands terminated the Borrowers' rights to access any further credit under the Salus Credit Agreement and all amounts outstanding under the Credit Facilities have become due and payable.

11. Pursuant to the Accommodation Agreement, Salus Capital agreed to forbear from exercising its rights and remedies under the Salus Credit Agreement until the earlier of (a) July 29, 2016; and (b) the occurrence of certain forbearance termination events, or such later date that the Proposed Monitor, Salus Capital, the Borrowers and the Guarantors so agree; on certain conditions. These conditions include, *inter alia*, compliance with a restructuring plan that involves Ben Moss filing for CCAA protection. Per the JSN Group's request, Salus Capital does

- 8 -

not require that the other Companies file for CCAA protection at this time, given the concern that such a filing would potentially jeopardize sensitive aspects of the JSN Group's global operations. Consequently, without a stay of proceedings and the Senior Secured Lenders' support for Ben Moss's restructuring, the Senior Secured Lenders would be in a position to enforce their security over the assets and property of Ben Moss.

12. As described in further detail below and subject to certain conditions, including the granting of the proposed Initial Order, the Accommodation Agreement provides that Salus Capital will provide the Applicant and the other Borrowers with continued access to the existing Credit Facilities (on the terms and conditions and subject to the limitations as specified in the Salus Credit Agreement, as amended by the Accommodation Agreement), and Salus CLO will provide the Applicant with an interim financing facility (the "DIP Facility") of up to \$8 million. The renewed access to the Credit Facilities, along with the proposed DIP Facility, are intended to provide the Applicant and the other Borrowers with adequate liquidity to satisfy their working capital requirements and for the Applicant to seek to complete a restructuring as part of this CCAA proceeding. The Applicant is unable to continue going concern operations to preserve enterprise value without access to the Credit Facilities and the DIP Facility.

13. Ben Moss is also seeking approval for a comprehensive refinancing, investment and/or sale solicitation process (the "RISP"), to be conducted with the assistance, and under the supervision, of the Proposed Monitor. The RISP has been reviewed and approved by Salus Capital and the Proposed Monitor and is described in greater detail below.

14. Ben Moss is facing immediate and serious challenges to its continued operations, including the threat of a demand for repayment from the Senior Secured Lenders, decreased sales levels, increasing costs due to the appreciation of the U.S. dollar relative to the Canadian dollar,

- 9 -

a number of severely underperforming stores and a misaligned fixed overhead cost structure. The Applicant is unable to sustain adequate liquidity to fulfill current business objectives and maintain going concern operations without commencing a CCAA process. The Applicant is unable to meet its liabilities as they become due and is therefore insolvent.

15. Over the course of the past several months, Ben Moss and the Companies engaged in significant efforts to pursue a restructuring outside of a formal insolvency proceeding. These efforts include the commencement of a process to seek a lender to refinance the Credit Facilities, hiring legal and financial restructuring advisors, continuing to optimize store operations and implement procurement strategies to maximize efficiencies, changing merchandising strategy, evaluating underperforming stores, developing strategies to improve profitability and conducting an overhead structure review to identify potential synergies and cost savings.

16. Based on my knowledge of the Applicant's business and my discussions with Ben Moss's senior management and the advisors to the Companies, it is my belief that the Applicant can be a viable business with significant future potential. In order to continue going concern operations and to access the only credit available to it in the circumstances, Ben Moss requires a stay of proceedings and related relief under the CCAA. A stay will enable Ben Moss to evaluate restructuring options concurrently with a potential sale of all or a portion of its business, with the ultimate goal of developing a plan of arrangement or compromise to restructure the business in a manner designed to maximize value to the greatest extent possible for its stakeholders.

17. I am advised by the President of the JSN Group's parent company and I believe that including the JSN Group's wholesale business in this CCAA Application would have a significant detrimental impact on the viability of its overseas supply chain and consequently the viability of the JSN Group as a whole. Ben Moss is currently reliant on the JSN Group for a

- 10 -

significant portion of its inventory and accordingly, such a detrimental impact on the JSN Group would have a corresponding impact on Ben Moss. Moreover, the JSN Group's wholesale business earnings before interest, taxes, depreciation and amortization ("EBITDA") margins¹ are significant, even taking into account the performance of Ben Moss. Per the JSN Group's request, Salus Capital is not requiring that the other Companies which operate the wholesale business file for CCAA protection at this time. Including the wholesale business as part of these proceedings would be detrimental to the interests of Ben Moss's stakeholders.

B. Corporate Structure

(a) Description of the Applicant

18. Ben Moss is a Manitoba corporation that is a wholly-owned indirect subsidiary of JSN Inc. and operates the only retail component of the Companies' business. Ben Moss's President (a former owner of Ben Moss who remained in his position as President after Ben Moss's acquisition) recently resigned as a corporate officer; however, he is still retained by Ben Moss in a strategic advisory capacity. Certain senior management also remain in place, including the Senior Vice President of Operations, the Vice President of Merchandising and the Director of Finance, all of whom are working closely with me in my capacity as CRO.

19. More detailed descriptions of the affiliated Companies who are parties to the Salus Credit Agreement and/or the Accommodation Agreement are found in the following paragraphs:

(a) **JSN Inc.** is a privately-held corporation owned by Joseph Shilon. It operates the Companies' wholesale business in Canada and has 100% direct or indirect

¹ The EBITDA margin is a measurement of a company's operating profitability as a percentage of its total revenue.

- 11 -

ownership of Ben Moss, 2373138 Ontario Inc. and JSN Jewellery UK Limited. JSN Inc. has a manufacturing and distribution facility in Toronto, Ontario. The manufacturing facility performs high margin, in-house repair and special order programs while maintaining complete control over quality. The distribution facility provides order fulfillment to the Companies' customers, including Ben Moss.

- (b) **2373138 Ontario Inc.** is a holding company and is inactive.
- (c) **JSN Jewellery UK Limited ("JSN UK")** is part of the Companies' wholesale business. It sells products manufactured by the Companies to retailers in the United Kingdom. JSN UK has no retail operations.
- (d) **Always & Forever Family Collection Incorporated ("AFFC")** is a wholesale business that specializes in jewelry that incorporates the birthstones of the customers' family.
- (e) **GMJ Corporation ("JSN US")** is part of the Companies' wholesale business. It sells products manufactured by the Companies to retailers in the United States. It has no retail operations and does not have any employees, but rather engages independent contractors to facilitate the sale of JSN product in the U.S.
- (f) **P.M.R. Inc. ("PMR")** is in the business of precious metals and stone reclamation. PMR operates and maintains specialized, leased equipment in Ben Moss stores to conduct metallurgical analysis on used jewellery, which may then be exchanged for cash or Ben Moss store credit. PMR then reclaims the raw

- 12 -

materials or refurbishes the jewellery in order to sell the refurbished jewellery or raw materials primarily to other members of the JSN Group.

20. Other members of the JSN Group, all of which are owned directly or indirectly by Joseph Shilon, include:

- (a) **Utopia Jewellery Co.**, a Thailand company that operates the JSN Group's jewellery manufacturing facilities in Thailand;
- (b) **Utopia Diamond Inc.**, a Thailand company that cuts and polishes raw diamonds for use in jewellery manufactured by Utopia Jewellery Co., the operations of which have currently been suspended; and
- (c) **Global Diamond (G.D.) Ltd.**, an Israeli company which acts as a diamond broker for the JSN Group in Israel.

(b) Chief Place of Business

21. Ben Moss's chief place of business is Ontario. There are 27 Ben Moss stores located in Ontario, which is the largest number of Ben Moss stores in any province where Ben Moss operates. Currently, Ben Moss has approximately 208 employees in Ontario, which is more people than Ben Moss employs in any other province or territory. The Ontario operations of Ben Moss accounted for approximately \$29 million in revenue for the 2015 fiscal year, representing roughly 34% of Ben Moss's total revenue, which is more revenue than any other province. Additionally, the largest number of stores that are expected to be closed as part of the restructuring are located in Ontario. As more particularly described below, the Ben Moss centralized cash management system is administered by JSN Inc., the head office of which is located in Toronto.

- 13 -

22. Previously, key decisions for the Ben Moss business were made out of its head office in Winnipeg, Manitoba. However, certain decision-making responsibility has been assumed recently by Ben Moss's parent company, JSN Inc., which is located in Toronto. Furthermore, I am now acting as Ben Moss's CRO and I am domiciled in the Town of Oakville. Ontario has become the "nerve centre" of the Applicant's operations.

C. The Business of the Applicant

(a) The Jewellery Retail Industry

23. The jewellery and watch market includes products made from gold, silver and other precious metals such as platinum, diamonds and other precious stones (e.g. sapphires, emeralds and rubies), pearls and semiprecious stones. Global revenues from jewellery and watches totaled \$290 billion in 2014. The jewellery and watch industry is expected to experience continued growth of 7% annually over the next five years, driven by growth in per capita income and gold prices.

24. The Canadian retail jewellery industry is dominated by smaller operations, with the vast majority of establishments employing less than 100 people. Industry operators compete less on price and more on factors such as brand strength and salience, product quality and designs. Successful brands often hire knowledgeable staff and renowned designers, and enter into licensing deals with celebrities to showcase products. Since 'fast fashion' has become standard, operators also compete on relatively lower cost items designed and marketed to address prevalent fashion trends of the time.

- 14 -

(b) Ben Moss Retail Business

25. Ben Moss has strategically positioned itself to serve the middle through upper price point jewellery markets. It also has the unique ability to offer custom and special order designs. Ben Moss began sourcing more product from the JSN Group, including products manufactured by Utopia Jewellery Co., after it was acquired in 2013. Its partnership with the JSN Group's wholesale business provides an unmatched ability to respond to emerging trends by quickly delivering the latest product to stores.

26. Ben Moss offers a wide selection of product ranging from entry-level priced diamond designs to fully-certified, top-quality diamond jewellery available in 10-kt. to 14-kt. gold. Other products which are not supplied by the JSN Group include watches and gold and silver jewellery from various companies including Citizen Watch Company, Bulova Watch Company, Movado Watches, Malo, First Jewellery, and Shiny Jewellery.

27. Certain of Ben Moss's products are also available for sale via its online store at www.benmoss.com. Only 0.8% of Ben Moss's sales are completed through the online store.

(c) Leases and Retail Stores

28. Ben Moss leases a significant amount of office space for its corporate headquarters in Winnipeg, Manitoba.

29. Ben Moss also leases stores across Canada from third party landlords. The typical format for a Ben Moss store is a strategically located storefront in a mall. Many of Ben Moss's store leases are with large retail landlords who lease several locations to Ben Moss. A typical Ben Moss store is approximately 1,100 square feet.

- 15 -

30. The following chart sets out Ben Moss's current store locations by geographical region as of May 2016:

Location	Number of Ben Moss Locations
<i>Ontario</i>	27
<i>Alberta</i>	17
<i>British Columbia</i>	9
<i>Manitoba</i>	5
<i>Saskatchewan</i>	5
<i>Nova Scotia</i>	2
<i>New Brunswick</i>	1
Total	66

31. As part of Ben Moss's restructuring under these proceedings, it plans to close certain retail locations that are unprofitable or that make marginal contributions to the overall profitability of Ben Moss. Inventory reduction sales have already begun in certain locations. It is likely that a process for store closures will commence in the following provinces within the initial stay period:

Location	Number of Store Closings
<i>Ontario</i>	7
<i>British Columbia</i>	1
<i>Saskatchewan</i>	1
<i>Nova Scotia</i>	1
<i>New Brunswick</i>	1
Total	11

- 16 -

The likely closure of these stores and the planned disclaimer of the underlying leases during the initial stay period will improve the health of the 55 stores that remain open. In addition, it is a condition of the Accommodation Agreement that Ben Moss either undertake these and/or other store closures or otherwise take steps to significantly enhance their profitability.

32. There are also several retail locations that have been identified by Ben Moss as viable, but for the poor economic terms of the associated leases. A stay of proceedings will provide the Applicant with an opportunity to pursue consensual amendments to these leases.

33. Ben Moss, in consultation with the Proposed Monitor, is evaluating all of Ben Moss's operating expenses. Ben Moss anticipates that as part its restructuring efforts, cost-cutting initiatives will take place shortly after the commencement of these proceedings and during the initial stay period in connection with the planned closure of certain retail locations.

(d) Employees

34. Ben Moss employs approximately 164 full time and 385 hourly employees in Canada. A typical Ben Moss store is staffed by 8-10 employees, with additional coverage during holidays and peak selling periods. The staff includes both full and part-time sales associates and a store manager. Store managers are compensated through base salary and company-paid benefits, while sales associates are paid hourly wages. In addition, some of these individuals are eligible to receive profitability bonuses. Ben Moss has also established a group RRSP for employees, which RRSP is not company-funded. There are no registered pension plans for Ben Moss management or other employees. Ben Moss's employees are non-unionized.

- 17 -

(e) Gift Cards, Store Credit and Layaway Program

35. Ben Moss customers can purchase gift cards (“Gift Cards”) in-store or online, to be redeemed for merchandise. The Gift Cards are managed through a master service agreement with a third party. As of May 13, 2016, Ben Moss had \$167,202 of outstanding Gift Cards.

36. Customers can also obtain in-store credit (“Store Credit”) when they return merchandise, to be redeemed for other merchandise in any Ben Moss store. As of May 13, 2016, Ben Moss had \$110,820 of outstanding Store Credit.

37. Ben Moss also offers a layaway program (the “Layaway Program”) in its retail locations to allow customers to pay for products over the course of a few months. The Layaway Program requires an initial deposit of at least 20% of the total purchase price, including taxes, and allows payment to be spread out over a maximum of six consecutive months.

38. When a product is purchased as part of the Layaway Program, the product stays in the store until the purchase price is paid in full. The customer is provided with a receipt that includes the item description, layaway number and balance owing. Every time the customer pays more money against the layaway, the receipt is updated to reflect the current balance owing. If a customer cancels a layaway, his or her payments are refunded (less any special order/non-refundable fees). As of May 2016, approximately \$2.4 million of merchandise has been purchased as part of the Layaway Program, of which approximately \$1.1 million has thus far been received from various customers as deposits. Pursuant to the current Cash Management System (defined below), customer payments made under the Layaway Program are comingled with Ben Moss’s other cash receipts and deposit accounts which are then transferred to Salus Capital’s concentration accounts on a regular basis.

- 18 -

39. Ben Moss's Gift Cards, Store Credit program, and Layaway Program increase sales and improve the customer experience. As such, Ben Moss seeks in the Initial Order that it be authorized, with the consent of the Proposed Monitor, to continue providing and to honour Gift Cards and Store Credit during these proceedings. At this time, Ben Moss will not be accepting any new deposits with respect to the Layaway Program, either from existing Layaway Program customers or with respect to new purchases, with the exception of existing Layaway Program customers who decide to pay the remaining balance in full and who will then receive the fully paid-for merchandise.

(f) Critical Suppliers

40. Ben Moss works with a number of third party service providers who are essential to its business. Ben Moss is seeking authorization to make certain payments, including payments owing in arrears, to certain third parties that provide services that are critical to Ben Moss's ongoing operations during the restructuring.

(g) Banking and Cash Management Systems

41. Ben Moss maintains a centralized cash management system (the "Cash Management System"), which is administered from JSN Inc.'s head office. The Applicant's bank accounts are maintained and controlled by JSN Inc.'s senior management, which is based in Toronto, utilizing cash management systems established at the Royal Bank of Canada ("RBC") and certain other banks.

42. The majority of Ben Moss store sales are transacted through credit and debit cards with the related settlement receipts being deposited daily by the card processor into a blocked deposit account with RBC. Cash sales are deposited daily by each store into a "deposit only" account for

- 19 -

that store at the closest financial institution, including Scotiabank, CIBC, TD and RBC. Upon deposit, funds are then electronically transferred to and consolidated in an RBC blocked account at the end of each day. The funds in both of these RBC blocked accounts are automatically transferred to Salus Capital each day. Store cash deposits made to BMO accounts are automatically swept to a BMO blocked account (collectively with the RBC blocked accounts, the “Blocked Accounts”) once per week and the funds in the BMO Blocked Account are then transferred to Salus Capital automatically once per week. Other bank accounts include payroll as well as a USD and CAD operating account.

43. As discussed further below, the Revolving Credit Facility under the Salus Credit Agreement is structured as a typical asset-based loan. Advances are made based on the amount of available credit, which varies based on the value of the Borrowers’ collateral, specifically, their inventory and accounts receivable balances. Cash receipts represent a loss/replacement of the collateral which supports the indebtedness. Thus, the money deposited by Ben Moss into the Blocked Accounts from the sale of its inventory represents both a reduction in the collateral securing the Senior Secured Lenders’ outstanding loans and a corresponding reduction in the amount borrowed under the Revolving Credit Facility.

44. Since the sale of inventory constantly erodes the collateral which supports the indebtedness, asset-based lenders generally have dominion over a borrower’s cash receipts. Indeed, since the inception of the Salus Credit Agreement, Salus Capital has had cash dominion over all receipts of the Borrowers in part pursuant to a number of blocked account agreements between Salus Capital, Ben Moss and a number of banks (collectively, the “Blocked Account Agreements”), copies of which Blocked Account Agreements are attached at Exhibit “B” to this Affidavit. In accordance with the terms of the Blocked Account Agreements, all of the Ben Moss

- 20 -

receipts deposited to the Blocked Accounts are automatically swept to Salus Capital's collection accounts. Similarly, the other Borrowers' receipts are deposited into accounts and swept to Salus Capital's collection accounts and applied against the amounts owing under the Credit Facilities.

45. On a regular basis, Salus Capital re-advances funds to JSN Inc. in accordance with the borrowing base and the other terms of the Salus Credit Agreement. JSN Inc.'s regularly prepared borrowing base is used to determine the amount of financing availability (as supported by collateral) the Companies can draw upon in accordance with the Salus Credit Agreement. Each such borrowing base is certified by an officer of the JSN Group. In this fashion, Salus Capital's cash dominion and the Companies' borrowing base serve a collateral monitoring function that is essential to the asset-based nature of the Revolving Credit Facility and is typical and customary in all asset based lending arrangements.

46. Ben Moss provides cash flow forecasts to JSN Inc. to substantiate any requests for funding and JSN Inc. then transfers funds, upon receipt from Salus Capital, as needed and/or available to Ben Moss's USD and CAD operating accounts. Ben Moss uses its operating accounts to make payments to its vendors and landlords, through the use of cheques, pre-authorized payments, wires and credit card payments.

47. Pursuant to the Salus Credit Agreement, the JSN Group prepares a single borrowing base. Accordingly, the JSN Group's total availability is determined by its consolidated collateral (inventory at both JSN Inc. and Ben Moss as well as accounts receivable from all of its operations). On that basis, management at JSN Inc. must determine how to allocate funds received from Salus Capital among the Borrowers. To the extent that the borrowing base is insufficient to satisfy all such requirements, management must determine how best to make such an allocation or, as was the case in early April 2016 and persisting to the date hereof, request that

- 21 -

Salus Capital provide additional funding by way of an overadvance, which constitutes an Event of Default.

48. The Applicant intends to continue using the existing Cash Management System (including the borrowing base regime whereby a unified borrowing base for all of the Companies is regularly submitted to Salus Capital) during the CCAA Proceedings and is seeking the approval of the Court to do so. The continued use of the Cash Management System is a condition of the Accommodation Agreement and the DIP Facility. 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 successfully complete the CCAA Proceedings.

D. Financial Position of Ben Moss

49. A copy of Ben Moss's unaudited financial statements dated March 28, 2015 is attached as Exhibit "C".² A copy of Ben Moss's internal draft unaudited financial statements dated March 26, 2016 is attached as Exhibit "D". I am informed by Ellen Baranyi, the Director of Finance of Ben Moss, and I believe that although the March 26, 2016 draft financial statements are not finalized, any adjustments made would not be material.

50. The Companies' Credit Facilities are not included as part of Ben Moss's financial statements but are instead included in the combined audited financial statements of the Companies.

51. Certain information contained in Ben Moss's March 26, 2016 draft financial statements is summarized below. All amounts in this Affidavit are in Canadian Dollars.

² Ben Moss's financial statements are in the normal course incorporated into the consolidated audited financial statements of JSN Inc., JSN US, JSN UK, Ben Moss, 2373138 Ontario Inc. and Utopia Jewellery Co.

- 22 -

(a) Assets

52. As at March 26, 2016, Ben Moss had combined total assets of \$72,249,130.

(i) Current Assets

53. Ben Moss's current assets (as at March 26, 2016) represented \$48,574,758 of its total assets and consisted of:

- (a) Cash – (\$550,449)
- (b) Accounts receivable – \$6,348,473
- (c) Inventories – \$41,991,146
- (d) Prepaid expenses and other assets – \$620,040
- (e) Restricted cash – \$165,548

54. The majority of Ben Moss's current assets are made up of inventories and accounts receivable. The vast majority of the accounts receivable is due from PMR.

(ii) Non-Current Assets

55. Ben Moss's non-current assets (as at March 26, 2016) represented \$23,674,372 of its total assets and consisted of:

- (a) Capital assets – \$11,144,237
- (b) Intangible assets – \$11,534,587
- (c) Goodwill – \$2,995,548

- 23 -

56. The majority of the Ben Moss's non-current assets are made up of capital assets and intangible assets.

(b) Liabilities

57. As at March 26, 2016, Ben Moss's total liabilities were approximately \$62,168,925. These liabilities consisted of current liabilities of approximately \$37,481,970, and non-current liabilities of approximately \$24,686,955. The Credit Facilities are not included as part of Ben Moss's financial statements, and therefore are not included in the tally of its liabilities. The Credit Facilities are instead included in the combined audited financial statements of the JSN Group.

(i) Current Liabilities

58. Current liabilities as at March 26, 2016 included:

- (a) Accounts payable and accrued liabilities – \$12,073,326
- (b) Government remittances payable – \$360,486
- (c) Current portion of deferred lease inducements – \$10,745
- (d) Current portion of deferred service plan revenue – \$810,757
- (e) Current portion of obligations under capital leases – \$714,334
- (f) Current portion of long-term debt – \$43,009
- (g) Due to ultimate parent company – \$23,469,313

- 24 -

(ii) **Non-Current Liabilities**

59. Non-current liabilities as at March 26, 2016 included:

- (a) Deferred lease inducements – \$83,538
- (b) Deferred service plan revenue – \$365,086
- (c) Unfavourable off-market leases – \$60,573
- (d) Obligations under capital leases – \$233,196
- (e) Due to parent company – \$23,944,562

(c) **Revenue**

60. Ben Moss's consolidated net sales decreased by \$6.7 million (7.8%) between its 2015 fiscal year and its 2016 fiscal year. The decline was caused by, *inter alia*:

- (a) Softness in western Canada due to declining energy prices;
- (b) Poor inventory mix; and
- (c) An inability to stock non-core products in advance of the key holiday retail season as a result of the appreciation of the U.S. dollar relative to the Canadian dollar.

61. Earnings before interest, taxes, depreciation and amortization for Ben Moss decreased from \$4.0 million in its 2014 fiscal year to \$2.0 million in its 2015 fiscal year and further decreased to (\$0.4) million in its 2016 fiscal year.

62. Ben Moss has also incurred net losses totalling approximately \$4.2 million in its 2016 fiscal year.

- 25 -

(d) Secured Debt and Credit Facility

63. As noted above, Ben Moss and certain other Companies entered into the Salus Credit Agreement, a copy of which is attached as Exhibit “E”. The parties to the Salus Credit Agreement are: (i) JSN Inc., as lead borrower; (ii) JSN UK, JSN US and Ben Moss, as co-borrowers (collectively with JSN Inc., the “Borrowers”); (iii) 2373138 Ontario Inc., FJI³ and Joseph Shilon as guarantors (the “Guarantors”); (iv) Salus Capital, as administrative agent, collateral agent and lender; and (v) Salus CLO as lender.

64. The Salus Credit Agreement provides for the Credit Facilities and was entered into partly in order to finance the acquisition of Ben Moss. The Salus Credit Agreement funds the operations of Ben Moss as well as other operations of the JSN Group, including the operations of Utopia Jewellery Co., Utopia Diamond Inc. and Global Diamond (G.D.) Ltd.

65. The obligations of the Borrowers under the Salus Credit Agreement are secured by first-priority liens on substantially all of the Borrowers’ assets pursuant to a general security agreement dated July 18, 2013 (the “General Security Agreement”), a joinder to the General Security Agreement dated July 18, 2013 (the “Joinder”), a U.S. general security agreement executed by JSN US (the “U.S. General Security Agreement”), a UK guarantee and debenture executed by JSN UK (the “UK Debenture”) and certain other security documents (collectively, the “Security Documents”). Copies of the General Security Agreement, the Joinder, the U.S. General Security Agreement and the UK Debenture are attached as Exhibits “F”, “G”, “H”, and “I” to this Affidavit, respectively.

³ Forever Jewellery Inc. (“FJI”) is a separate jewellery wholesaling business. It is not affiliated with the JSN Group but it purchases product from the JSN Group and the companies cooperate for advertising and sales purposes.

- 26 -

66. Each of the Guarantors guaranteed the performance of the Borrowers' obligations under the Salus Credit Agreement. 2373138 Ontario Inc.'s obligations as a Guarantor are secured by a first-priority lien on substantially all of its assets pursuant to the General Security Agreement. FJI's obligations as a Guarantor are secured by a first-priority lien on substantially all of its assets pursuant to the General Security Agreement; however, the recourse of the Senior Secured Lenders against FJI was limited to an amount equal to the sum of amounts due from FJI to the Borrowers and other Guarantors from time to time. Joseph Shilon's guarantee is not secured and the recourse of the Senior Secured Lenders under this guarantee was limited to \$3,000,000.

67. The Credit Facilities mature on July 18, 2016. They are comprised of the \$50 million committed Revolving Credit Facility, a \$7 million term loan credit facility (the "Term A Facility"), a \$13 million term loan credit facility (the "Term B Facility") and a U.S.\$3.5 million term loan credit facility (the "Term C Facility").

68. The applicable interest rate and the amounts outstanding under each of the respective Credit Facilities is as outlined below:

	Current Facility	Amount Outstanding	Interest Rate on advances	Default Interest Rate on advances
Revolving Credit Facility	\$50 million	\$53.9 million	Canadian Prime Rate ⁴ plus 3.5%	Canadian Prime Rate plus 6.5%
Term A Facility	\$7 million	\$4.8 million	Canadian Prime Rate plus 7.75%	Canadian Prime Rate plus 10.75%
Term B Facility	\$13 million	\$4.9 million	Canadian Prime Rate plus 9.75%	Canadian Prime Rate plus 12.75%
Term C Facility	U.S.\$3.5 million	U.S.\$3.5 million	U.S. Base Rate ⁵ plus 9.75%	U.S. Base Rate plus 12.75%

⁴ Royal Bank of Canada prime rate for Canadian dollar commercial loans in Canada (the "Canadian Prime Rate").

⁵ Royal Bank of Canada base rate for U.S. dollar commercial loans in Canada ("U.S. Base Rate").

69. In the event that the amount drawn under the Revolving Credit Facility is greater than the Maximum Revolving Loan Amount (as defined in the Salus Credit Agreement), the amount of such discrepancy must be immediately paid by the Borrowers to the Senior Secured Lenders. Salus Capital may exercise its discretion to establish reserves that it determines are appropriate to, *inter alia*: (i) reflect the impediments of the Senior Secured Lenders' ability to realize upon the security granted pursuant to the Security Documents (the "Security"); or (ii) reflect claims and liabilities that will need to be satisfied in connection with the realization of the Security.

(e) Other Creditors

70. 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").

71. As part of the 2013 Ben Moss sale transaction, the Numbered Companies paid out a lease agreement with Wells Fargo, since Wells Fargo was not willing to assign the lease agreement as part of the sale. In return, Ben Moss provided the Numbered Companies with a promissory note and a purchase money security agreement. The Numbered Companies are still owed approximately \$29,000 by Ben Moss as of May 2016.

72. National Leasing financed the acquisition of certain equipment for use in the Ben Moss stores pursuant to a Master Lease Agreement dated July 7, 2010 (the "2010 Master Lease Agreement"). The 2010 Master Lease Agreement was subsequently assigned to HSBC. The 2010 Master Lease Agreement provides, *inter alia*, that in the event that Ben Moss files for protection

- 28 -

under the CCAA, all rent and any other payments to the end of the lease term (as of May 2016, approximately \$675,000) become due and payable on HSBC's demand. Additionally, JSN Inc. has agreed to indemnify HSBC in the event that Ben Moss is unable to make its rent payments to HSBC.

73. National Leasing also financed the acquisition of certain equipment for use in the Ben Moss stores pursuant to a Master Lease Agreement dated September 12, 2011.

74. Xerox financed the acquisition of certain equipment for use in the Ben Moss head office.

75. As at the date of filing, no amounts are outstanding under the agreements with the Other Secured Creditors. Additionally, the cash flows (discussed below) provide for the continued payment of the amounts owing under all of these agreements going forward. As such, it is anticipated that the Other Secured Creditors will remain unaffected by Ben Moss's filing for protection under the CCAA.

E. Accommodation Agreement

76. Ben Moss has continued to face financial difficulty since receiving the Overadvance. As a result of the Overadvance, the total amount drawn down on the revolver exceeds the Maximum Revolving Loan Amount provided for in the Salus Credit Agreement by approximately \$7.5 million.⁶ Neither Ben Moss, the other Borrowers, nor the Guarantors are able to repay the excess amount, which constitutes an Event of Default.⁷ As a result, Salus Capital issued the BIA

⁶ The Maximum Revolving Loan Amount is effectively the lesser of \$50 million and the borrowing base.

⁷ As noted above, Ben Moss and the other Borrowers breached the Collateral Coverage Ratio covenant, which constitutes an Event of Default. As a result of the Events of Default, the default interest rates outlined in the chart above are now in effect.

- 29 -

Notices and the Demands for repayment pursuant to which the Companies' rights to access any further credit under the Salus Credit Agreement were terminated.

77. Pursuant to the Accommodation Agreement Salus Capital agreed to forbear from exercising its rights and remedies under the Salus Credit Agreement, to take no further action or proceedings in further of the Demands or the BIA Notices, and to continue to provide the Credit Facilities until the earlier of (a) July 29, 2016; and (b) the occurrence of certain forbearance termination events, or such later date that the Proposed Monitor, Salus Capital, the Borrowers and the Guarantors so agree; on certain conditions. These conditions include, *inter alia*:

- (a) Execution of the DIP Facility;
- (b) Compliance in all material respects, as determined by Salus Capital in the exercise of its reasonable business judgment, with a restructuring plan that involves Ben Moss filing for CCAA protection;
- (c) Compliance with the Cash Flows (as defined in the Accommodation Agreement);
- (d) Ben Moss obtaining an order from the Court commencing CCAA proceedings, in form and substance satisfactory to Salus Capital, providing for, among other things:
 - (i) A stay of proceedings;
 - (ii) The approval of the DIP Facility;
 - (iii) A charge in favour of Salus Capital as agent under the DIP Facility to secure obligations under the DIP Facility;
 - (iv) Approving and providing for the continuation of Ben Moss's current cash management system; and
 - (v) Approving the RISP; and

- 30 -

- (e) The appointment of FAAN as chief restructuring officer of Ben Moss, JSN Inc., JSN UK, JSN US, 2373138 Ontario Inc., AFFC and PMR.

78. Pursuant to the Accommodation Agreement, in consideration for Salus Capital's commitment to forbear and to provide the DIP Facility, *inter alia*:

- (a) AFFC and PMR have provided (or will provide) an unlimited, secured guarantee of all obligations to the agent under the Credit Facilities and to the DIP Lender;
- (b) JSN UK has agreed to provide such additional guarantee and/or debenture documents as required by the Senior Secured Lenders;
- (c) Joseph Shilon amended his personal guarantee of the Credit Facilities to also guarantee all obligations to the DIP Lender and increased the value of the guaranteed amount thereunder to \$11,000,000;
- (d) JSN Inc. agreed that, unless otherwise agreed to by Salus Capital, should no qualifying LOI be received by the Phase 1 LOI Deadline (defined below), JSN Inc. and/or the Applicant will, within two days, seek an Order of the Court adding JSN Inc. and certain other members of the JSN Group as applicants in Ben Moss's CCAA proceedings; and
- (e) JSN Inc., JSN UK, JSN US, 2373138 Ontario Inc., AFFC and PMR provided secured guarantees of the Applicant's obligations under the DIP Facility.

79. For the reasons previously described, per the JSN Group's request, Salus Capital did not require that the other Companies file for CCAA protection at this time.

80. Without a stay of proceedings and the Senior Secured Lenders support for Ben Moss's restructuring, the Senior Secured Lenders would be in a position to enforce their security over the assets and property of Ben Moss. Therefore, Ben Moss is insolvent and has commenced this CCAA proceeding.

F. Urgent Need for Relief

81. Ben Moss is facing multiple challenges to its continued operations, including immediate liquidity challenges due to Salus Capital's decision to make the Demands for repayment and accelerate Ben Moss's debt.

82. Additionally, the appreciation of the U.S. dollar relative to the Canadian dollar has resulted in Ben Moss paying more Canadian dollars in 2016 for less product, causing significant liquidity constraints. This has resulted in a suboptimal product mix and a lack of ability to replenish the best-selling, non-core products (watches, gold, etc.), causing significant sales declines and serious underperformance by certain retail locations.

83. Without access to the incremental borrowings that had previously been available under the Credit Facilities from September to November, Ben Moss's liquidity and availability was constrained and it was unable to properly stock its non-core product lines for the important holiday selling season. Ben Moss's non-core product offerings performed very poorly with sales declining by \$3.1 million (14%) over prior year due to the lack of available inventory (down over 18% from prior year). Despite accounting for only 25% of total sales, the non-core product categories at Ben Moss accounted for over 50% of the sales decline over the prior year.

84. While there seems to be an increase in Ben Moss's inventory balances over the past year, this is largely due to the appreciation of the U.S. dollar relative to the Canadian dollar. The core

- 32 -

input costs (gold and diamonds) are sourced in U.S. dollars, and while the input costs in U.S. dollars have not changed substantially, when translated into Canadian dollars the cost appreciation is substantial. Therefore while the Ben Moss balance sheet reflects an increase in the value of inventory, the actual number of units on hand has decreased significantly: the average number of non-core product units declined by 20,000 units (23.5%) and the average number of non-core units per store have declined by 26.9%.

85. Without the stay of proceedings contemplated herein, which would provide Ben Moss with the opportunity to restructure its operations, Ben Moss will not be able to address the challenges described above that have put the business in peril. It is my view that these CCAA proceedings will give Ben Moss the ‘breathing room’ it requires to make the necessary changes to its cost structure and either (i) obtain new capital; or (ii) pursue a sale transaction pursuant to the RISP which would allow the business an opportunity to continue.

G. Restructuring Efforts to Date

86. JSN Inc. has been exploring the possibility of refinancing the Credit Facilities as well as restructuring the Ben Moss retail business. To that end, JSN Inc. engaged Osler, Hoskin & Harcourt LLP as its legal advisor and Alvarez & Marsal Canada ULC as its financial advisor in March 2016 to assist it in its strategic alternatives review process.

(a) Efforts to Refinance Credit Facilities

87. In August 2015, Alvarez & Marsal Canada Securities ULC (“A&M Corporate Finance”) was engaged by JSN Inc. to initiate a process to effectuate a refinancing of the Credit Facilities. A&M Corporate Finance commenced active solicitation of potential lenders in January 2016 and contacted numerous parties, including financial institutions based in both Canada and the U.S.

- 33 -

88. Many of the lenders that were contacted have been provided with information on the business and have requested the execution of non-disclosure agreements (“NDAs”). As of March 7, 2016, 37 parties had executed NDAs and received a Confidential Information Memorandum in connection with a refinancing of the Credit Facilities. A&M Corporate Finance provided parties who executed NDAs with additional information related to Ben Moss, including historical financial information, financial forecasts and recent inventory appraisals and a letter requesting proposals on February 26, 2016. To date, this process has not resulted in an acceptable refinancing proposal.

89. In March 2016, JSN Inc. engaged Alvarez & Marsal Canada ULC to assist with JSN Inc.’s strategic review process. The engagements of A&M Corporate Finance and Alvarez & Marsal Canada ULC will be terminated upon the appointment of the Proposed Monitor.

(b) Efforts to Improve Profitability of Ben Moss Stores

90. Since the acquisition of Ben Moss, significant efforts have been made to derive operational synergies and performance enhancements for the business. Management continues to implement a plan to transform Ben Moss into a more nimble, responsive and profitable company. Some steps that have been or continue to be taken include:

- (a) Selecting key external vendors to become category managers of non-core product lines (watches, gold jewellery, etc.) to ensure efficient inventory spending and maximize inventory turns;
- (b) Maximizing sell-through with an updated and refreshed merchandising strategy and ensuring an optimal product mix tailored to specific stores based on local demographics and trends;

- 34 -

- (c) Examining store operations to identify opportunities for savings, including efficient staffing policies and direct-to-store shipping capabilities;
- (d) Investing in Ben Moss's ecommerce business to help drive traffic to its retail locations;
- (e) Conducting a store-by-store profitability analysis to identify possible store closures;
- (f) Reviewing overhead structure to identify synergies and cost savings; and
- (g) Soliciting interest and selecting a liquidator to commence inventory reduction in selected underperforming stores.

H. Relief Sought

91. The Applicant has made efforts to pursue a restructuring outside of a formal insolvency proceeding. However, Ben Moss is not able to honour its debt obligations to the Senior Secured Lenders and its liquidity position continues to significantly deteriorate. Ben Moss cannot pursue a restructuring or maintain going concern operations without the protection of CCAA proceedings. The Applicant is unable to meet its liabilities as they become due and is therefore insolvent.

(a) Stay of Proceedings

92. In order to prevent a fast erosion of enterprise value and to permit Ben Moss to continue to operate as a going concern, the Applicant requires a stay of proceedings. Ben Moss is concerned about its inability to make payments owing under the Salus Credit Agreement, as well as the potential termination of contracts by key suppliers and the inability to force suppliers to

- 35 -

provide future product. It would be detrimental to Ben Moss's ability to restructure if proceedings were commenced or continued or rights and remedies were executed against Ben Moss.

93. The Applicant requests that the benefit of the stay of proceedings be extended to JSN Inc. in relation to any claims brought against JSN Inc. as a result of cross-default provisions in respect of amounts owing by Ben Moss to third parties (for instance, claims pursuant to the indemnity granted by JSN Inc. with respect to the 2010 Master Lease Agreement). The stay would be limited to amounts owing that are currently not in arrears and that are contemplated in the cash flows as being paid in the ordinary course. As at the date of filing, no amounts are outstanding under Ben Moss's agreements with the Other Secured Creditors. Additionally, the cash flows (discussed below) provide for the continued payment of the amounts owing under Ben Moss's agreements with the Other Secured Creditors going forward. It is anticipated that the Other Secured Creditors will not be negatively impacted by the extension of the stay of proceedings to JSN Inc.

94. The operations of Ben Moss and JSN Inc. are intertwined and the extension of the stay is necessary to maintain stability and value in the CCAA process. Any proceedings commenced against JSN Inc. would necessarily require the participation of key personnel of the Applicant – for example, to provide evidentiary support for the claim through witnesses or documents. The need to provide such support could be a very significant distraction for the Applicant's key personnel during the restructuring and would materially detract from the paramount goal of achieving the timely restructuring of the business.

95. The stay will provide management with the breathing space it needs to develop and oversee an orderly restructuring of the business with minimal disruptions to current business

- 36 -

operations, as well as to consider any operational restructuring initiatives. This, in turn, will help to protect the interests of the Applicant's stakeholders, including employees, suppliers, landlords, customers and lenders. Having regard to the circumstances, and in an effort to preserve the value of the Applicant's business, the granting of a stay of proceedings is in the best interests of the Applicant and its stakeholders.

96. If granted CCAA protection, Ben Moss plans to aggressively pursue a restructuring of its business. Among other things, Ben Moss plans to:

- (a) close those retail locations that are unprofitable or that make marginal contributions to the overall profitability of Ben Moss (the "Closed Locations");
- (b) renegotiate the terms of certain economically unviable leases;
- (c) liquidate inventory currently held at the Closed Locations and disclaim the leases in connection with the Closed Locations to obtain much needed cash flow;
- (d) evaluate opportunities to reduce other operating costs;
- (e) implement changes to optimize inventory management; and
- (f) continue seeking an investor to refinance the Credit Facilities.

(b) Debtor In Possession Financing and DIP Charge

97. As a result of its current liquidity challenges, Ben Moss requires interim financing over and above the current Overadvance and authorized credit limits on an urgent basis to continue as a going concern. As demonstrated in the cash flow forecast (discussed below), Ben Moss is in

- 37 -

need of funding for working capital, general corporate purposes, and for post-filing expenses and costs in order to successfully restructure its business during this CCAA proceeding.

98. As discussed above, subject to certain terms and conditions, Salus Capital has agreed to allow Ben Moss to continue to access the existing Credit Facilities pursuant to and in accordance with the Accommodation Agreement. Salus CLO has agreed, subject to certain terms and conditions, to act as DIP lender (the “DIP Lender”) and to provide interim financing through the availability of drawdowns under the Super Priority DIP Credit Agreement (again, the “DIP Facility”) of \$8 million to Ben Moss. A copy of the draft DIP Facility, which is expected to be executed in substantially the same form, is attached hereto as Exhibit “J”.

99. Access to the DIP Facility is subject to compliance with the Accommodation Agreement, as well as a budget, restructuring plan and RISP. Ben Moss would only be permitted to access the DIP Facility in the event that the existing Credit Facilities are fully drawn down, which is currently the situation as there is no availability under the existing Credit Facilities. As discussed above, execution of the DIP Facility is a condition of entering into the Accommodation Agreement. The DIP Facility is guaranteed by JSN Inc., JSN UK, JSN US, 2373138 Ontario Inc., FJI, AFFC, PMR and Joseph Shilon.

100. The DIP Facility expressly provides that Ben Moss may not draw down any advances under the DIP Facility to be used to repay any indebtedness outstanding prior to the date of the commencement of this proceeding, except in accordance with the Initial Order.

101. In accordance with the requirements of the DIP Facility, and consistent with the current Cash Management System in effect, Ben Moss’s cash, credit, and debit receipts from business operations are required to be deposited into the Blocked Accounts, swept to Salus Capital’s collection accounts and applied by Salus Capital in order to reduce first, the obligations

- 38 -

classified as a “Permitted Overadvance” under the Credit Facilities, second, the obligations under the DIP Facility and third, the outstanding obligations under the Credit Facilities.

102. The maintenance of the pre-existing Cash Management System, as modified by the DIP Facility, means that the Senior Secured Lenders’ secured collateral from before the filing date which is sold subsequent to the filing date will continue to be used to reduce pre-petition amounts owing to the Senior Secured Lenders, in accordance with the ‘waterfall’ described in the paragraph above. The proposed DIP Facility preserves the current structure of the existing asset based loan with the Senior Secured Lenders where advances under the Revolving Credit Facility are determined based on the value of the Borrowers’ collateral. The maintenance of the existing Cash Management System is a condition precedent to the availability of the DIP Facility.

103. Ben Moss is seeking approval of the proposed DIP Facility to accommodate its anticipated liquidity requirements during this CCAA proceeding. The proposed DIP Facility will provide additional assurances to Ben Moss’s employees, critical suppliers, creditors and other stakeholders that Ben Moss will be able to continue going concern operations while pursuing the implementation of a restructuring.

104. It is a condition precedent to the availability of the DIP Facility that the Initial Order be in form and substance satisfactory to the DIP Lender, including in respect of the granting of the DIP Lender’s Charge (as defined below).

105. The DIP Facility is proposed to be secured by a Court-ordered security interest, lien and charge (the “DIP Lender’s Charge”) on all of the present and future assets, property and undertaking of Ben Moss, including any cash on hand at the day of the filing (the “Property”) that will secure all post-filing advances. The DIP Lender’s Charge is to have priority over all

- 39 -

other security interests, charges, and liens other than the Administration Charge (as defined below) up to an amount of \$ 600,000 and any properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or such other applicable provincial legislation. The DIP Lender's Charge will not secure any obligation that exists before the Initial Order.

106. Ben Moss has agreed to pay the DIP Lender:

- (a) a DIP Arrangement Fee of \$80,000;
- (b) a Collateral Monitoring Fee of \$5,000 per month;
- (c) a Commitment Fee of 0.675% per annum of the unused portion of the DIP Facility;
- (d) interest of 20% per annum of the outstanding revolving loans under the DIP Facility; and
- (e) other fees and interest payable in certain circumstances.

107. Because the proposed DIP Facility is being provided by Salus CLO with Salus Capital as agent and with Salus Capital's consent, and these entities are Ben Moss's senior secured creditors, Ben Moss is of the view that there will be no material prejudice to any of its existing creditors. Additionally, no amounts are past due under Ben Moss's agreements with the Other Secured Creditors and the cash flows anticipate continuing to pay them in the ordinary course.

108. Further, I am advised that Salus Capital will oppose any other DIP financing arrangement which seeks to prime the Senior Secured Lenders and would immediately demand that the other Borrowers (which operate the JSN Group's wholesale business) seek protection under the CCAA

- 40 -

to the detriment of the JSN Group as a whole, including Ben Moss. Accordingly, the DIP Facility provided by Salus CLO is the only realistic means for Ben Moss to keep operating while it attempts to restructure its business and continue as a going concern.

109. The DIP Facility is critical to the successful restructuring of Ben Moss, as it will provide Ben Moss with the necessary liquidity to operate as a going concern during these proceedings and, absent an injection of cash at this time, Ben Moss will be forced to shut down its operations, with a significant loss of employment and disruption to those who rely on its services.

110. I have been advised by the Proposed Monitor 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. In addition, the Proposed Monitor has advised me, and I believe it to be true, that in the circumstances, it would be either impractical or impossible to obtain an alternate DIP lender. Accordingly, it is my view that the DIP Facility from the DIP Lender is the only viable source of funding currently available to Ben Moss on an expedited basis.

(c) Payments During the CCAA Proceedings

111. During the course of this proceeding, Ben Moss intends to make payments for goods and services supplied post-filing in the ordinary course, as set out in the cash flow projections described below and as permitted by the draft Initial Order.

112. Ben Moss is also proposing in the draft Initial Order that it be authorized to make certain payments to certain third parties, including payments owing in arrears, where the CRO determines, with the consent of the Proposed Monitor, that those third parties provide services

- 41 -

that are critical to the Applicant's ability to operate during, and implement its restructuring under, these proceedings.

(d) RISP

113. Subject to approval by this Court, Ben Moss has agreed to pursue the following restructuring alternatives under the supervision of the Proposed Monitor, as described in the RISP:

- (a) a refinancing of all or part 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", and together with a JSN Group Refinancing Proposal, and a Reinvestment Proposal, the "Potential Transactions")

114. I believe that the RISP will help Ben Moss identify the best opportunities for optimizing returns for its stakeholders and creditors. A copy of the RISP is attached as Schedule "A" to the draft Initial Order.

115. Ben Moss and the JSN Group have agreed that the RISP will be conducted in two phases. In the first phase ("Phase 1"), for a period of 30 days following the date of the Initial Order, the Proposed Monitor will solicit non-binding indications of interest in the form of non-binding letters of intent ("LOIs"). During Phase 1, the Proposed Monitor will provide qualified interested parties that have executed a non-disclosure agreement ("Qualified Bidders") with a confidential

- 42 -

information memorandum and access to an electronic data room of preliminary due diligence information.

116. Qualified Bidders that wish to pursue a refinancing, sale or investment proposal must deliver an LOI to the Proposed Monitor by 5:00 PM (Eastern Daylight Time) 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”). The requirements of a qualifying LOI are set out in the RISP. At the end of Phase 1, the Proposed Monitor, in consultation with the CRO and Salus Capital, will assess the qualifying LOIs received, if any, and determine whether there is a reasonable prospect of obtaining an offer or combination of offers that may amount to a Qualified Bid (as defined in the RISP).

117. The following factors will be considered in the assessment of the qualifying LOIs, *inter alia*: (i) the form and amount of consideration being offered, including any purchase price adjustments and/or any non-cash considerations; (ii) the demonstrated financial capability of the Qualified Bidder(s) to consummate the proposed transaction; (iii) the conditions to closing of the proposed transaction; and (iv) the estimated time required to complete the proposed transaction and whether, in the Proposed Monitor’s reasonable business judgment, it is likely to close on or before July 29, 2016.

118. If one or more qualifying LOIs are received, the Proposed Monitor, exercising its reasonable business judgment and if appropriate to do so, following consultation with Salus Capital, will recommend to the CRO that the RISP continue into phase 2 (“Phase 2”) until a date to be determined by Salus Capital and the Proposed Monitor. If there are no qualifying LOIs, the Proposed Monitor may, subject to Salus Capital’s approval, continue the RISP into Phase 2 if

- 43 -

there is a reasonable prospect that one or more Potential Transaction proposals may become Qualified Bids.

119. If it is determined that no qualifying LOI has been received and there is no reasonable prospect of one resulting in a Qualified Bid, (i) the Proposed Monitor, any member of the JSN Group or Salus Capital may apply to the Court for further advice and directions including with respect to the termination of the RISP, (ii) Salus Capital may terminate the RISP; and/or (iii) Salus Capital may apply to the Court for approval of a bid. Additionally, the Accommodation Agreement provides that, unless otherwise agreement to by Salus Capital, if no qualifying LOI has been received by the Phase 1 LOI Deadline, JSN Inc. and/or the Applicant shall, within two days, seek an Order of the Court adding JSN Inc. and certain other members of the JSN Group as applicants in Ben Moss's CCAA Proceedings.

120. If the RISP continues to Phase 2, Qualified Bidders, along with their legal, financial advisors and/or lenders, would be granted further access to due diligence materials and information relating to the business and financial affairs of Ben Moss, on-site presentations by the JSN Group's senior management and the Proposed Monitor, facility tours and access to further information contained in a more robust data room. Selected due diligence materials may be withheld from certain Phase 2 Qualified Bidders if the Proposed Monitor determines such information to represent proprietary or sensitive competitive information.

121. Qualified Bidders that wish to pursue a Potential Transaction must submit a final, binding proposal (the "Final Bid") to the Proposed Monitor by the Phase 2 Bid Deadline (as defined in the RISP). In order to be considered a Qualified Bid, a Final Bid must meet the criteria set out in the RISP. Among other things, a Final Bid must include an irrevocable offer letter, written evidence of a firm, irrevocable commitment for financing, and a duly executed purchase

- 44 -

agreement, refinancing agreement, or investment agreement. A Qualified Bid cannot be conditional on due diligence or financing.

122. In evaluating Qualified Bids, the Proposed Monitor, in consultation with the CRO and Salus Capital, will consider, *inter alia*: (i) the ‘headline’ purchase price and estimated net proceeds or the amount of equity and debt investment; (ii) the firm, irrevocable commitment for financing the transaction; (iii) the counterparties to the transaction; (iv) the proposed treatment of employees; (v) other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals required to close the transaction); (vi) planned treatment of stakeholders; (vii) the likelihood and timing of consummating the transaction; and (viii) the likelihood of the transaction resulting in the full repayment of the aggregate amount owing to the Senior Secured Lenders under the Salus Credit Agreement and the DIP Facility (in the case of a JSN Group Refinancing Proposal or a Reinvestment Proposal).

123. If one or more Qualified Bids is received, the Proposed Monitor, exercising its reasonable business judgment, and with approval from Salus Capital, may recommend to the CRO that the most favourable Qualified Bid or combination of Qualified Bids be selected (the “Successful Bid”). The applicable member(s) of the JSN Group shall have no obligation to enter into a Successful Bid, and reserves the right, after consultation with the Proposed Monitor and Salus Capital, to reject any or all Qualified Bids.

124. If it is determined that no Qualified Bid has been received at the end of Phase 2, (a) any of the Proposed Monitor, any member of the JSN Group or Salus Capital may apply to the Court for further advice and directions including with respect to termination of the RISP; (b) Salus Capital may terminate the RISP; and/or (c) Salus Capital may apply to the Court for approval of a bid.

- 45 -

125. Ben Moss will apply to the Court for an order approving the Successful Bid(s) and authorizing Ben Moss to enter into any and all necessary agreements with respect to such bid. All Qualified Bids other than the Successful Bid will be deemed rejected on the date of approval of the Successful Bid.

126. The RISP timelines are appropriate in light of the extensive solicitation process that was undertaken by A&M Corporate Finance in 2015 to identify potential investors/purchasers and educate them about Ben Moss's business. The Proposed Monitor is of the view that the timeframes set out in the RISP are reasonable in the circumstances. I believe it is important to start the RISP promptly to maximize opportunities to identify appropriate interested parties while preserving the enterprise value of the business.

127. A sale of or investment in the Applicant, or alternatively a refinancing of the Credit Facilities, will benefit all stakeholders and will not prejudice any creditors. Unless a refinancing of the Credit Facilities is achieved or an investment in or sale of the business is undertaken at this time, the long-term viability of Ben Moss will be in jeopardy. Proceeding with the RISP will maximize the possibility of saving as many jobs as possible and constitutes the best and most valuable proposal for Ben Moss's business.

(e) Liquidation Consultant

128. The Applicant has selected Gordon Brothers Canada ULC ("GBC") to act as its consultant in connection with the liquidation of the Ben Moss stores that have been (or ultimately will be) identified for closure in order to maximize the value of its inventory, furniture, fixtures and equipment (collectively, the "Merchandise & FF&E") for the benefit of Ben Moss' stakeholders. A copy of the GBC Consulting and Agency Agreement (the "GBC Agency Agreement") omitting certain schedules is attached to this affidavit as Exhibit "K".

- 46 -

Capitalized terms in this section that are not otherwise defined have the meaning given to them in the GBC Agency Agreement.

129. The GBC Agency Agreement provides for a process (the “Liquidation Process”) to liquidate the Merchandise & FF&E contemplated therein. The Liquidation Process was designed by GBC and Ben Moss, in consultation with the Proposed Monitor. It is my understanding that the Proposed Monitor supports the proposed Liquidation Process.

130. The sale to liquidate the Merchandise & FF&E (the “Liquidation Sale”) commenced on May 5, 2016. Some of the key terms of the GBC Agency Agreement include:

- (a) The Liquidation Sale will terminate on July 31, 2016 or such other date as provided for in the GBC Agency Agreement or mutually agreed to by GBC and Ben Moss;
- (b) GBC may, with Ben Moss’s approval, supplement the original goods in the 11 closing stores with additional inventory of similar quality on a consignment basis;
- (c) Ben Moss shall pay GBC various fees, including Sales Fees, FF&E Fees, and Sourcing Fees;
- (d) No later than 30 days following the end of the Sale Term, the parties shall complete a final reconciliation of all amounts contemplated under the GBC Agency Agreement; and
- (e) With respect to the removal of Remaining Merchandise and Remaining FF&E, GBC and Ben Moss shall come to an agreed upon FF&E Scope of Work for each Store in order for GBC to remove any Remaining Merchandise and Remaining

- 47 -

FF&E and vacate each closing Store, all in accordance with the terms of the GBC Agency Agreement.

131. Ben Moss is seeking the following relief with respect to GBC, as required by the GBC Agency Agreement:

- (a) Authorization to market and sell the Merchandise and FF&E free of Encumbrances;
- (b) Authorization to use the closing Store locations for the purpose of conducting the Sale;
- (c) The extension of the benefit of Ben Moss's stay of proceeding to GBC for the purposes of conducting the Sale;
- (d) An order that GBC shall not be liable for any claims against the Applicant except as provided for in the GBC Agency Agreement;
- (e) An order that the GBC Agency Agreement will not be repudiated, resiliated or disclaimed by Ben Moss, nor will the claims of GBC pursuant to the GBC Agency Agreement be compromised pursuant to any plan of arrangement;
- (f) A declaration that the transactions contemplated under the GBC Agency Agreement be exempt from application of any applicable *Bulk Sales Act* or other equivalent legislation; and
- (g) Authorization for Ben Moss to disclose to GBC all human resources and payroll information pertaining to Ben Moss's past and current employees and for GBC to

- 48 -

use that information in the same manner as Ben Moss while maintaining the privacy of that information.

132. Ben Moss believes that engaging a professional liquidator such as GBC to undertake a sale of the Merchandise & FF&E will produce better sale results than an attempt by Ben Moss to sell the Merchandise & FF&E without such professional assistance. The Applicant believes that it is crucial to continue the Liquidation Sale process in order to maximize the amounts available to their stakeholders.

(f) Monitor

133. Alvarez & Marsal Canada Inc. has consented to act as the Monitor of the Applicant under the CCAA. A copy of Alvarez & Marsal Canada Inc.'s consent to act as Monitor is attached as Exhibit "L".

(g) Administration Charge

134. In connection with its appointment, it is proposed that the Proposed Monitor, along with its counsel, counsel to the Applicant, counsel to Joseph Shilon with respect to amounts incurred to the date of the Initial Order, and FAAN⁸ will be granted a Court-ordered charge on the Property as security for their respective fees and disbursements relating to services rendered in respect of the Applicant up to a maximum amount of \$600,000 (the "Administration Charge"). The Administration Charge is proposed to have first priority over all other charges.

⁸ Pursuant to its engagement letters with Ben Moss, FAAN will be paid certain work fees for its engagement as Ben Moss's Interim CFO and CRO as well as a success fee to be negotiated.

- 49 -

(h) Directors' and Officers' Protection

135. A successful restructuring of the Applicant will only be possible with the continued participation of the Applicant's board of directors (the "Directors"), officers (the "Officers"), management and employees. These personnel are essential to the viability of the Applicant's continuing business.

136. I am advised by Marc Wasserman of Osler, Hoskin & Harcourt LLP, counsel for the Applicant, and believe that, in certain circumstances, directors can be held liable for certain obligations of a company owing to employees as well as sales taxes. The Applicant estimates, with the assistance of the Proposed Monitor, that these obligations may include unpaid accrued wages and associated taxes which could amount to as much as approximately \$1.0 million and unpaid accrued vacation pay which could amount to as much as \$0.5 million for a total potential director liability of approximately \$1.5 million. Additionally, as of May 16, 2016, Ben Moss has approximately \$420,000 of accrued, unpaid sales taxes.

137. The amount of insurance under the Director and Officer primary and excess insurance policies is approximately \$10 million. The policy expires July 18, 2016 and there is uncertainty as to whether the policy can be renewed. The Directors and Officers have indicated that, in light of the uncertainty surrounding available Directors' and Officers' insurance, their continued service and involvement in this restructuring is conditional upon the granting of an Order under the CCAA which grants a charge in favour of the Directors and Officers of the Applicant in the amount of \$1.5 million on the Property of the Applicant (the "Directors' Charge"). The Directors' Charge would stand in priority to all other security interests, charges, and liens other than the Administration Charge up to an amount of \$600,000 and the DIP Lender's Charge up to an amount of \$8 million. The Directors' Charge would act as security for indemnification

- 50 -

obligations for the Directors' and Officers' liabilities that may be incurred after the commencement of proceedings under the CCAA, as set out above.

138. The Directors' Charge is necessary so that the Applicant may benefit from its Directors' and Officers' experience with the business and the retail jewellery industry, and so that the Directors and Officers can guide the Applicant's restructuring efforts.

(i) Cash Flow Forecast

139. Ben Moss, with the assistance of the Proposed Monitor, has prepared 13-week cash flow projections as required by the CCAA. A copy of the cash flow projections is attached as Exhibit "M". The cash flow projections demonstrate that Ben Moss can continue going concern operations during the proposed stay period should the stay of proceedings be granted and the proposed DIP Facility be approved.

140. The Applicant anticipates that the Proposed Monitor will provide oversight and assistance and will report to the Court in respect of Ben Moss's actual results relative to cash flow forecast during this proceeding. Existing accounting procedures will provide the Proposed Monitor with the ability to track the flow of funds.

141. I am confident that granting the Initial Order sought by the Applicant is in the best interests of the Applicant and all interested parties. Without the stay of proceedings and the DIP Facility, the Applicant faces a cessation of going concern operations, the liquidation of its assets and the loss of its employees' jobs. The Applicant requires an immediate and realistic dialogue with its key stakeholders under the protection of the CCAA with the goal of maximizing the ongoing value of the business and continuing employment for its employees. The granting of the requested stay of proceedings will maintain the "status quo" and permit an orderly restructuring

and analysis of the Applicant's affairs, with minimal short-term disruptions to the Applicant's business.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
May 16, 2016.



Commissioner for Taking Affidavits
Mark Sheehey



NAVEED Z. MANZOOR

TAB C

THIS IS **EXHIBIT "C"** REFERRED TO IN THE
AFFIDAVIT OF NAVEED Z. MANZOOR, SWORN BEFORE ME
THIS ~~10~~¹²th DAY OF JUNE, 2016.

A handwritten signature in black ink, appearing to read 'Adriano', written over a horizontal line.

A Commissioner for taking Affidavits, etc.

Adriano Lepore,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 5, 2019.

(/)

FR (JavaScript:void(0)) Q

Ben Moss Jewellers Restructuring Operations



TORONTO, May 18, 2016 /CNW/ - Ben Moss Jewellers Western Canada Ltd. ("Ben Moss" or "the Company"), a leading Canadian jewellery retailer, announced today that it has commenced the restructuring of its operations. In 2013, the JSN Group acquired Ben Moss to provide the wholesale business with an additional sales outlet. Once completed, the restructuring will position the Company to compete and thrive in a Canadian jewellery marketplace that it has helped define for over a century.

Currently, all retail locations across Canada remain open and unaffected. It is expected that a process to close 11 underperforming retail locations will be initiated over the coming weeks. Inventory reduction sales are already underway at the underperforming locations (listed below).

Ben Moss continues to stock the latest mix of exclusively designed jewellery and associated products that its customers have come to expect. There are no changes to Ben Moss gift cards, credit cards or store credit program. The layaway purchase program will be temporarily unavailable for new purchases, but customers already registered will continue to have their deposits honoured and may complete their payment to receive their purchases.

To provide Ben Moss with the necessary time and stability to restructure its operations with minimal interruption, the Company has successfully obtained an initial Order from the Ontario Superior Court of Justice (Commercial Division) (the "Court") granting it creditor protection under the *Companies' Creditors Arrangement Act* ("CCAA") (the "Initial Order"). The Stay of Proceedings granted under the Initial Order will last for 30 days, although the Company may apply for an extension to the Stay in the normal course and at any point during the initial Stay period. The Court has also approved the initiation of a Refinancing and/or Investment Solicitation Process. Ben Moss has the requisite funds to operate while under CCAA protection, having secured additional financing (debtor-in-possession financing) from its senior secured lenders, and expects to emerge from CCAA protection during the summer.

FAAN Advisors Group Inc. has been appointed Chief Restructuring Officer ("CRO") of the Company. The engagement will be led by Naveed Z. Manzoor, Managing Director of the CRO. Alvarez & Marsal Canada Inc. has been appointed as the Monitor of the Company in the CCAA proceedings to assist Ben Moss in its restructuring. Davies Ward Phillips & Vineberg LLP is counsel to the Monitor. The Company has engaged Osler, Hoskin & Harcourt LLP as its legal advisor.

Additional information regarding the terms of the Initial Order and the Company's CCAA proceedings, including court materials, will be made publicly available on the Monitor's website at www.alvarezandmarsal.com/benmoss (<http://www.alvarezandmarsal.com/benmoss>). Ben Moss will provide further updates as developments warrant.

Liquidation Sales at the Following Ben Moss Retail Locations:

Store	City	Province
71 Bayshore Shopping Centre	Ottawa	ON
132 Sherway Gardens	Etobicoke	ON
86 Georgian Mall	Barrie	ON

153 McAllister Place	Saint John	NB
73 St Laurent Centre	Ottawa	ON
142 Cambridge Centre	Cambridge	ON
151 Halifax Centre	Halifax	NS
68 Conestoga Mall	Waterloo	ON
69 Northgate Mall	North Bay	ON
48 Pine Centre	Prince George	BC
66 Gateway Mall	Prince Albert	SK

FR (JavaScript:void(0))

About Ben Moss

Ben Moss Jewellers has been Canadian owned and operated since 1910. In 2013, it was acquired from its founding family by The JSN Group of Companies. Ben Moss offers exceptional selections, value and exclusive designs in diamond rings, engagement rings, anniversary rings, wedding bands, necklaces, bracelets, earrings and men's jewellery. For more information, please go to www.benmoss.com (<http://www.benmoss.com/>).

SOURCE Ben Moss Jewellers

For further information: regarding these proceedings: www.alvarezandmarsal.com/benmoss, Monitor.BenMoss@alvarezandmarsal.com; Media contact: Joel Shaffer, Longview Communications, (416) 649-8006

Organization Profile



Ben Moss Jewellers

More on this organization (<http://www.newswire.ca/news/ben-moss-jewellers>)

CUSTOM PACKAGES

Browse our custom packages or build your own to meet your unique communications needs.

Start today. (<http://account.newswire.ca/contactus/>)

(/)

FR (JavaScript:void(0)) Q

CNW MEMBERSHIP

Fill out a CNW membership form (<http://account.newswire.ca/enStep1/>) or contact us at 1 (877) 269-7890

LEARN ABOUT CNW SERVICES

Request more information (<http://account.newswire.ca/contactus/>) about CNW products and services or call us at 1 (877) 269-7890

Français Twitter (<http://cnw.en.mediaroom.com/twitter>)

Facebook (<https://www.facebook.com/CNWGroup>)

LinkedIn (<https://www.linkedin.com/company/cnw-group>)

Privacy & Terms of Use (<http://cnw.en.mediaroom.com/privacy-terms-of-use>)

Careers (<https://cnw-prnewswire.icims.com>) Media Partners (<http://cnw.en.mediaroom.com/mediapartners>)

RSS Feeds (<http://cnw.en.mediaroom.com/rss>) PR Newswire (<http://www.prnewswire.com>)

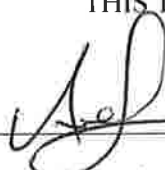
Contact (<http://www.newswire.ca/contact-us/>)

© 2016 CNW Group Ltd.

TAB D

THIS IS **EXHIBIT "D"** REFERRED TO IN THE
AFFIDAVIT OF NAVEED Z. MANZOOR, SWORN BEFORE ME

THIS ¹²~~11~~th DAY OF JUNE, 2016.



A Commissioner for taking Affidavits, etc.

Adriano Lapore,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 5, 2019.

ALL
WHEEL
DRIVE!

2016 ROGUE

STK # 171104

\$2,750
CASH OFF OR **1.99%**
FOR 84 MONTHS

PLUS TAKE AN ADDITIONAL \$1,000 OFF
IF YOU'RE A NISSAN OWNER!



2016 SENTRA

STK # N16377

\$750
CASH OFF AND **0.99%**
FOR 84 MONTHS

PLUS TAKE AN ADDITIONAL \$1,000 OFF
IF YOU'RE A NISSAN OWNER!

88-861-2965
adnissan.ca

PORTAGE AVENUE

Leads if you own a 2007 or newer Nissan. Factory Order may be required.
After permit #0086.

IT was a scary and dangerous Sunday for a family after wind blew their paddle boat far out from Albert Beach and into high waves.

There were no lifejackets in the small boat occupied by four adults and two children, ages five and seven.

The group didn't intend to go far from the shore of Lake Winnipeg but, around 10 a.m., the wind picked up and they couldn't overcome its strength, said Victoria Beach police Insp. Paul McQueen.

"As soon as they got away from

RESIDENTS and cottagers near Florence and Nora lakes are able to return to their homes and cabins.

While fire crews are still working nearby, the province has lifted the evacuation order that had been in place for the area.

Residents and travellers should take caution as road conditions have deteriorated and crews are still camped out along roads and are removing hazardous trees.

There are still fires burning on the Ontario side of the Beresford wildfire. The Mantario Trail remains closed.

Legals

Court File No. CV-16-11397-00CL
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 ("CCAA")

AND IN THE MATTER OF A PLAN
OF COMPROMISE OR ARRANGEMENT OF
BEN MOSS JEWELLERS WESTERN CANADA LTD.
(the "Company")

TAKE NOTICE THAT the Company commenced proceedings under the Companies' Creditors Arrangement Act ("CCAA") and was granted an order (the "Order") of the Ontario Superior Court of Justice (Commercial List) (the "Court") on May 18, 2016.

The Order, among other things, imposed a stay of proceedings against the creditors of the Company. Pursuant to the Order, Alvarez & Marsal Canada Inc. was appointed Monitor (the "Monitor") of the business and financial affairs of the Company.

As required by section 23(1)(a)(i) of the CCAA, notice is hereby given that a copy of the Order has been posted on the Monitor's website at www.alvarezandmarsal.com/benmoss.

The Monitor will post additional relevant information and documentation related to these proceedings on the Monitor's website as they become available. For further information, contact the Monitor directly at:

Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900

P.O. Box 22
Toronto ON M5J 2J1

Attention: Ben Moss Monitor
Hotline: 1-855-499-1480

Email: monitor.benmoss@alvarezandmarsal.com



Don Tomac

Your Ultimate Service Realtor



COLDWELL
BANKER

PREFERRED REAL ESTATE
204-793-3108
don.tomac@coldwellbanker.ca

There when you
need us

(204) 982-3867
www.dontomac.ca

HARVEST

ch, or a smarter way of living for everyone?

is then it was PB&J sandwiches and chats
nd around the kitchen table. You can't put a
ck price on memories like that.

people pay a modest rent to their parents,
it's still a smart way to live and mom and
dad get a financial benefit that could allow
them to travel, pay off the mortgage, go

Breen says Canada lags behind most other
countries in supporting young people
who are caregivers to elderly family
members. So a logical next step is for

TAB E

THIS IS **EXHIBIT "E"** REFERRED TO IN THE
AFFIDAVIT OF NAVEED Z. MANZOOR, SWORN BEFORE ME
THIS 18th DAY OF JUNE, 2016.



A Commissioner for taking Affidavits, etc.

Adriano Lepore,
a Commissioner, etc., Province of
Ontario, while a Student-at-Law.
Expires April 5, 2019.

SALE GUIDELINES

The following procedures shall apply to the Sale to be conducted at the Stores of Ben Moss Jewellers Western Canada Ltd. (the "Merchant"). All terms not herein defined shall have the meaning set forth in the Agency Agreement by and between Gordon Brothers Canada ULC (the "Agent") and the Merchant dated April 28, 2016 (the "Agency Agreement").

1. Except as otherwise expressly set out herein, and subject to: (i) the Amended and Restated Initial Order dated May 18, 2016, the Order approving these Sales Guidelines and any further Order of the Court; or (ii) any subsequent written agreement between the Merchant and the applicable landlord(s) (individually, a "Landlord" and, collectively, the "Landlords") and approved by the Agent, the Sale shall be conducted in accordance with the terms of the applicable leases/or other occupancy agreements to which the affected landlords are privy for each of the affected Stores (individually, a "Lease" and, collectively, the "Leases"). However, nothing contained herein shall be construed to create or impose upon the Merchant or the Agent any additional restrictions not contained in the applicable Lease or other occupancy agreement.
2. The Sale shall be conducted so that each of the Stores remain open during their normal hours of operation provided for in the respective Leases for the Stores until the respective vacate date of each Store. The Sale at the Stores shall end by no later than July 31, 2016. Rent payable under the respective Leases shall be paid as provided in the Order of the Court in the within proceedings dated May 18, 2016.
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws and regulations, unless otherwise ordered by the Court.
4. All display and hanging signs used by the Agent in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. The Agent may advertise the Sale at the Stores as an "everything on sale", "everything must go", "store closing" or similar theme sale at the Stores (provided however that no signs shall advertise the Sale as a "bankruptcy", a "going out of business" or a "liquidation" sale it being understood that the French equivalent of "clearance" is "liquidation" and is permitted to be used). Forthwith upon request from a Landlord, the Landlord's counsel, the Merchant or Alvarez & Marsal Canada Inc. (in its capacity as Court-appointed Monitor of the Merchant) the Agent shall provide the proposed signage packages along with the proposed dimensions and number of signs (as approved by the Merchant pursuant to the Agency Agreement) by e-mail or facsimile to the applicable Landlords or to their counsel of record. The Agent shall not use neon or day-glow or handwritten signage (unless otherwise contained in the sign package, including "you pay" or "topper" signs). Nothing contained herein shall be construed to create or impose upon the Merchant or the Agent any additional restrictions not contained in the applicable Leases. In addition, the Agent shall be permitted to utilize exterior banners/signs at stand alone or strip mall Stores or enclosed mall Stores with a separate entrance from the exterior of the enclosed mall; provided, however, that where such banners are not permitted by the applicable Lease or the Landlord

requests in writing that the banner are not to be used, no banner shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the Landlord. Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Store and shall not be wider than the premises occupied by the affected Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the facade of the premises of a Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of the Agent. If a Landlord is concerned with "store closing" signs being placed in the front window of a Store or with the number or size of the signs in the front window, the Agent and the Landlord will discuss the Landlord's concerns and work to resolve the dispute.

5. The Agent shall be permitted to utilize sign walkers and street signage; provided, however, such sign walkers and street signage shall not be located on the shopping centre or mall premises.
6. Conspicuous signs shall be posted in the cash register areas of each Store to the effect that all sales are "final".
7. The Agent shall not distribute handbills, leaflets or other written materials to customers outside of any of the Stores on any Landlord's property, unless permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Store is located. Otherwise, the Agent may solicit customers in the Stores themselves. The Agent shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as permitted under the applicable Lease or agreed to by the Landlord.
8. At the conclusion of the Sale in each Store, the Agent and the Merchant shall arrange that the premises for each Store are in "broom-swept" and clean condition, and shall arrange that the Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (for clarity, other than FF&E, as defined below) may be removed without the Landlord's written consent unless otherwise provided by the applicable Lease. Subject to the foregoing, the Agent shall vacate the Stores in accordance with the terms and conditions of the Agency Agreement. Any fixtures or personal property left in a Store after it has been vacated by the Agent and in respect of which the applicable Lease has been disclaimed by the Merchant shall be deemed abandoned, with the applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord.
9. Subject to the terms of paragraph 8 above, the Agent may sell furniture, fixtures and equipment ("FF&E") owned by the Merchant and located in the Stores during the Sale. The Merchant and the Agent may advertise the sale of FF&E consistent with these guidelines on the understanding that any Landlord may require that such signs be placed in discreet locations with the Stores acceptable to the Landlord, acting reasonably. Additionally, the purchasers of any FF&E sold during the Sale shall only be permitted to remove the FF&E either through the

back shipping areas designated by the Landlord or through other areas after regular store business hours or through the front door of the Store during Store business hours if the FF&E can fit in a shopping bag with Landlord's supervision as required by the Landlord. The Agent shall repair any damage to the Stores resulting from the removal of any FF&E by Agent or by third party purchasers of FF&E from Agent.

10. The Agent shall not make any alterations to interior or exterior Store lighting, except as authorized pursuant to the applicable Lease. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (other than FF&E for clarity) may be removed without the Landlord's written consent unless otherwise provided by the applicable Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these guidelines, shall not constitute an alteration to a Store.
11. The Agent hereby provides notice to the Landlords of the Agent's intention to sell and remove FF&E from the Stores. The Agent will arrange with each Landlord represented by counsel on the service list and with any other Landlord that so requests, a walk through with the Agent to identify the FF&E subject to the sale. The relevant Landlord shall be entitled to have a representative present in the Store to observe such removal. If the Landlord disputes the Agent's entitlement to sell or remove any FF&E under the provisions of the Lease, such FF&E shall remain on the premises and shall be dealt with as agreed between the Merchant, the Agent and such Landlord, or by further Order of this Court upon application by the Merchant on at least two (2) days' notice to such Landlord. If the Merchant has disclaimed or resiliated the Lease governing such Store in accordance with the *Companies' Creditors Arrangement Act* (the "CCAA"), it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the CCAA), and the disclaimer or resiliation of the Lease shall be without prejudice to the Merchant's or Agent's claim to the fixtures in dispute.
12. If a notice of disclaimer or resiliation is delivered pursuant to the CCAA to a Landlord while the Sale is ongoing and the Store in question has not yet been vacated, then: (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Merchant and the Agent 24 hours' prior written notice; and (b) at the effective time of the disclaimer or resiliation, the relevant Landlord shall be entitled to take possession of any such Store without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such Lease or Store, provided that nothing herein shall relieve such Landlord of its obligation to mitigate any damages claimed in connection therewith.
13. The Agent and its agents and representatives shall have the same access rights to the Stores as the Merchant under the terms of the applicable Lease, and the Landlords shall have the rights of access to the Stores during the Sale provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).

14. The Merchant and the Agent shall not conduct any auctions of Merchandise or FF&E at any of the Stores.
15. The Agent shall be entitled, as agent for the Merchant pursuant to and in accordance with the Agency Agreement, to include in the Sale additional inventory, including inventory from J.S.N. Jewellery Inc. ("JSN") and other goods from similar vendors not currently supplying goods to the Merchant (for greater certainty, excluding JSN) ("Additional Merchandise"), to the extent permitted under the Agency Agreement; provided that: (i) the Additional Merchandise will not exceed \$2 million at cost in the aggregate (the "Additional Merchandise Cap"); (ii) the Additional Merchandise will be distributed among the Stores such that no Store will receive more than 20% of the Additional Merchandise; and (iii) the Additional Merchandise is of like kind and category and no lesser quality to the Merchandise, and consistent with any restriction on usage of the Stores set out in the applicable Leases. In the event that there are more than 11 Stores, the Additional Merchandise Cap shall be increased in an amount equal to \$181,818 multiplied by the number of such additional Stores.
16. The Agent shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person for Agent shall be Jane Dietrich who may be reached by phone at 416-860-5223 or email at jdietrich@casselsbrock.com. If the parties are unable to resolve the dispute between themselves, the Landlord or Merchant shall have the right to schedule a "status hearing" before the Court on no less than two (2) days written notice to the other party or parties, during which time the Agent shall cease all activity in dispute other than activity expressly permitted herein, pending the determination of the matter by the Court; provided, however, that if a banner has been hung in accordance with these Sale Guidelines and is thereafter the subject of a dispute, the Agent shall not be required to take any such banner down pending determination of the dispute.
17. Nothing herein is, or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any Lease, or shall, or shall be deemed to, or grant to the Landlord any greater rights than already exist under the terms of any applicable Lease.
18. These Sale Guidelines may be amended by written agreement between the Merchant, the Agent and any applicable Landlord (provided that such amended Sale Guidelines shall not affect or bind any other Landlord not privy thereto without further Order of the Court approving the amended Sale Guidelines).

Applicant

Ontario

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

AFFIDAVIT OF NAVEED Z. MANZOOR
(Sworn June 12, 2016)
(Stay Extension and Approval of Sale Guidelines)

OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSUC#44066M)
Tel: 416.862.4908

Email: mwasserman@osler.com

Michael De Lellis (LSUC#: 48038U)
Tel: 416.862.5997

Fax: 416.862.6666

Karin Sachar (LSUC#: 59944E)

Tel: 416.862.5949

Fax: 416.862.6666

Counsel for the Applicant

Applicant

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

MOTION RECORD OF THE APPLICANT
(Stay Extension and Approval of Sale Guidelines)

OSLER, HOSKIN & HARCOURT LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSUC# 44066M)
Tel: 416.862.4908
Email: mwasserman@osler.com

Michael De Lellis (LSUC# 48038U)
Tel: 416.862.5997

Karen Sachar (LSUC# 59944E)
Tel: 416.862.5949
Fax: 416.862.6666

Counsel for the Applicant