

**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 TARGET CANADA CO., TARGET CANADA HEALTH CO., TARGET CANADA MOBILE GP CO., TARGET CANADA PHARMACY (BC) CORP., TARGET CANADA PHARMACY (ONTARIO) CORP., TARGET CANADA PHARMACY CORP., TARGET CANADA PHARMACY (SK) CORP., AND TARGET CANADA PROPERTY LLC

**THIRTY-SEVENTH REPORT OF THE MONITOR
ALVAREZ & MARSAL CANADA INC.**

SEPTEMBER 27, 2017

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1.0 INTRODUCTION

- 1.1 On January 15, 2015, Target Canada Co. (“**TCC**”) and those companies listed in **Appendix A** (collectively, the “**Applicants**”), together with the Partnerships also listed in **Appendix A** (the “**Partnerships**”, and collectively with the Applicants, the “**Target Canada Entities**”), applied for and were granted protection by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to an Order of this Court dated January 15, 2015, Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed Monitor of the Target Canada Entities in the CCAA proceedings (the “**Monitor**”). The proceedings commenced by the Applicants under the CCAA are referred to herein as the “**CCAA Proceedings**”.
- 1.2 On February 11, 2015, this Court issued the “**Amended and Restated Initial Order**” (hereinafter, unless the context otherwise requires, the “**Initial Order**”), which incorporates certain changes to the Initial Order granted January 15, 2015 that were described in the Second Report of the Monitor dated February 9, 2015.
- 1.3 In connection with the CCAA Proceedings, the Monitor has provided to this Court thirty-six reports and three supplementary reports (collectively, the “**Monitor’s Reports**”). A&M has also provided to this Court the Pre-Filing Report of the Proposed Monitor (the “**Pre-Filing Report**”) dated January 14, 2015 (together with the Monitor’s Reports, the “**Prior Reports**”). The Prior Reports, the Initial Order and other Court-filed documents and notices in these CCAA Proceedings are available on the Monitor’s website at www.alvarezandmarsal.com/targetcanada.

- 1.4 This Thirty-Seventh Report of the Monitor (the “**Thirty-Seventh Report**”) is filed in connection with the motion brought by Strosberg Sasso Sutts LLP (formerly Sutts Strosberg LLP), in its capacity as Court-appointed representative counsel for pharmacist franchisees (“**Pharmacist Representative Counsel**”), for approval of its fees and disbursements (the “**Fee Motion**”) and in connection with the Endorsement of R.S.J. Morawetz dated September 13, 2017 (the “**Endorsement**”). The Fee Motion is scheduled to be heard on October 11, 2017 (adjourned from September 13, 2017).
- 1.5 As set out in the Endorsement, although the Court was satisfied that it was clearly set out, it appeared that certain claimants did not understand the basis of the proposed compensation of Pharmacist Representative Counsel. Accordingly, the Court directed the Monitor to prepare this Report setting out the basis of Representative Counsel’s proposed compensation and serve this Report by September 27, 2017. The Court also directed any claimants to file supplementary responses by October 3, 2017.
- 1.6 This Thirty-Seventh Report provides the Court and the pharmacist franchisees with information regarding:
- (a) the appointment of Sutts Strosberg LLP (now Strosberg Sasso Sutts LLP) as Pharmacist Representative Counsel and prior orders of this Court regarding payment of its fees and disbursements;
 - (b) the full and final resolution of all pharmacist franchisee claims except one unresolved claim held by a pharmacist franchisee no longer represented by Representative Counsel;

- (c) the Fee Motion and the requested relief; and
- (d) the basis of Representative Counsel's proposed compensation and the application of the requested relief.

1.7 This Report should be read in conjunction with the Motion Record of Pharmacist Representative Counsel served on September 5, 2017, setting out all of the particulars of the fees, disbursements and taxes incurred by Pharmacist Representative Counsel and its advisors, certain of which particulars were also included in the Motion Record of the Pharmacist Representative Counsel served in November 2016 in respect of the initial fee motion, which was not heard at that time as an interim payment (described further below) was agreed on consent (the "**Initial Fee Motion**"). The Motion Record contains the Affidavit of Harvey T. Strosberg sworn September 1, 2017 (the "**Strosberg Affidavit**"); the Affidavit of Josie Parisi of BDO Canada LLP sworn August 30, 2017; the Affidavit of Robert R. Macdonald of MRM Consulting sworn August 30, 2017; the Affidavit of Ian Manning of Edward & Manning LLP sworn August 30, 2017; and the Affidavit of Charles Scerbo sworn September 6, 2017 (together with all exhibits thereto, collectively, the "**Pharmacist Franchisee Advisor Affidavits**").

2.0 TERMS OF REFERENCE AND DISCLAIMER

2.1 In preparing this Thirty-Seventh Report, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by the Target Canada Entities and Target Corporation, and discussions with management of the Target Canada Entities and Target Corporation, as well as information prepared by Pharmacist Representative Counsel and its advisors, including

the within Motion Record and the Pharmacist Franchisee Advisors Affidavits, and discussions with Pharmacist Representative Counsel (collectively, the “**Information**”).

2.2 The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.

2.3 Unless otherwise indicated, capitalized terms not otherwise defined in this Thirty-Seventh Report are as defined in the Prior Reports, the Second Amended Plan and Restated Joint Plan of Compromise and Arrangement dated April 6, 2016 (the “**Plan**”), and the Initial Order.

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

3.0 BACKGROUND

Appointments and Fee Approval Orders

3.1 Pursuant to an endorsement of the Court dated February 18, 2015 (the “**February 18, 2015 Endorsement**”), Sutts Strosberg LLP was appointed representative counsel for the pharmacist franchisees and The Pharmacy Franchisee Association of Canada (“**PFAC**”) was appointed representative of the pharmacy franchisees for limited purposes set out

therein. Funding by the Target Canada Entities for the representational role was also limited to a maximum of \$100,000, inclusive of disbursements and taxes, available to PFAC for legal and financial advisory services of Sutts Strosberg LLP and BDO Canada. The services were provided to the pharmacist franchisees, and Sutts Strosberg LLP later invoiced for the amount of the available funding (\$100,000), which was paid by TCC (the “**Limited Engagement Payment**”). As described in the Strosberg Affidavit, the Monitor understands that funds were also collected from members of PFAC in the amount of \$25,000, which were applied against advisor invoices (the “**PFAC Members Contribution**”).

- 3.2 The earlier representative appointments referenced in the February 18, 2015 Endorsement were superseded by a subsequent Court Order dated February 12, 2016 (the “**Appointment and Fee Order**”), pursuant to which, among other things, Sutts Strosberg LLP was appointed Representative Counsel for the pharmacist franchisees for the purpose of claims dispute resolution and the Court ordered that the only parties entitled to participate in the claims dispute are the pharmacist franchisees, the Monitor and the Applicants. PFAC was not listed as a party entitled to participate.
- 3.3 Pursuant to the Appointment and Fee Order, the Court has already approved the fee payment structure that Pharmacist Representative Counsel is applying in its Fee Motion, including the payment of fees, disbursements and taxes from distributions otherwise payable to pharmacist franchisees represented by Pharmacist Representative Counsel (the “**Pharmacist Franchisees**”), with fees subject to a 10% cap of the distribution otherwise payable in respect of an individual pharmacist franchisee claim.

- 3.4 The Appointment and Fee Order, among other things:
- (a) appointed Sutts Strosberg LLP as Pharmacist Representative Counsel to represent the interests of pharmacist franchisees in respect of Claims filed in the Claims Process, including a Notice of Dispute of Revision or Disallowance (the “**Omnibus Notice of Dispute**”) filed in respect of pharmacist franchisees whose claims had not been fully and finally accepted in accordance with the Claims Procedure Order;
 - (b) referred the Omnibus Notice of Dispute to the Honourable Dennis O’Connor, as Claims Officer, to determine the validity and amount of the pharmacist franchisee claims;
 - (c) directed the reasonable fees, disbursements and taxes of Pharmacist Representative Counsel (collectively, the “**Fees, Disbursements and Taxes**” and individually, “**Fees**”, “**Disbursements**” or “**Taxes**”) to be paid by the pharmacist franchisees, out of their individual distributions from the Claims Process, with only the Fees subject to a 10% maximum of the distribution otherwise payable in respect of an individual pharmacist franchisee claim (collectively, the “**Fee Payment Provision**”);
 - (d) secured the Fees, Disbursements and Taxes by a charge against and payable from any distributions made to the pharmacist franchisees;

- (e) ordered that the fairness and reasonableness of the Fees, Disbursements and Taxes are subject to approval by the Court on full particulars at the conclusion of the adjudication process; and
- (f) provided all pharmacist franchisees with the opportunity to opt out of representation by Pharmacist Representative Counsel by delivering a written Notice of Opt-Out substantially in the form attached to the Order (the “**Opt-Out Notice**”) on or before March 25, 2016 with the effect that, upon receipt of such Opt-Out Notice, immediately thereafter Pharmacist Representative Counsel must not act on behalf of such claimant and such claimant is not subject to the Fee Payment Provision.

3.5 The Monitor received eleven (11) Opt-Out Notices from pharmacist franchisees, the claims of which were deemed accepted and in respect of which Pharmacist Representative Counsel did not act.

3.6 The Appointment and Fee Order was made on notice to pharmacist franchisees and was not appealed – it is a final order.

3.7 In respect of Pharmacist Representative Counsel’s Initial Fee Motion, by Court Order dated November 28, 2016 (the “**Interim Payment Order**”):

- (a) the Monitor was ordered to effect an interim payment of \$750,000 to Pharmacist Representative Counsel from the amount held in reserve by the Monitor, which amount was withheld from the distributions made to Pharmacist Franchisees who had settled their claims by that date; and

(b) Pharmacist Representative Counsel was ordered to bring a motion for a determination of the fairness and reasonableness of its fees and disbursements incurred for the Pharmacist Franchisees in the CCAA proceedings, to be heard following final resolution of the claims of all Pharmacist Franchisees.

3.8 In accordance with the Interim Payment Order, \$750,000 was paid to Pharmacist Representative Counsel on December 1, 2016 (the “**Interim Payment**”).

3.9 Similar to the Appointment and Fee Order, the Interim Payment Order was made on notice to pharmacist franchisees and was not appealed – it is a final order.

Settlement/Resolution of all Pharmacist Franchisee Claims

3.10 Following the Opt-Out process, 80 Pharmacist Franchisees were represented by Pharmacist Representative Counsel. Pharmacist Representative Counsel thereafter represented the interests of the Pharmacist Franchisees in connection with the dispute resolution process, including in hearings before the Claims Officer and, for certain remaining Pharmacist Franchisees, in an appeal hearing before the Court, as well as in settlement discussions and negotiations.

3.11 For purposes of the Fee Motion, the dispute resolution process in respect of the Pharmacist Franchisees can be broken down into three distinct time periods as follows:

(a) **First Settlement Period / First Fee Period** – Following extensive claims adjudication proceedings and two rulings of the Claims Officer in June and August, 2016, respectively, a group of 53 Pharmacist Franchisees fully and finally settled their claims with the Monitor and the applicable Applicant effective

September 14, 2016¹ (with such group being the “**First Settlement Group**”). The period from the commencement of the CCAA proceedings to September 14, 2016 is referred to as the “**First Settlement Period**” or the “**First Fee Period**”;

(b) **Second Settlement Period / Second Fee Period** – Following a further ruling of the Claims Officer in October 2016, the Pharmacist Franchisees who were not part of the First Settlement Group appealed the rulings of the Claims Officer to this Court (the “**Appeal**”). Following delivery of their Appeal, a group of 21 Pharmacist Franchisees fully and finally settled their claims with the Monitor and the applicable Applicant effective December 9, 2016², along with one additional Pharmacist Franchisee who subsequently fully and finally settled its claim on the same terms (with such group being the “**Second Settlement Group**”). The period from September 15, 2016 to December 9, 2016 is referred to as the “**Second Settlement Period**” or the “**Second Fee Period**”;

(c) **Appeal Period / Third Fee Period** – A group of four remaining Pharmacist Franchisees did not settle with the Monitor and continued the Appeal to this Court (with such group being the “**Appeal Group**”). Following the Court’s decision in May 2017 dismissing the Appeal, the Monitor issued revised Notices of Revision or Disallowance (“**NRDA**”) to each member of the Appeal Group and each member of the Appeal Group fully and finally accepted its respective NRDA. The period from December 10, 2016 to July 28, 2017 is referred to as the “**Appeal Period**” or the “**Third Fee Period**”.

¹ The date of the Monitor’s waiver of unanimity in respect of the settlement offer.

² The date of the Monitor’s waiver of unanimity in respect of the settlement offer.

- 3.12 As indicated above, following the opt-out process, Pharmacist Representative Counsel represented 80 Pharmacist Franchisees and the claims of 79 Pharmacist Franchisees have now been fully and finally resolved, with no unresolved claims of Pharmacist Franchisees represented by Pharmacist Representative Counsel. This is because shortly after the First Settlement Period, one Pharmacist Franchisee was no longer represented by Pharmacist Representative Counsel (the “**Unresolved Pharmacist Franchisee**”).
- 3.13 By endorsement dated September 26, 2016, the Court noted that the Unresolved Pharmacist Franchisee (represented by Mr. Dimovski and Mr. Gavrilidis) did not want to be represented by Pharmacist Representative Counsel. The Court authorized Mr. Dimovski and Mr. Gavrilidis to retain their own counsel. Although counsel was at one point retained for the Unresolved Pharmacist Franchisee and PFAC, such counsel asked to be and was removed as counsel of record as of February 23, 2017. The Unresolved Pharmacist Franchisee is self-represented in the proceedings.
- 3.14 As set out in the Strosberg Affidavit, the Unresolved Pharmacist Franchisee is not subject to the Fee Motion. As reflected below, the Fees, Disbursements and Taxes of Pharmacist Representative Counsel have been reduced by an estimate of what would otherwise be the Unresolved Pharmacist Franchisee’s proportionate share of such fees and disbursements.
- 3.15 A chart setting out the aggregate value of the Proven Claims of the First Settlement Group, the Second Settlement Group and the Appeal Group is provided below.

	Aggregate Value of Proven Claims
First Settlement Group	15,137,666.29
Second Settlement Group	4,397,039.41
Appeal Group	302,635.00
Total	19,837,340.70

3.16 Below is a chart setting out the aggregate Fees, Disbursements and Taxes incurred in respect of each of the First Fee Period, the Second Fee Period and the Third Fee Period:

	Fees	Disbursements & Taxes	Total
First Fee Period	1,038,758.00	608,570.45	1,647,328.45
Second Fee Period ¹	158,255.00	59,374.53	217,629.53
Third Fee Period ¹	69,300.00	19,047.11	88,347.11
Subtotal	1,266,313.00	686,992.09	1,953,305.09
Fee Application Disbursements		2,827.00	2,827.00
Total	1,266,313.00	689,819.09	1,956,132.09

1 - The allocation of fees between the Second Fee Period and the Third Fee Period differs from the Strosberg Affidavit as a result of additional review by the Monitor and Pharmacy Representative Counsel.

Interim Distributions

3.17 Following each respective period of settlement or resolution, interim distributions were made to the First Settlement Group, the Second Settlement Group and the Appeal Group in respect of their Proven Claims to catch them up to the first and second interim distributions that were made to other Affected Creditors with Proven Claims. The interim distributions made to other Affected Creditors with Proven Claims represented approximately 68% of their Proven Claims.

3.18 Because of the Fee Payment Provision in the Appointment and Fee Order, the Monitor

held back 10% of the value of the interim distributions to Pharmacist Franchisees.

- 3.19 As described in the Thirty-Fifth Report, the Applicants have advised that, in consultation with the Monitor, they intend to make a third interim distribution in early October (the “**Third Interim Distribution**”) totalling approximately \$63.3 million to Affected Creditors’ with Proven Claims. This third distribution would represent a recovery of approximately 8.95% of such Affected Creditors’ Proven Claims, which would bring interim distributions to approximately 76.94% of such Affected Creditors’ Proven Claims.
- 3.20 It is currently anticipated that the Third Interim Distribution will be made on or about October 10, 2017, including to the Pharmacist Franchisees (for greater certainty, other than the Unresolved Pharmacist Franchisee), and that the Third Interim Distribution will be slightly higher (representing a recovery of approximately 9.05% for an aggregate of approximately 77.04%) than as reported in the Thirty-Fifth Report as a result of further claims resolution. Because of the timing of the hearing of the Fee Motion (scheduled for October 11, 2017), the Monitor will again hold back a reserve from the Third Interim Distribution to Pharmacist Franchisees pending a decision on the Fee Motion or, in the case of the Appeal Group, will not make the Third Interim Distribution as to do so would not allow a sufficient reserve regarding Pharmacist Representative Counsel’s fees and disbursements. Correspondence to Pharmacist Franchisees will accompany their Third Interim Distribution indicating the amount of the holdback pending the Court’s decision. The Monitor will also communicate with the Appeal Group to inform them they will not be receiving the Third Interim Distribution and the reason for same.

4.0 THE FEE MOTION AND REQUESTED RELIEF

- 4.1 Although the fee payment structure for Pharmacist Representative Counsel was previously approved, it was subject to Pharmacist Representative Counsel returning to Court upon final resolution of all claims of Pharmacist Franchisees for approval of the fairness and reasonableness of the fees and disbursements on full disclosure of particulars. All claims of Pharmacist Franchisees have now been fully and finally resolved. Accordingly, on September 5, 2017, Pharmacist Representative Counsel served their Fee Motion on the Service List, on all of the 79 Pharmacist Franchisees it represents whose claims have been fully and finally resolved and on the Unresolved Pharmacist Franchisee (as represented by Mr. Dimovski), which Fee Motion disclosed full particulars of the Fees, Disbursements and Taxes.
- 4.2 The Fee Motion applies the Fee Payment Provision of the Appointment and Approval Order. The Monitor worked with Representative Counsel to ensure that a number of key principles were met in the interests of the Pharmacist Franchisees. Through discussions with the Monitor, Pharmacist Representative Counsel modified the original form of Order to adhere to these principles (which are set out in Section 5.0 below).
- 4.3 As set out in the Endorsement, the Court directed any claimants to file supplementary responses to the Fee Motion by October 3, 2017. To assist, the Monitor has prepared a simple objection form that a claimant wishing to respond to the Fee Motion can complete with details of any objection, a copy of which is attached as Appendix B hereto. The form clearly indicates that responses must be received by the Monitor by October 3,

2017. The Monitor will deliver the objection form to the Pharmacist Franchisees together with this Thirty-Seventh Report on September 27, 2017.

5.0 BASIS FOR AND APPLICATION OF THE REQUESTED RELIEF

5.1 In reviewing Pharmacist Representative Counsel's requested relief and leading to the form of Order attached as Appendix C hereto, the Monitor ensured that the following key principles would be applied and reflected (the "**Fee Payment Principles**"):

- (a) a Pharmacist Franchisee is only responsible for its proportionate share of Fees, Disbursements and Taxes from the commencement of the CCAA proceedings through to the date on which such Pharmacist Franchisee's claim was settled or resolved;
 - i. For example, if a Pharmacist Franchisee is a member of the First Settlement Group, it is only responsible for its proportionate share of Fees, Disbursements and Taxes incurred during the First Fee Period (and not the Second Fee Period or the Third Fee Period). If a Pharmacist Franchisee is a member of the Second Settlement Group, it is only responsible for its proportionate share of Fees, Disbursements and Taxes incurred during the First Fee Period and the Second Fee Period (and not the Third Fee Period);
- (b) Fees (not Disbursements and Taxes) are subject to a 10% cap on distributions such that a Pharmacist Franchisee is only responsible in respect of Fees for the lesser of its proportionate share of Fees or 10% of the distribution payable in respect of its claim (the "**Fee Cap**");

- (c) A Pharmacist Franchisee's proportionate share of Fees, Disbursements and Taxes is based on the amount of the particular Pharmacist Franchisee's Proven Claim in proportion to the aggregate amount of the Proven Claims of all Pharmacist Franchisees in the same group as the Pharmacist Franchisee;
- (d) Total Fees, Disbursements and Taxes to be allocated have been reduced by an amount equal to what would have otherwise been the proportionate share of the Unresolved Pharmacist Franchisee;
 - i. In this way, the Pharmacist Franchisees are not paying for the Unresolved Pharmacist Franchisee's proportionate share;
 - ii. Because the amount of the Unresolved Pharmacist Franchisee's claim is not certain, its proportionate share is also not certain. Accordingly, the Monitor has reduced the amount of the Fees, Disbursements and Taxes payable by the Pharmacist Franchisees by an estimated proportionate share amount attributable to the Unresolved Pharmacist Franchisee. Once the claim of the Unresolved Pharmacist Franchisee is fully and finally resolved, there may be an adjustment to the Fees, Disbursements and Taxes payable by Pharmacist Franchisees on a subsequent distribution;
- (e) The Fees, Disbursements and Taxes will be reduced by the Limited Engagement Payment (\$100,000) and the PFAC Members Contribution (\$25,000) already paid to Pharmacist Representative Counsel;

- (f) The amount of the Fees, Disbursements and Taxes to be paid to Pharmacist Representative Counsel will be reduced by the amount of the Interim Payment (\$750,000), which was already paid to Pharmacist Representative Counsel from amounts withheld from prior interim distributions; and
- (g) The Fees, Disbursements and Taxes owing by a Pharmacist Franchisee in either the First Settlement Group or the Second Settlement Group (but not the Appeal Group) will be reduced by its proportionate share of the \$1 million that the Target Canada Entities offered to contribute to the Fees, Disbursements and Taxes as part of the settlements (the “**TCC Contribution**”);
 - i. The proportionate share of the TCC Contribution is based on the amount of the Proven Claim of a particular Pharmacist Franchisee in either the First Settlement Group or the Second Settlement Group in proportion to the aggregate amount of the settlement offers made to all Pharmacist Franchisees in all groups (including the Appeal Group and the Unresolved Pharmacist Franchisee).

5.2 These Fee Payment Principles show the basis for and application of the requested relief. The particulars for the basis of the compensation, namely the Fees, Disbursements and Taxes incurred, are set out in the Pharmacist Franchisee Advisor Affidavits, including all of the dockets of Pharmacist Representative Counsel.

5.3 As part of the proposed draft Order, Pharmacist Representative Counsel is seeking approval of the incurrence of Fees in the amount of \$1,266,313.00 (the “**Fee Amount**”) as being fair and reasonable. As illustrated by the chart below, based on the aggregate

interim distributions (including the Third Interim Distribution), at this time, the Fee Cap will result in an initial reduction of actual Fees payable to Pharmacist Representative Counsel of approximately \$112,000. Pursuant to the proposed relief sought, further distributions by the Applicants will result in additional amounts owing to Pharmacist Representative Counsel; however, based on the estimated range of recoveries to all Affected Creditors and the Fee Cap, Pharmacist Representative Counsel will not recover the entire Fee Amount.

CDN (000's)	First Settlement Group		Second Settlement Group		Appeal Group		Total
Allocation of Counsel Fees - Gross	\$793		\$378		\$95		1,266
Allocation of Counsel Fees - Capped at 10% ¹	793	\$793	339	\$339	23	\$23	1,155
Allocation of Disbursements & Taxes	467		191		32		690
Credit for Target Canada Fee Contribution	(749)		(218)		0		(967)
Credit for Amounts Previously Paid to Counsel	(95)		(28)		(2)		(125)
Net Counsel Fees, Taxes & Disbursements ²	\$415		\$285		\$54		\$753

1- Lesser of actual individual allocation and 10% of estimated distribution.

2- Based on aggregate interim distributions of 77.04% of Proven Claims. Further distributions will increase the amount of available in respect of the Fee Cap for the Second Settlement Group and the Appeal Group and will result in additional payments to Pharmacist Representative Counsel.

5.4 Following service of this Thirty-Seventh Report (together with the objection form), the Monitor will separately deliver to each of the Pharmacist Franchisees an Estimated Reconciliation Statement in substantially the form attached as Appendix D hereto (the “**Estimated Reconciliation Statement**”) showing the application of the Fee Payment Principles and the requested Order to the Pharmacist Franchisee’s individual claim. It is an estimated statement at this time given the timing of the delivery of the statements (namely, before the making of the Third Interim Distribution) and of the Third Interim Distribution (namely, before the hearing of the Fee Motion). The Estimated Reconciliation Statement will show the:

- (a) gross estimated interim distributions to date (including their estimated Third Interim Distribution);
- (b) proportionate allocation of Pharmacist Representative Counsel Fees;
- (c) impact, if any, of the Fee Cap;
- (d) proportionate allocation of Pharmacist Representative Counsel Taxes and Disbursements;
- (e) proportionate amount of credit, if any, in respect of the TCC Contribution;
- (f) proportionate amount of credit for amounts previously paid to Pharmacist Representative Counsel; and,
- (g) estimated reconciliation of amounts withheld from previous interim distributions.

5.5 As soon as practicable following the granting of the proposed Order, the Monitor will provide each Pharmacist Franchisee with a Reconciliation Statement (as the Third Interim Distribution will have been made by such time), together with the payment, if any, to such Pharmacist Franchisee of any reconciliation amount shown thereon.

5.6 The Monitor will also provide reconciliation statements to Pharmacist Franchisees in conjunction with subsequent distributions, in substantially the form attached to and as contemplated by the proposed draft Order.

5.7 The proposed draft Order of Pharmacist Representative Counsel is consistent with and reflects the Fee Payment Principles.

All of which is respectfully submitted to this Court this 27th day of September, 2017.

**Alvarez & Marsal Canada Inc., in its capacity
as Monitor of Target Canada Co., and
the other Applicants listed on Appendix A**

Per:



Name: Douglas R. McIntosh
Title: President

Per:



Name: Alan J. Hutchens
Title: Senior Vice-President

APPENDIX A
LIST OF THE APPLICANTS AND PARTNERSHIPS

Applicants

Target Canada Co.

Target Canada Health Co.

Target Canada Mobile GP Co.

Target Canada Pharmacy (BC) Corp.

Target Canada Pharmacy (Ontario) Corp.

Target Canada Pharmacy (SK) Corp.

Target Canada Pharmacy Corp.

Target Canada Property LLC

Partnerships

Target Canada Pharmacy Franchising LP

Target Canada Mobile LP

Target Canada Property LP

**APPENDIX B
OBJECTION FORM**

3. Purpose of Objection

Objections filed with the Monitor by 5:00 p.m. on October 3, 2017 will be provided to Pharmacist Representative Counsel and filed with the Court for consideration in connection with the Fee Motion.

4. Certification

I hereby certify that:

1. I am the Claimant or authorized representative of the Claimant.
2. Complete documentation in support of this objection is attached.

Signature: _____

Name: _____

Title: _____

Witness:

(signature)

(print)

Dated at _____ this _____ day of _____, 2017

5. Filing of Objection

Pursuant to the Endorsement of Regional Senior Justice Morawetz dated September 13, 2017, any claimant wishing to respond to the fee motion of Pharmacist Representative Counsel must do so by filing supplementary responses by October 3, 2017.

Accordingly, this Objection must be received by the Monitor on or before 5:00 p.m. (Toronto time) on October 3, 2017 by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

**Alvarez & Marsal Canada Inc., Target Canada Monitor
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900, P.O. Box 22
Toronto, ON Canada M5J 2J1
Attention: Stephen Ferguson
Email: targetcanadamonitor@alvarezandmarsal.com
Fax No.: 416-847-5201**

For more information, contact the Monitor by telephone at 416 847 5162

APPENDIX C
FORM OF ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE REGIONAL)
)
 SENIOR JUSTICE MORAWETZ) WEDNESDAY, THE 11TH
) DAY OF OCTOBER, 2017

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF TARGET CANADA CO., TARGET CANADA
HEALTH CO., TARGET CANADA MOBILE GP CO., TARGET
CANADA PHARMACY (BC) CORP., TARGET CANADA
PHARMACY (ONTARIO) CORP., TARGET CANADA PHARMACY
CORP., TARGET CANADA PHARMACY (SK) CORP., and TARGET
CANADA PROPERTY LLC (the "**Applicants**")

ORDER

THIS MOTION, made by Strosberg Sasso Sutts LLP (formerly Sutts Strosberg LLP) in
its capacity as Pharmacist Representative Counsel ("Counsel") was heard this day at 330
University Avenue, Toronto, Ontario.

ON READING the notice of motion, the affidavits of Harvey T. Strosberg, Q.C. sworn
November 17, 2016 and September 1, 2017, Josie Parisi sworn November 16, 2016 and August
30, 2017, Robert R. Macdonald sworn November 17, 2016 and August 30, 2017 and Ian
Manning sworn November 16, 2016 and August 30, 2017, the affidavit of Charles Scerbo sworn
September 6, 2017, the Monitor's Thirty-Seventh Report dated September 27, 2017, the orders
and rulings, and on hearing the submissions of counsel for the Monitor and Counsel and those

DRAFT: 1 - September 27, 2017 - 9:08 AM

other parties present, no one else appearing for any other person on the service list, although properly served as appears in the affidavits of service:

1. THIS COURT ORDERS that in the period from January 15, 2015 to the present, the following fees of Counsel (the “Fees”), the following fees and expenses of G&R, BDO, MRM and E&M, and the expenses of Counsel (collectively, the “Disbursements”) and the taxes on the Fees and Disbursements (the “Taxes”) have been properly incurred and are fair and reasonable and are hereby approved for payment in accordance with this Order:

	Fees	Disbursements & Expenses ¹	HST on Fees and Disbursements	Subtotal Disbursements & Taxes	Total Fees, Disbursements & Taxes
Counsel	1,266,313.00	37,184.42	169,393.56	206,577.98	1,472,890.98
G&R		26,548.67	3,451.33	30,000.00	30,000.00
BDO		120,179.06	15,623.28	135,802.34	135,802.34
MRM		112,030.00	14,563.90	126,593.90	126,593.90
E&M		166,387.50	21,630.38	188,017.88	188,017.88
Total	1,266,313.00 ("Fees")	462,329.65 ("Disbursements")	224,662.45 ("Taxes")	686,992.10	1,953,305.10

1 - Includes \$425,131.17 in respect of Fees for G&R, BDO, MRM and E&M collectively, \$37,184.42 in respect of disbursements for Counsel and \$14.06 in respect of disbursements for BDO.

2. THIS COURT ORDERS that the Fees, Disbursements and Taxes shall be reduced by an amount determined by the Monitor as a reserve in respect of fees, disbursements and taxes that may be owing by T Pharmacy Ltd. in connection with its claim, which amount shall be adjusted based on final resolution of the claim of T Pharmacy Ltd. Such reduced Fees are referred to herein as the “Fees Payable” and such reduced Disbursements and Taxes are referred to as the “Disbursements and Taxes Payable” .

3. THIS COURT ORDERS that within five (5) business days from the date of this Order in respect of interim distributions to those pharmacist franchisees represented by Counsel (the “**Pharmacist Franchisees**”) up to the date of this Order and within two (2) business days of any future distribution of funds to Pharmacist Franchisees, the Monitor shall effect a payment to Counsel of the lesser of:

- a. the proportionate share then owed by each Pharmacist Franchisee in respect of the outstanding Fees Payable, if any; or
- b. ten percent (10%) of the aggregate distribution made to each Pharmacist Franchisee,

provided that in no event shall Counsel be paid more than the Fees Payable, less any amounts already paid.

4. THIS COURT ORDERS that within five (5) business days from the date of this Order, the Monitor shall effect a payment to Counsel of the Disbursements and Taxes Payable plus an amount equal to \$2,827.00 in respect of expenses incurred in respect of and up to the date of this Motion, less any amounts already paid.

5. THIS COURT ORDERS that the Monitor shall, concurrently with the Applicants’ making any subsequent distributions, issue a statement to each Pharmacist Franchisee substantially in the form attached hereto as Appendix “A”.

APPENDIX "A"

**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 TARGET CANADA CO., et al**

Court File No. CV-15-10832-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

ORDER

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APPENDIX D
FORM OF ESTIMATED RECONCILIATION STATEMENT

Pharmacist Franchisee Estimated Reconciliation Statement

This Pharmacist Franchisee Estimated Reconciliation Statement is provided to you to illustrate your net Fees, Disbursements and Taxes owing after Contribution and Previous Payments, along with your anticipated net reconciliation amount up to and including the Third Interim Distribution, assuming Court approval of Pharmacist Representative Counsel Fees, Disbursements and Taxes. Actual amounts are subject to change.

Claim Number Store Number Company Name Group

Claim Value

Aggregate Distribution Percentage To Date (Including Third Interim Distribution)

77.04%

		Notes
Gross Distribution Owing to Claimant To Date	-	1
<i>Less:</i>		
Proportionate Share of Counsel Fees (Gross)	(A)	2
Proportionate Share of Counsel Fees (Capped at 10% of Distribution)	(B)	
Lesser of (A) and (B)	-	3
Proportionate Share of Taxes & Disbursements		4
Gross Fees, Disbursements and Taxes Owing	-	
Proportionate Share of Credit for Target Canada Entities Contribution		5
Proportionate Share of Credit For Payments Previously Made to Counsel		6
Net Counsel Fees, Disbursements and Taxes Owing After Contribution and Previous Payments	-	
Net Amount Owing to Claimant	- (C)	7
Previous Distribution(s) Paid	67.99%	
Gross		
Withholdings		
Net Previous Distribution(s)	-	
Third Interim Distribution (Expected mid-October 2017)	9.05%	
Gross		
Withholdings		
Net Third Interim Distribution	-	8
Previous and Third Interim Distribution	- (D)	
Projected Net Reconciliation Amount	- (C - D)	9

Notes:

- 1 - Total Proven Claim multiplied by Aggregate Interim Distribution percentage to date (including anticipated Third Interim Distribution).
- 2 - Proportionate share of total Counsel Fees of approximately \$1.27 million, allocated to you with consideration to: i) the amount of your claim in proportion to the aggregate amount of the claims of all Pharmacist Franchisees in the same group as you; and ii) date of the claim resolution of your settlement group and Counsel Fees incurred to that date.
- 3 - Lesser of: i) actual fee allocation and ii) 10% of the gross distribution owing to you.
- 4 - Proportionate share of total Taxes and Disbursements of approximately \$0.69 million, allocated to you with consideration to i) the amount of your claim in proportion to the aggregate amount of the claims of all Pharmacist Franchisees in the same group as you; and ii) date of the claim resolution of your settlement group and disbursements incurred to that date.
- 5 - Proportionate share of the \$1 million Target Canada Entities contribution, allocated to you with consideration to the amount of your claim in proportion to the aggregate value of all Pharmacist Franchisee claims, if all Pharmacist Franchisee claimants had agreed to the Monitor's Offer to Settle.
- 6 - Proportionate share of: i) 25,000 paid to Counsel directly by PFAC; and ii) \$100,000 paid to Counsel by Target Canada Co. in respect of the February 18, 2015 Appointment Order.
- 7 - Gross Distribution owing to you after deduction of net Counsel Fees and Disbursements, less impact of Contribution and previous payments to Counsel.
- 8 - Net amount of Third Interim Distribution payment (expected to be issued mid-October 2017).
- 9 - Net payment amount after consideration of i) Net Fees, Disbursements and Taxes owing, and ii) Interim Distributions and withholdings to date.

IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TARGET CANADA CO., TARGET CANADA HEALTH CO., TARGET CANADA MOBILE GP CO., TARGET CANADA PHARMACY (BC) CORP., TARGET CANADA PHARMACY (ONTARIO) CORP., TARGET CANADA PHARMACY CORP., TARGET CANADA PHARMACY (SK) CORP., AND TARGET CANADA PROPERTY LLC

Court File No.: CV-15-10832-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**THIRTY-SEVENTH REPORT OF THE
MONITOR**

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