

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
No.: 500-11-050409-164

SUPERIOR COURT
(Commercial Division)
(sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C. 1985, c.
C-36, as amended)

IN THE MATTER OF THE PLAN OF COMPROMISE
OF:

7098961 CANADA INC. (formerly known as
BEYOND THE RACK ENTERPRISES INC.)

Debtor

-and-

RICHTER ADVISORY GROUP INC.

Monitor

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| <p>THIRD REPORT OF THE MONITOR ON THE STATE OF THE DEBTOR'S BUSINESS AND FINANCIAL AFFAIRS MAY 10, 2016</p> |
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A) INTRODUCTION

1. On March 24, 2016, the Honourable Justice Martin Castonguay, J.S.C., issued an initial order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") in respect of 7098961 Canada Inc. (formerly known as Beyond the Rack Enterprises Inc., the "**Debtor**") as appears from the Court record.
2. Pursuant to the Initial Order, Richter Advisory Group Inc. ("**Richter**" or the "**Monitor**") was appointed as Monitor to the Debtor and a stay of proceedings (the "**Stay of Proceedings**") was issued from the date of the Initial Order until April 22, 2016 (the "**Stay Period**"). Thereafter, the Stay Period was extended a number of times and most recently until May 13, 2016.
3. As part of its monitoring of the Debtor's business and financial affairs, and in light of the recent developments, the Monitor has determined that it is necessary to inform the Court and the creditors of a material adverse change in the Company's financial situation, the whole pursuant to Section 23.(1) (d) (i) of the CCAA.

B) ACTUAL RECEIPTS AND DISBURSEMENTS AS COMPARED TO THE PROJECTIONS

4. We refer this Court to Appendix A (under seal) for the comparative cash flow statement for the 6-week period starting from the date of the Initial Order (March 24, 2016) and ending on May 1st, 2016, including details of the major variances.
5. During the above-mentioned period, actual receipts were \$2.2 million below the projected receipts. This variance is primarily explained by (i) the offset by the payment processors of approximately \$1.8 million of post-filing receipts as compensation pertaining to cancellations of pre-filing orders, and (ii) a delay in the receipt of a significant duty drawback refund claim which was originally estimated at \$542,000 but now has been revised to \$441,000.
6. Another portion of the variance is the result of the following: on April 18, 2016, Paysafe Merchant Services Inc. and Paysafe Merchant Services Corp. (collectively "Paysafe"), the primary payment processor for the Debtor, had deposited \$101,750, in trust with the Monitor. The funds were to be used for the purchase of inventory for the fulfillment of a portion of pre-filing customers' orders relating to Paysafe. On April 29, 2016, an amount of \$101,750 was withheld by Paysafe from its daily remittance.
7. Consequently, in order to manage its cash flow, the Debtor considerably reduced the purchase of new merchandise and thus, the fulfillment of customers' orders has been impaired.
8. More recently, for the week ended May 8, 2016, cash receipts were \$145,565 as compared to projected receipts of \$615,600 (a negative variance of \$470,035). For the same week, sales were approximately \$387,000 and had been projected at \$810,000 (a negative variance of \$423,000).
9. As at May 9, 2016, the Debtor's bank balance is \$223,981.

C) POST-FILING OBLIGATIONS

10. The following table summarizes the Debtor's post-filing obligations estimated as at May 5, 2016:

| Post-Filing obligations as at May 5, 2016 (in 000's) | <i>(Estimated)</i> |
|--|--------------------|
| Products and Shipping | \$ - |
| Payroll and fringe benefits | 150 |
| Occupancy | 49 |
| Marketing | 90 |
| Information technology | 135 |
| Post-filing open customer orders (as at May 1, 2016) | 2,416 |
| Total | \$ 2,841 |

11. The above mentioned post-filing obligations were incurred in the normal course of business since the issuance of the Initial Order and in anticipation of additional DIP advances sought by the Debtor in one of the motions described below as well as the anticipated assumption of the post-filing open customer orders by the eventual purchaser that was being sought through the sale process that was initiated immediately after the issuance of the Initial Order.

D) OPERATIONS

12. On April 28, 2016, the Debtor temporarily suspended its website to remove the Paysafe payment options for Visa, MasterCard and Amex on the order screens. The website was re-opened on April 30, 2016 and customers are now invited to pay their orders using a Paypal account.
13. On May 2nd, 2016, the Court was informed by the Monitor of the above situation.

E) RECENT DEVELOPMENTS

14. On April 22, 2016, the Debtor made an Application to the Court for the issuance of (i) a claims and meeting procedure order (ii) an order approving an asset purchase agreement and (iii) an order approving an increase of the DIP Facility. This application was dismissed by judgment rendered on May 6th, 2016.

15. On April 22, 2016, the Monitor made an Application for directions pertaining to the unauthorized compensation of cancelled pre-filing orders by Paysafe. On April 27, 2016, an Amended Application was presented whereby the Debtor was added as Applicant (the "Amended Application"). This Amended Application was also dismissed by judgment rendered on May 6th, 2016.
16. On the same day, the Court extended the Stay Period to May 13, 2016 pursuant to the Motion for the issuance of an Order extending the Stay of Proceedings made by the Debtor on April 13, 2016.

F) PRESENT SITUATION AND CONCLUSION

17. During the hearing of the Amended Application held on April 25 and 26, 2016, the DIP Lender informed the Court that additional conditions needed to be met before any new DIP advances would be made to the Debtor. These conditions included that new DIP advances could only be used to fulfill post-filing customer orders and that the Amended Application would be successful.
18. Immediately following the dismissals of the various motions mentioned above, the Monitor has communicated with the Debtor and the DIP Lender to confirm their intentions in light of these recent developments.
19. Furthermore, on May 9, 2016, the Monitor informed the Debtor and the DIP Lender of its intention to issue a negative report to the Court considering the material adverse change to the financial situation of the Debtor.
20. At the end of day on May 9, 2016, the DIP Lender informed the Monitor that it had no intention to extend any further credit to the Debtor.
21. As at May 9, 2016, the Debtor has a bank balance of \$223,981 which is insufficient to maintain the operations and honor the post-filing obligations that continue to be incurred.
22. The Monitor is of the view that the current situation is highly prejudicial to the customers, suppliers, employees and any other party dealing with the Debtor.

23. Accordingly, it is the Monitor's opinion that the Debtor should halt its operations, close its website and cease to incur post-filing obligations.

Richter Advisory Group Inc.
Monitor

A handwritten signature in black ink, appearing to read 'B. Gingues', with a stylized flourish at the end.

Benoit Gingues, CPA, CA, CIRP

APPENDIX A (UNDER SEAL)