

C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
COURT. No.: 500-11-057470-193
500-11-057469-195
ESTATE. No.: 41-2582132
41-2582130

S U P E R I O R C O U R T
Commercial Division

**IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF:**

BOUCLAIR INC.

- and -

BOUCLAIR INTERNATIONAL INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

(Martin Franco, CPA, CA, CIRP, LIT designated
person in charge)

Trustee

**FIFTH REPORT TO THE COURT
SUBMITTED BY DELOITTE RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE TO THE NOTICE OF INTENTION TO MAKE A PROPOSAL**
(Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3)

INTRODUCTION

1. On November 11, 2019, Bouclair Inc. ("**Bouclair**") and Bouclair International Inc. ("**Bouclair International**") (collectively the "**Companies**" or the "**Debtors**") each filed a Notice of Intention to make a proposal (collectively, the "**NOIs**") under the relevant provisions of the *Bankruptcy and Insolvency Act*.
2. Deloitte Restructuring Inc. ("**Deloitte**") has been appointed as the Debtors' proposal trustee (the "**Trustee**").
3. The factual background which led to the filing of the NOIs is described in the Debtors' *Motion for the Issuance of an Order (i) Creating Super-Priority Charges, (ii) Approving a Consulting Agreement and (iii) Approving Related Relief* (the "**Initial Motion**"), as well as in the *First Report to the Court submitted by Deloitte in its Capacity as Trustee to the Notice of Intention to Make a Proposal*, both in the Court record.
4. On November 12, 2019, following the presentation of the Initial Motion, the Superior Court of Quebec (Commercial Division) (the "**Court**") rendered an order (the "**First Day Order**"):

- a. Approving the creation of a super-priority charges over all Affected Assets (as defined in the First Day Order);
 - b. Approving retroactively the CRO Engagement Letter (as defined in the First Day Order);
 - c. Authorizing the payment of certain pre-filing obligations to certain suppliers located outside of the jurisdiction of this Court; and
 - d. Approving related relief.
5. On November 15, 2019, the Court rendered an order (the "**Liquidation Order**") approving the Consulting Agreement pursuant to which Gordon Brothers Canada ULC acts as the liquidator of the Liquidation Stores (as defined in the Initial Motion).
 6. On December 6, 2019, the Debtors filed a motion to the Court for an order (i) extending the stay period ("**Stay Period**") and (ii) expanding the scope of super-priority charges.
 7. On December 10, 2019, the Court rendered an order (i) extending the Stay Period until January 24, 2020, and (ii) declaring that the scope of super-priority charges shall be extended to cover all the assets of Bouclair.
 8. On January 23, 2020, following a motion filed with the Court for an order extending the Stay Period, the Court extended the Stay Period until March 2, 2020.

PURPOSE OF THE FIFTH REPORT

9. This fifth report of the Trustee (the "**Fifth Report**") addresses the following matters:
 - (i) Activities of the Trustee since the issuance of the Trustee's Third Report;
 - (ii) Activities of the Companies;
 - (iii) Financial performance and cash flow projections;
 - (iv) The sought extension of the time limit to file a proposal; and
 - (v) Trustee's conclusions and recommendations.

10. In preparing this Fifth Report, the Trustee has relied upon unaudited financial information, the Companies' records, the Companies' *Motion for an order extending the stay period* (the "**Motion for a third extension**"), and its discussions with the management of the Companies ("**Management**") and the Companies' Chief Restructuring Officer ("**CRO**"). While the Trustee has reviewed the information, some in draft form, submitted in the abridged time available, the Trustee has not performed an audit or other verification of such information. Forward looking financial information included in the Fifth Report is based on assumptions of the Companies' management regarding future events, and actual results achieved will vary from this information and the variations may be material.

11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not defined in this Fifth Report are as defined in the Initial Motion or the Motion for a third extension.

12. A copy of this Fifth Report and further reports of the Trustee will be available on the Trustee's website at www.insolvencies.deloitte.ca/bouclair.

ACTIVITIES OF THE TRUSTEE

13. The Trustee continues to monitor the receipts and disbursements and, on a weekly basis, performs a comparison and variance analysis against the cash flow statement.

14. Since the issuance of the Third report, the Trustee continued to participate in several meetings and conference calls with the Companies, the CRO and their advisors in connection with their restructuring efforts.

15. The Trustee assisted the Debtor in its dealings with a number of suppliers and landlords in order to ensure an uninterrupted flow of goods and services.

ACTIVITIES OF THE COMPANIES

Landlords

16. As indicated in the Trustee's Fourth report, on December 9, 2019, the Debtors and the Trustee received an Application to Contest a Notice of Disclaimer or Resiliation of a Commercial Lease (the "**Contestation**") for the Jonquière store, based on section 65.2 of the BIA, from the landlord 9230-1860 Québec Inc. (the "**Contesting Landlord**").
17. The Trustee indicated in its Fourth report that it is of the opinion that the resiliation of the lease for the Jonquière store was justified and appropriate in the circumstances.
18. On February 17, 2020, following the filing of the Trustee's Fourth report, legal counsel for the Contesting Landlord contacted Bouclair's legal counsel to advise that the Contestation was withdrawn.
19. On or around February 19, 2020, the Contesting Landlord filed in the Court record a discontinuance and withdrawal of the Contestation.

Sought Transaction

20. As indicated in the Motion for a third extension, the Companies have entered into a non-binding term sheets with the NBC and a third-party lender regarding the refinancing of the NBC secured indebtedness and the granting of a new subordinated loan, respectively.
21. The Debtors are now in the final stages of the Restructuring Process and are seeking to complete the implementation of the Transaction in the coming weeks. There have been delays but the objective of the Companies remains to finalize binding commitments as soon as possible, with a view to seeking a hearing for approval of the Transaction on or around March 16, 2020, subject to the Court's availabilities, and proceeding with a closing of the Transaction on or around March 18, 2020.

Other matters

22. The Companies, with the assistance of the Trustee, have been in communication with suppliers affected by the NOIs and have been successful in maintaining a continued supply of goods and services to the business, either on a cash-on-delivery basis or negotiated terms.
23. On January 24, 2020, the Debtors and the NBC agreed on a Sixth Forbearance Agreement pursuant to which NBC agreed to forbear from exercising its rights as secured creditor until February 28, 2020. As of the date of this Fifth Report, discussions are taking place between the Debtors and NBC with a view of agreeing upon a sufficient extension of the Sixth Forbearance Agreement.
24. As authorized in the First Day Order, the Debtors, with the Trustee's approval, have paid a total amount of approximately \$697K to certain Key Suppliers (as defined in the Initial Motion) for Pre-Filing Obligations (as defined in the Initial Motion).

FINANCIAL PERFORMANCE AND CASH FLOW PROJECTIONS

Cash flow results for the 5-week period ended February 22, 2020

25. When the second Motion for an extension Order was filed, the Debtors submitted a projected cash flow statement for the period from January 19, 2020, to February 29, 2020 (the "**Second Extension Cash Flow Forecast**").
26. Since the filing of the NOIs, the Debtors have been paying their suppliers in the ordinary course of business based on negotiated terms or on cash-on-delivery basis. The Debtors have advised the Trustee that they have not incurred significant unpaid liabilities since the NOIs were filed.
27. **Appendix A** contains the comparative cash flow statement for the 5-week period ended February 22, 2020. The net cash outflow of approximately \$2.3M for the 5-week period was approximately \$1.4M lower than initially forecasted:
- a. Total receipts were approximately \$9.9M, or approximately \$0.5M higher than initially forecasted. This is due to higher than forecasted sales.
 - b. Total disbursements were approximately \$12.2M, or approximately \$0.9M less than initially forecasted. This is primarily due to the following:
 - i. Sales taxes: The Debtors realized recently that they did not fully consider all taxes paid on expenses and consequently, the sales tax remittance were overstated.
 - ii. Professional fees and Other expenses (non trade): The positive variance is primarily due to timing since some suppliers/professionals have not yet submitted their invoices.
28. At the time of writing the Fifth Report, the Debtors advised the Trustee that they were in compliance with the conditions under the Sixth Forbearance Agreement, including in respect of the borrowing base calculation.

Cash flow forecast for the 5-week period ending March 28, 2020

29. In support of their Motion for a third extension, the Debtors revised and extended their cash flow projections (the "**Third Extension Cash Flow Forecast**") for the period from February 23, 2020, to March 28, 2020 (refer to **Appendix B** and the summary below). Although the Debtors anticipate proceeding with a closing of the Transaction on or around March 18, 2020, the Debtors revised and extended the Third Extension Cash Flow Forecast until March 28, 2020, in the event the closing of the Transaction was delayed due to any unforeseen reasons.

Bouclair Inc. and Bouclair International Inc.
Weekly Cash Flow Forecast
For the 5-week period ending March 28, 2020
(Unaudited, in \$000s CAD)

RECEIPTS	
Sales receipts	<u>11,928</u>
TOTAL RECEIPTS	<u>11,928</u>
DISBURSEMENTS	
Trade vendor payments (third party)	4,078
Payroll & related payments	2,019
Freight	540
Duty	240
Sales taxes	367
Rent	1,900
Professional fees	180
Warehouse contractants	382
Marketing & Advertising	415
Insurance	86
IT	305
Other expenses (non trade)	385
Professional fees - restructuring	1,154
Credit card fees	126
Financial expenses	70
Utilities / deposits	175
Contingency	<u>125</u>
TOTAL DISBURSEMENTS	<u>12,547</u>
NET CASH FLOW FROM OPERATIONS	<u>(619)</u>

30. The projections reflect the following general assumptions:

- a. Granting of the 26-day period extension to file a Proposal;
- b. Continued operation of the remaining stores; and
- c. Compliance with the conditions under the Sixth Forbearance Agreement, including with the borrowing base calculation, and agreement upon a sufficient extension thereunder.

EXTENSION OF THE TIME LIMIT TO FILE A PROPOSAL

31. The Debtors advised the Trustee of their intention to file a third motion for a 26-day extension of the time limit to file a proposal to its creditors pursuant to Subsection 50.4(9) of the BIA.

32. The Companies require additional time to (i) seek to implement the Transaction, and (ii) potentially formulate a Proposal.

TRUSTEE'S RECOMMENDATION

33. The Trustee is of the opinion that the reasons invoked in the Motion for a third extension are reasonable and it supports the relief sought therein.
34. The Trustee is of the opinion, based on the relief requested in the Motion for a third extension, that:
- a. It is in the creditors' best interest that an extension of the stay proceedings be granted in order to allow the Companies additional time, for the reasons detailed in paragraph 32;
 - b. The Debtors have acted, and are continuing to act, in good faith and with due diligence; and
 - c. No creditor will be materially prejudiced by the granting of the extension.

The Trustee respectfully submits to the Court this, its Fifth Report.

DATED AT MONTREAL, this 27th day of February 2020.

Martin Franco, CPA, CA, CIRP, LIT
Senior Vice President



DELOITTE RESTRUCTURING INC.
In its capacity as Trustee

APPENDIX A – Comparative Cash Flow Statement

BOUCLAIR INC. - Weekly Report		For the cumulative period of five-week ended on 02-22-2020		
Consolidated - (in \$000 CAD)	Actual	Budget	Variance	Note
Receipts				
Sales receipts	9,933.1	9,464.0	469.1	1
Other	0.2	-	0.2	
Total receipts	9,933.3	9,464.0	469.3	
Disbursements				
Trade vendor payments (third party)	3,066.4	3,120.0	53.6	
Payroll & related payments	2,939.5	2,765.0	(174.5)	2
Freight	676.6	625.0	(51.6)	
Duty	393.6	300.0	(93.6)	
Sales taxes	19.3	654.0	634.7	3
Rent	1,900.0	1,913.0	13.0	
Professional fees	49.9	153.0	103.1	4
Warehouse Contractors	497.1	534.0	36.9	
Marketing & Advertising	455.9	496.0	40.1	
Insurance	70.3	99.0	28.7	
IT	377.6	408.0	30.4	
Other expenses (non trade)	421.3	600.0	178.7	4
Liquidation disbursements	(100.3)	(100.0)	0.3	
Professional fees - restructuring	688.3	769.0	80.7	5
Credit card fees	107.7	156.0	48.3	
Financial expenses	121.0	70.0	(51.0)	6
Utilities / deposits	285.8	165.0	(120.8)	7
Contingency	-	125.0	125.0	
Loan repayment	263.0	263.0	-	
Total disbursements	12,233.0	13,115.0	882.0	
Net cash flow from operations	(2,299.7)	(3,651.0)	1,351.3	
Opening cash balance	(6,275.8)	(6,274.0)	(1.8)	
Closing cash balance	(8,575.5)	(9,925.0)	1,349.5	

Note 1: Sales receipts - The positive variance is mainly explained by the fact that sales have been budgeted based on last year's sales with no growth.

Note 2: Payroll & related payments - The negative variance is due to the payment made for the quarterly bonuses paid to store managers and assistant managers.

Note 3: Sales taxes - The positive variance is mainly due to the fact that some taxes paid on expenses had not been applied against the taxes collected since the filing of the NOI.

Note 4: Professional fees and Other expenses (non trade) - The positive variance is mainly due to timing as some suppliers have not yet submitted their invoices.

Note 5: Professional fees - Restructuring - The positive variance is mainly due to timing as some professionals have not yet submitted their invoices. Management expects to receive the invoices and pay them in the upcoming weeks.

Note 6: Financial expenses - The negative variance is mainly due to the fees paid to the potential third party lenders.

Note 7: Utilities - The negative variance is mainly to the fact that actual utilities costs were higher than anticipated in the budget.

APPENDIX B – Third Extension Cash Flow Forecast

Bouclair Inc. and Bouclair International Inc.							
Weekly Cash Flow Forecast							
For the 5-week period ending March 28, 2020							
(Unaudited, in \$000s CAD)							
Week Ending >>>>	Note	29-Feb-20	7-Mar-20	14-Mar-20	21-Mar-20	28-Mar-20	<u>TOTAL</u>
RECEIPTS							
Sales receipts	1	1,933	2,238	2,057	2,917	2,783	11,928
TOTAL RECEIPTS		1,933	2,238	2,057	2,917	2,783	11,928
DISBURSEMENTS							
Trade vendor payments (third party)	2	720	585	911	1,159	703	4,078
Rent	3	-	971	-	929	-	1,900
Payroll & related payments	4	2	996	2	1,017	2	2,019
Other expenses	5	163	177	206	65	35	646
Professional fees - restructuring	6	34	288	264	72	496	1,154
Freight & Duty	7	215	235	205	125	-	780
Marketing & Advertising	8	41	140	156	27	51	415
Warehouse contractants	9	55	154	60	113	-	382
Professional fees	10	39	64	38	30	9	180
Financial expenses	11	-	196	-	-	-	196
IT	12	102	40	83	40	40	305
Sales taxes		-	367	-	-	-	367
Contingency		25	25	25	25	25	125
TOTAL DISBURSEMENTS		1,396	4,238	1,950	3,602	1,361	12,547
NET CASH FLOW FROM OPERATIONS		537	(2,000)	107	(685)	1,422	(619)
Opening cash balance		(8,435)	(7,898)	(9,898)	(9,791)	(10,476)	(8,435)
CLOSING CASH BALANCE		(7,898)	(9,898)	(9,791)	(10,476)	(9,054)	(9,054)
Letters of credit (L/C)		(141)	(141)	(141)	(141)	(141)	(141)
Closing cash balance (including L/C)		(8,039)	(10,039)	(9,932)	(10,617)	(9,195)	(9,195)
Borrowing capacity		12,098	12,391	12,720	12,897	12,546	12,546
Surplus of coverage		4,059	2,352	2,788	2,280	3,351	3,351

**** To be read in conjunction with the attached Notes and Summary of Assumptions**

Notes and Summary of Assumptions

1. *Sales receipts* include product sales from stores and e-commerce. Forecasted product sales from Stores (including sales tax) are gross of credit card fees. The Company's forecasted sales are based on historical sales patterns on a weekly basis.
2. *Trade vendor payments (third party)* include payments to domestic and international suppliers, as well as pre-NOI amounts to international suppliers (up to a maximum of \$750K during the NOI proceedings). These payments are based on the actual purchase orders and future orders that will be needed for the Company to maintain the going concern. Amounts include sales tax when applicable.
3. *Rent* includes rent payments to landlords (paid biweekly starting December 1, 2019) in accordance with the leases and the Liquidation Order. Amounts include sales tax.
4. *Payroll and related payments* include Stores, Corporate related payroll, fringe benefits and stores performance bonus program.
5. *Other expenses* include utilities, insurance, and other general payments based on historical expense patterns. Amounts include sales tax. Deposits made to postal and utilities companies, after the NOI filing, will be used against these their invoices for the last two weeks of the Cashflow.
6. *Professional fees - restructuring* includes estimated professional fees for the Trustee, the Trustee's legal counsel, the CRO, the Company's legal counsel, NBC's financial advisor, and NBC's legal counsel. The Company will incur all the fees mentioned above. Amounts include sales tax. Deposits made to professionals will be used against these their invoices for the last week of the Cashflow.
7. *Freight and duty* include inbound freight for purchased merchandise, outbound freight for shipments to stores, and duty for international purchases based on historical expense patterns. Amounts include sales tax. Deposits made to transport companies and custom brokers, after the NOI filing, will be used against these their invoices for the last two weeks of the Cashflow.
8. *Marketing and advertising* include traditional media and social media payments based on historical expense patterns. Amounts include sales tax.
9. *Warehouse contractors* include fees paid to agencies for warehouse resources based on historical expense patterns. Amounts include sales tax. Deposits made to agencies, after the NOI filing, will be used against their invoices for the last week of the Cashflow.
10. *Professional fees* include all other professional fees not related to the restructuring. These fees are to be incurred by the Company based on historical expense patterns. Amounts include sales tax.
11. *Financial expenses* include credit card fees which are forecasted at 1.55% for all stores sales, monthly bank fees, interests, and forbearance fees.
12. *IT fees* include all IT-related payments based on historical expense patterns. Amounts include sales tax.