



No. S080752
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.A. 2000, c. B-9
AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION, and
GRAY'S APPAREL COMPANY LTD.

PETITIONERS

AFFIDAVIT #1 OF MARTHA MARTINDALE

I, Martha Martindale, Barrister and Solicitor, of 1200 - 200 Burrard Street, Vancouver, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am an Associate Lawyer with Borden Ladner Gervais LLP, solicitors for the Petitioner, and as such have personal knowledge of the facts deposed to in this Affidavit except those facts which I say are based upon information and belief and as to those facts I truly believe them to be true.

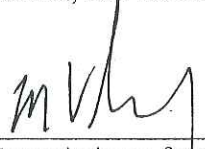
2. Due to a typographical error, the amount which the Borrower wishes to borrow, as referenced in recital paragraph A of the Demand Loan Agreement, attached as Exhibit "E" to the Affidavit of John McNamara, referred to "three million (CDN\$2,500,000)". The correct amount which the Borrower wishes to borrow is [✓] "two million five hundred thousand dollars (CDN\$2,500,000)".
UP TO MB

3. Due to a typographical error, the amount which the Lender has agreed to lend, as referenced in recital paragraph B of the Demand Loan Agreement, attached as Exhibit "E" to the Affidavit of John McNamara, referred to "three million (CDN\$2,500,000)". The correct amount which the Lender has agreed to lend is [✓] "two million five hundred thousand dollars (CDN\$2,500,000)".
UP TO MB

4. Due to a typographical error, the amount of the sum to be advanced, as referenced in section 1 of the Demand Loan Agreement, attached as Exhibit "E" to the Affidavit of John McNamara, referred to "three million (CDN\$2,500,000)". The correct amount of the sum to be advanced is [✓] "two million five hundred thousand dollars (CDN\$2,500,000)".
UP TO MB

5. Attached and marked as Exhibit "A" to this Affidavit is a true copy of the Demand Loan Agreement.

SWORN BEFORE ME at the City of
Vancouver, in the Province of British
Columbia, this 1st of February, 2008


A Commissioner for taking Affidavits
for British Columbia

MAGNUS C. VERBRUGGE
BARRISTER & SOLICITOR
1200 Waterfront Centre, 200 Burrard Street
P.O. Box 48600, Vancouver, Canada V7X 1T2
(604) 640-4198


MARTHA MARTINDALE

This is Exhibit " A " referred to in the
affidavit of MARSHA MARTINDALE
made before me on FEB. 1 20 08
MW
A Commissioner for taking Affidavits
for British Columbia

DEMAND LOAN AGREEMENT

THIS DEMAND LOAN AGREEMENT dated as of February 1, 2008

BETWEEN:

MARIPOSA STORES LIMITED PARTNERSHIP, a British Columbia limited partnership, by its general partners Gray's Apparel Company Ltd. and Backbay Retailing Corporation, having an office at 88 West 1st Ave, Vancouver, B.C., Canada V5Y 3K8

(hereinafter the "**Borrower**")

OF THE FIRST PART

COC STIFTUNG II, having an office at Fürst-Franz-Josef-Str. 73, FL-9490 Vaduz, Liechtenstein

(hereinafter called the "**Lender**")

OF THE SECOND PART

WHEREAS:

- A. Mariposa intends to file for protection from its creditors (the "**Insolvency Proceedings**") under the *Companies' Creditors Arrangement Act*, RSC 1985 c. C-36 (the "**CCAA**");
- B. The Borrower wishes to borrow from the Lender the sum of up to two million five hundred thousand dollars (CDN\$2,500,000) for working capital purposes; and
- C. The Lender has agreed to lend to the Borrower the sum of up to two million five hundred thousand dollars (CDN\$2,500,000) in the form of a demand loan on the terms and conditions set out herein;

NOW THEREFORE the parties agree as follows:

1. The Loan

The Lender agrees, subject to the terms and conditions of this agreement, to advance the sum of up to two million five hundred thousand dollars (CDN\$2,500,000) to the Borrower (the "**Demand Loan**").

2. Advance of the Loan

2.1 The Demand Loan will be advanced by the Lender to a trust account (the "**Account**") of Deloitte & Touche Inc. (the "**Monitor**").

2.2 The Demand Loan shall be disbursed by the Monitor to the Borrower, in whole or in part and from time to time, upon instructions from the Lender to the Monitor and at the sole discretion of the Lender.

3. Repayment of the Loan

3.1 The Demand Loan shall be payable immediately on demand by the Lender.

3.2 The Borrower may repay the Demand Loan, in whole or in part, at any time, without notice or penalty. The Demand Loan shall not revolve, except that the Lender in its sole and unfettered discretion may decide (but shall have no obligation) to re-advance some or all of any amounts repaid by the Borrower.

4. Interest

4.1 The Demand Loan shall bear interest at the rate of 6 percent (6%) per annum.

5. Conditions Precedent

The Borrower acknowledges that the Lender shall have no obligation to make any advance of the Demand Loan (and if the Demand Loan has been advanced to the Trust Account, shall have no obligation to direct the Monitor to release any part thereof to the Borrower), until the following conditions precedent have been fulfilled:

- (a) The Borrower has obtained a Court Order in the Insolvency Proceedings, acceptable to the Lender in its sole discretion:
 - (i) granting the Borrower protection from its creditors; and
 - (ii) authorizing the Demand Loan as a debtor-in-possession loan or "DIP" loan and creating a first charge in favour of the Lender over all assets and undertaking of the Borrower, subject in priority only to any administrative or similar charge in the Insolvency Proceedings; and
- (b) The Borrower shall have delivered to the Lender, in form satisfactory to the Lender, the security set forth in paragraph 6 of this agreement, and all registrations, recordings or filings related thereto shall have been completed to the satisfaction of the Lender.

6. Security and Enforcement

6.1 As continuing collateral security for the payment of the Demand Loan, interest thereon, and all other moneys payable pursuant to this agreement, the Borrower shall execute and deliver to the Lender a general security agreement (the "**Security Agreement**") charging in favour of the Lender all present and after acquired property of the Borrower.

6.2 The Security Agreement shall be immediately enforceable upon demand by the Lender for repayment of the Demand Loan.

6.3 The Borrower hereby acknowledges and agrees that the immediate enforcement by the Lender of the Security upon demand for repayment of the Demand Loan shall be considered to be a reasonable enforcement measure, and the Lender shall thereby have given reasonable notice of enforcement to the Borrower. The Borrower acknowledges and agrees that, having regard to the Borrower's current financial distress, the Lender is only prepared to make the Demand Loan on this basis.

7. Affirmative Covenants

7.1 The Borrower will repay the Demand Loan, plus accrued interest thereon, immediately upon demand by the Lender.

7.2 The Borrower will use the proceeds of each and every advance of the Demand Loan to pay all obligations of the Borrower incurred after the initial filing date that would result in a statutory lien against the assets of the Borrower, or that would result in liability of the directors of the general partners of the Borrower, before using the proceeds of the Demand Loan for any other purpose.

7.3 The Borrower will insure and keep insured its real and personal property with extended coverage against loss or damage by fire or other insurance hazards commonly insured against to the full insurable value. The Borrower shall pay or cause to be paid all premiums in connection with the insurance.

7.4 The Borrower will pay or reimburse the Lender for all reasonable costs, charges and expenses (including legal fees) of or incurred by the Lender in connection with this agreement or any security taken in pursuance of this agreement, including all reasonable costs, charges and expenses in connection with the recovery or enforcement of payment of moneys advanced under the Demand Loan, together with interest at the rate set out in paragraph 4.1 of this agreement.

8. General

8.1 The Borrower covenants that it will execute or cause to be made, done or executed, all further and lawful acts, deeds, things, devices, conveyances and assurances whatsoever for effecting the purposes and intent of this agreement as counsel for the Lender shall reasonably advise or request.

8.2 Notice to be given shall be in writing addressed to the party for whom it is intended and may be sent by telex, facsimile, or electronic mail. The mailing addresses of the parties shall be as set out in the first page hereto, or any other mailing, telex, facsimile or electronic addresses as the parties from time to time may notify the other.

8.3 This agreement and all other agreements, security and documents to be delivered in connection with this agreement shall be governed by and construed in accordance with the applicable laws of the Province of British Columbia and of Canada.

8.4 This agreement shall be binding on and enure to the benefit of the Borrower, the Lender and their respective successors and assigns, except that the Borrower may not, without the prior written consent of the Lender, assign any rights or obligations with respect to this agreement.

8.5 Any provision of this agreement which is or becomes prohibited or unenforceable in any jurisdiction shall not invalidate or impair the remaining provisions of this agreement which shall be deemed severable from the prohibited or unenforceable provision and any prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable that provision in any other jurisdiction.

8.6 No amendment supplement or waiver of any provision of this agreement or any other agreements provided for or contemplated, nor any consent to any departure by the Borrower, shall in any event be effective unless it shall be in writing and signed by the Lender and then the waiver or consent shall be effective only in the specific instance for the specific purpose for which it has been given.

8.7 Time shall be of the essence of this agreement.

8.8 This agreement shall remain in full force and effect until the payment and performance in full of all of the Borrower's obligations under this agreement.

8.9 This agreement constitutes the entire agreement among the parties and cancels and supersedes any prior agreements, undertakings, declarations or representations, written or verbal in respect of it.

8.10 This agreement may be executed in one or more counterparts, whether by facsimile copy or otherwise, all of which taken together shall constitute one original copy of this agreement.

IN WITNESS WHEREOF the parties have caused this agreement to be executed by their respective officers duly authorized.

MARIPOSA STORES LIMITED PARTNERSHIP

By its general partners:

BACKBAY RETAILING CORPORATION

By:

- AND -

GRAY'S APPAREL COMPANY LTD.

By:

COC STIFTUNG II

By:

