

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*, S.B.C. 2002, c. 57

AND

IN THE MATTER OF ELIA FASHIONS LTD. (in its own capacity and in its capacity as a
partner of PLEASE MUM PARTNERSHIP) and
BOSSA NOVA FASHIONS LTD. (in its own capacity and in its capacity as a partner of
PLEASE MUM PARTNERSHIP)

PETITIONERS

NOTICE OF APPLICATION

APPLICANTS: PLEASE MUM PARTNERSHIP, ELIA FASHIONS LTD. AND
BOSSA NOVA FASHIONS LTD. (COLLECTIVELY,
"PLEASE MUM")

TO: THE PARTIES LISTED ON ATTACHED **SCHEDULE "A"**

TAKE NOTICE that an application will be made by the Applicants to the Honourable Mr. Justice Burnyeat at the courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia on **Wednesday, March 28, 2012 at 9:30 a.m.** for an Order, substantially in the draft form described in Part 1 below and such other and further relief as Counsel for the Applicants may request and this Honourable Court deems just.

PART 1: ORDER SOUGHT

1. An Order, substantially in the draft form attached hereto as **SCHEDULE "B"**.

PART 2: FACTUAL BASIS

1. 0710345 B.C. Ltd. is the registered owner of lands located at 333 Woodland Drive, Vancouver, BC. (the "**Lands**").
2. 071 is related to Please Mum.
3. Throughout these proceedings, it has been the intention of Please Mum and 071 to raise funds from the Lands to assist in the recapitalization and restructuring of Please Mum, if feasible.
4. The Lands are contracted to be sold by 071 to an arms length purchaser (the "**Purchaser**") pursuant to a purchase and sale agreement, dated April 4, 2011, as amended and extended (the "**Woodland Purchase and Sale Agreement**"), for the purchase price of \$13,350,000.
5. The Purchaser has waived the final condition precedent to the Woodland Purchase and Sale Agreement on March 13, 2012 and the parties are working towards closing the sale on March 29, 2012.
6. 071 proposes to structure the sale of the Lands to make use of Bossa Nova Fashions Ltd. ("**Bossa**")'s tax losses to shelter or partially shelter the gain on the sale of the Lands.
7. The potential tax savings of such a transaction would increase the net sale proceeds available to 071 which could be used to fund Please Mum's restructuring, if feasible.
8. Subject to the Court's approval as may be required for certain steps described below, Bossa and 071 intend to structure this tax-savings transaction generally summarized as follows:
 - (a) 071 will transfer beneficial ownership of the Lands (the "**Beneficial Asset**") to Bossa, on a tax-deferred basis, in exchange for 1,335,000 Class A Non-Voting Preferred Shares (the "**Pref Shares**") of Bossa (the "**071/Bossa Beneficial Asset Purchase Transaction**"). The aggregate issue price, the addition to capital and the redemption price for the Pref Shares of Bossa will

be \$13,350,000. 071 will continue to hold title to the Lands as bare trustee and agent for Bossa;

- (b) following the closing of the Beneficial Asset Purchase Transaction, Bossa will reduce the capital attached to the Pref Shares by \$13,350,000 (the “**Reduced Amount**”) and Bossa will pay the Reduced Amount to 071 by way of a transfer of the Beneficial Asset to 071.

9. In addition, Bossa will also be seeking such other Orders as may be required to effect the tax savings transaction, including Orders that:

- (a) upon the closing of the 071/Bossa Beneficial Asset Purchase Transaction, the Beneficial Asset shall vest in Bossa free and clear of the “**Administrative Charge**” and “**Directors’ Charge**” (as defined and created pursuant to the Initial Order) and the claims of any creditors of Bossa (collectively, the “**Claims**”);
- (b) Bossa shall be authorized to reduce the capital of the Pref Shares notwithstanding Bossa’s insolvency; and
- (c) upon Bossa’s payment of the Reduced Amount to 071 by way of a transfer of the Beneficial Asset to 071, the Beneficial Asset shall vest in 071 free and clear of the Claims.

10. This transaction will not have any negative impact on the creditors and other stakeholders of Please Mum. Rather, the potential tax savings from this transaction will increase the amount of proceeds available at the end of the day to 071 to possibly fund Please Mum’s restructuring, if feasible. Please Mum submits that these proceeds are Please Mum’s only viable source of funds for a successful restructuring for the benefit of its stakeholders. It should be noted, however, that that there is no assurance that Please Mum will be able to successfully fund a Plan of Compromise and Arrangement as such is dependent upon negotiations with Please Mum’s creditors which are yet to be held.

PART 3: LEGAL BASIS

1. *Business Corporations Act, S.B.C. 2002, c. 57 as amended, section 74(1)(b) and 74(1.2)*

2. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, and
3. the inherent jurisdiction of this Honourable Court.

PART 4: MATERIAL TO BE RELIED ON

1. Pleadings and proceedings previously filed herein;
2. Affidavit #3 of Kathryn Adrian, sworn March 25, 2012
3. Such further and other evidence as may be filed.

The Petitioners estimate that the application will take **30 minutes**.

This matter is **not** within the jurisdiction of a Master. **The Honourable Mr. Justice Burnyeat is seized of this matter.**

Date: March 25, 2012



Signature Petitioners' Lawyer

To be completed by the Court only:	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs _____ of Part 1 of this Notice of Application
<input type="checkbox"/>	with the following variations and additional terms:

Date:	Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

SCHEDULE "A" – SERVICE LIST

NO. S118142
VANCOUVER REGISTRY

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PETITIONERS

<p>Fraser Milner Casgrain LLP 250 Howe Street, 20th Floor Vancouver, BC V6C 3R8</p> <p><u>Attention:</u> John Sandrelli/Cindy Cheuk</p> <p>Telephone: (604) 443-7132 (J. Sandrelli) (604) 691-6463 (C. Cheuk) Facsimile: (604) 683-5214 Email: john.sandrelli@fmc-law.com/ cindy.cheuk@fmc-law.com</p> <p>cc: Kelly Tsang – Kelly.tsang@fmc-law.com cc: Robin Peardon – robin.peardon@fmc-law.com cc: F. Thibodeau – fran.thibodeau@fmc-law.com</p> <p><i>Counsel for Petitioners</i></p>	<p>Deloitte & Touche Inc. P.O. Box 49279 #2800 – 1055 Dunsmuir Street Vancouver B.C. V7X 1P4</p> <p><u>Attention:</u> Huey Lee</p> <p>Telephone: (604) 640-3060 Facsimile: (604) 899-2950 Email: huelee@deloitte.ca</p> <p><i>The Monitor</i></p>
<p>Alvarez & Marsal Canada ULC #1680 – 400 Burrard Street Vancouver, B.C. V6C 3A6</p> <p><u>Attention:</u> Todd Martin/Pam Boparai</p> <p>Telephone: (604) 638-7445 (T. Martin) (604) 443-5030 (P. Boparai) Facsimile: (604) 638-7441 Email: tmartin@alvarezandmarsal.com/ pboparai@alvarezandmarsal.com</p> <p><i>Consultant to the Royal Bank of Canada</i></p>	<p>Fasken Martineau DuMoulin LLP #2900 – 550 Burrard Street Vancouver, B.C. V6C 0A3</p> <p><u>Attention:</u> Brent Lewis/John Grieve</p> <p>Telephone: (604) 631-4889 (B. Lewis) (604) 631-4772 (J. Grieve) Facsimile: (604) 632-4889 Email: blewis@fasken.com/ jgrieve@fasken.com</p> <p><i>Counsel for the Royal Bank of Canada</i></p>

SCHEDULE "A" – SERVICE LIST

<p>Office of the Superintendent of Bankruptcy Canada (CCAA) Fax: 1-877-827-7139 Email: ccaa_lacc@ic.gc.ca</p>	<p>Deloitte & Touche Inc. 2800 - 1055 Dunsmuir St, Vancouver, BC, V7X 1P4 Attention: John Somerville Direct 604-640-3210 Fax 604-899-8159 Email: jsomerville@deloitte.ca <i>The Monitor</i></p>
<p>McLean & Kerr LLP Suite 2800 130 Adelaide Street West Toronto, ON V5H 3P5 Attention: Linda Galessiere Phone: 416-369-6609 Fax: 416 366 8571 Email: lgalessiere@mcleankerr.com Attention: Wally Stevenson Phone: 416.369.6602 Fax: 416 366 8571 Email: wstevenson@mcleankerr.com cc: Phil Harrs at Ivanhoe pharrs@ivanhoecambridge.com <i>Counsel for: Ivanhoe Cambridge Inc., 20 VIC Management Inc (on behalf of OPB Realty Inc. and Lansdowne Mall Inc.), Morguard Investments Limited, Retrocom Mid Market REIT, Crombie Real Estate Investment Trust and Primaris Retail Real Estate Investment Trust</i></p>	<p>Lawson Lundell LLP 1600 – 925 West Georgia Street Vancouver BC V6C 3L2 Attention: Michael Morgan Phone: 604 685 3456 Fax: 604 669 1620 Email: mmorgan@lawsonlundell.com cc: wroberts@lawsonlundell.com <i>Counsel for Shape Properties (Lougheed) Ltd. and Shape Properties (Brentwood) Ltd.</i></p>

SCHEDULE "A" – SERVICE LIST

<p>Ivanhoe Cambridge Inc. 95 Wellington Street West, Suite 300 Toronto ON M5J 2R2</p> <p>Attention: Kari Kim – Gallately (Solicitor - Legal Affairs – Western Region)</p> <p>Phone: 416 369 1200 Fax: 416 369 1327 Email: kkim@ivanhoecambridge.com</p> <p><i>Internal Counsel for Ivanhoe Cambridge Inc.</i></p>	<p>Fernandes Hearn LLP 155 University Ave Suite 700 Toronto ON M5H 3B7</p> <p>Attention: David Huard Phone: 416 203 9500 Fax: 416 203 9444 Email: david@fernandeshearn.com</p> <p><i>Counsel for Creditors, Tianjin Garment Import & Export Co. Ltd., Jiangsu Guotai International Group Winsum Imp. & Exp. Co. Ltd., China Jiangsu Machinery & Equipment Import & Export Group Corp., Ningbo Original Textile & Apparel Co. Ltd. and Quik- X Transportation Inc. and Jiangsu Saintek Co. Ltd. Shanghai Sainty International Trading Co. Ltd.</i></p>
<p>Blakes 595 Burrard Street PO Box 49314 Suite 2600, Three Bentall Centre Vancouver, BC V7X 1L3</p> <p>Attention: Peter Rubin</p> <p>Phone: 604-631-3315 Fax: 604-631-3309 Email peter.rubin@blakes.com</p> <p><i>Counsel for : Experian Marketing Solutions Inc</i></p>	<p>Gehlen Dabbs Lawyers 1201 – 1030 W. Georgia Street Vancouver BC V6E 2Y3</p> <p>Attention: Gregory J. Gehlen</p> <p>Phone: 604 642 6401 Fax: 604 642 6433 Email: gg@gdlaw.ca</p> <p><i>Local Agent for McLean & Kerr</i></p>
<p>Can Legal Lawyer Referral 3100 Steeles Avenue West Suite 200 Vaughan Ontario L4K 3R1</p> <p>Attention: Ken Groleau</p> <p>Phone: 905-532-2482 Email: kgroleau@canlegal.net</p> <p><i>Counsel for: Sameday Worldwide</i></p>	<p>Gowlings Barristers & Solicitors 550 Burrard Street Suite 2300, Bentall 5 Vancouver, BC V6C 2B5</p> <p>Attention: Colin Brousson Telephone: 604-891-2286 Fax: 604-683-3558 Email: colin.brousson@gowlings.com</p> <p><i>Counsel for the Monitor</i></p>

SCHEDULE "A" – SERVICE LIST

<p>Department of Justice 900 – 840 Howe Street Vancouver BC V6Z 2S9</p> <p><u>Attention:</u> Jason Levine Phone: 604-666-0632 Email: jason.levine@justice.gc.ca</p> <p><i>Counsel for: Canada Revenue Agency</i></p>	<p>Department of Justice 900 – 840 Howe Street Vancouver BC V6Z 2S9</p> <p><u>Attention:</u> Donnaree Nygard Phone: 604-666-3049 Email: donaree.nygard@justice.gc.ca</p> <p><i>Counsel for Federal Crown</i></p>
<p>Susan Mckeown</p> <p>Email: Susan_mckeown@shaw.ca</p> <p><i>Former Employee</i></p>	

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PETITIONERS

ORDER

BEFORE THE HONOURABLE)
MR. JUSTICE BURNYEAT) WEDNESDAY, the 28th DAY
) OF MARCH, 2012
)

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 28th day of March, 2012; AND ON HEARING John Sandrelli, counsel for the Petitioners and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the Affidavit #3 of Kathryn Adrian sworn March 25, 2012; AND pursuant to section 74(1)(a) of the *Business Corporations Act*, S.B.C. 2002 ,c. 57 as amended, and the inherent jurisdiction of this Honourable Court:

THIS COURT ORDERS AND DECLARES THAT:

1. Bossa Nova Fashions Ltd. ("**Bossa**")'s purchase of 0710345 B.C. Ltd. ("**071**")'s beneficial interest in the lands located at 333 Woodland Drive, Vancouver, B.C. (the "**Beneficial Asset**") and legally described as:

Firstly: City of Vancouver, PID: 015-292-835, Lot 1 Block 4 of Block C District Lot 183 Plan 417; and

Secondly: City of Vancouver, PID: 015-292-851, Lot A (Explanatory Plan 2993)
Block 4 of Block C District Lot 183 Plan 417

(collectively, the "**Lands**")

in exchange for 1,335,000 Class A Non-Voting Preferred Shares (the "**Pref Shares**"), to be issued by Bossa to 071, as described in the Affidavit #3 of Kathryn Adrian, sworn March 25, 2012 (the "**071/Bossa Beneficial Asset Purchase Transaction**"), is hereby approved such that:

- (a) Bossa is hereby authorized and approved to:
 - (i) increase its authorized capital by creating an unlimited number of Class A Non-Voting Preferred Shares without par value;
 - (ii) enter into and execute a section 85 of the *Income Tax Act* (Canada) asset purchase agreement to purchase the Beneficial Asset from 071 (the "**071/Bossa Agreement**");
 - (iii) issue the Pref Shares to 071 as consideration for the purchase of the Beneficial Asset, increase the capital attached to the Pref Shares by \$13,350,000 and set both the aggregate redemption price and issue price for the Pref Shares at \$13,350,000;
 - (iv) enter into and execute a bare trust and agency agreement whereby Bossa will direct 071 to hold the legal title to the Lands to give effect to the 071/Bossa Agreement;
 - (v) enter into and execute an indemnity agreement whereby 071 agrees to indemnify Bossa for any debts or liabilities registered against title to the Lands; and
- (b) Bossa and its directors and shareholders are hereby authorized and approved to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the 071/Bossa Beneficial Asset Purchase Transaction.

2. Upon the closing of the 071/Bossa Beneficial Asset Purchase Transaction, the Beneficial Asset shall vest in Bossa free and clear of:

(a) the “**Administration Charge**”, as defined and created pursuant to the Initial Order granted on December 6, 2011 (the “**Initial Order**”);

(b) the “**Directors’ Charge**”, as defined and created pursuant to the Initial Order; and

(c) any estate, right, title, interest, equity of redemption or any other claim of any creditor of Bossa or any other party claiming against the Lands through or against Bossa

(collectively, the “**Claims**”).

3. Bossa is hereby authorized and approved, after the closing of the 071/Bossa Beneficial Asset Purchase Transaction, to reduce the capital attached to the Pref Shares by \$13,350,000 (the “**Reduced Amount**”) pursuant to sections 74(1)(a) and 74(1.2) of the *Business Corporations Act* (British Columbia) as amended, and Bossa is hereby further authorized and approved to pay the Reduced Amount to 071 by way of a transfer of the Beneficial Asset to 071 and upon such transfer, the Beneficial Asset shall vest in 071 free and clear of the Claims.

4. For greater certainty, notwithstanding:

(a) the pendency of these proceedings,

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Bossa and any bankruptcy order issued pursuant to such applications;

(c) any assignment in bankruptcy made in respect of Bossa; and

(d) any applications for an order now or hereafter issued pursuant to the *Winding Up and Restructuring Act* (Canada) in respect of Bossa and any winding up order issued pursuant to such application,

the transactions approved herein including the 071/Bossa Agreement, Bossa's reduction of the capital attached to the Pref Shares by the Reduced Amount and payment of such Reduced Amount to 071 by way of a transfer of the Beneficial Asset to 071, the vesting of the Beneficial Asset in Bossa free and clear of the Claims and the vesting of the Beneficial Asset in 071 free and clear of the Claims (collectively, the "Transactions") shall be binding on any trustee in bankruptcy that may be appointed in respect of Bossa and shall not be void or voidable by creditors of Bossa, nor shall any of the Transactions constitute or be deemed to be a settlement, assignment, fraudulent preference, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall any of the Transactions constitute oppressive or unfairly prejudicial conduct pursuant to any applicable or provincial legislation.

5. Nothing in this Order shall affect any encumbrances registered against title to the Lands as of the date of this Order.

6. Approval as to the form of this Order by counsel appearing on this application is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.

BY THE COURT

REGISTRAR

APPROVED AS TO FORM:

Signature of Lawyer for the Petitioners,
John R. Sandrelli

SCHEDULE "A"

List of Counsel Appearing

Counsel:	Appearing for:
John Sandrelli	Petitioners