

Cause Number: S/M/ 92 /07

IN THE COURT OF QUEEN'S BENCH OF
NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

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

-and-

**IN THE MATTER OF THE
APPLICATION OF ATLANTIC YARNS
INC., a body corporate and ATLANTIC
FINE YARNS INC., a body corporate**

**NOTICE OF APPLICATION
(FORM 16D)**

TO: All Secured and Unsecured Creditors
of the Applicant

**LEGAL PROCEEDINGS HAVE BEEN
COMMENCED BY FILING THIS
NOTICE OF APPLICATION.**

The Applicant will make an application
before the Court at the 4th Floor, Provincial
Building, 110 Charlotte Street, Saint John,
New Brunswick, on the ___ day of October,
2007 at ___ p.m. for an order as set out
hereunder.

No. du dossier:

COUR DU BANC DE LA REINE DU
NOUVEAU-BRUNSWICK

DIVISION DE PREMIERE INSTANCE

CIRCONSCRIPTION JUDICIAIRE DE

ENTRE:

REQUÉRANT

-et-

COURT OF QUEEN'S BENCH
CLERK / SAINT JOHN

REC'D
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OCT 26 2007

FILED
DEPOSE

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COUR DU BANC DE LA REINE
GREFFIER / SAINT-JEAN

**AVIS DE REQUETE
(FORMULE 16D)**

DESTINAIRE:

**PAR LE DÉPÔT DU PRÉSENT AVIS DE
REQUÊTE, UNE POURSUITE
JUDICIAIRE A ÉTÉ ENGAGÉE.**

Le requérant présentera une requête à la Cour
à ____, le ____ 2007 à __h__ en vue
d'obtenir l'ordonnance
décrite ci-dessous.

Si vous désirez contester cette requête, vous

If you wish to oppose this application you must appear at the hearing of the application at the place, date, and time stated, either in person or by a New Brunswick lawyer acting on your behalf.

If you intend to appear on the hearing of the application and wish to present to the Court at that time affidavit or other documentary evidence to support your position, you must serve a copy of such evidence on the Applicant or his lawyer and, with proof of such service, file it in this Court Office prior to the hearing of the application.

If you fail to appear on the hearing of the application **AN ORDER WHICH MAY AFFECT YOU MAY BE MADE IN YOUR ABSENCE.**

You are advised that:

- (a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;
- (b) the Applicants intend to proceed in the English language; and
- (c) if you require the services of an interpreter at the hearing you must advise the clerk at least 7 days before the hearing.

devrez comparatre à l'audition de la requête aux lieu, date et heure indiqués, soit en personne ou par l'intermédiaire d'un avocat du Nouveau Brunswick chargé de vous représenter.

Si vous prévoyez comparatre à l'audition de la requête et désirez présenter à la Cour un affidavit ou une autre preuve littérale en votre faveur, vous devrez signifier copie de cette preuve au requérant ou à son avocat et la déposez, avec une preuve de sa signification, au greffe de cette Cour avant l'audition de la requête.

Si vous ne comparez pas à l'audition de la requête, **UNE ORDONNANCE POUVANT VOUS CONCERNER POURRA ÊTRE RENDUE EN VOTRE ABSENCE.**

Sachez que:

- (a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;
- (b) le requérant a l'intention d'utiliser la langue _____; et
- (c) si vous avez besoin des services d'un interprète à l'audience, vous devez en aviser le greffier au moins 7 jours avant l'audience.

THIS NOTICE is signed and sealed for the Court of Queen's Bench by George S. Theriault, Clerk of the Court of Queen's Bench, Fourth Floor, Provincial Building, 110 Charlotte Street, Saint John, New Brunswick, on the 26 day of October, 2007.

CET AVIS est signé et scellé au nom de la Cour du Banc de la Reine par _____, greffier de la Cour, à _____, ce

_____, 2007.

Sgd. ~~George S. Theriault~~

George S. Theriault, Clerk of the Court of Queen's Bench

4th Floor
Provincial Building
110 Charlotte Street
Saint John, New Brunswick

APPLICATION

On the hearing of this Application, the Applicants intend to apply for the following relief:

- a. an Order pursuant to the *Companies Creditors' Arrangement Act* ("CCAA") substantially in the form attached hereto as Schedule "A".
 - b. an Order for excusing the lack of service of this Application pursuant to Rules 1.03, 2.01, 2.02 and 3.02 of the Rules of Court, and section 11 of the CCAA; and
 - c. such further and other relief as counsel for the Applicant may advise.
1. The applicant, Atlantic Yarns Inc. is a body corporate under the laws of the Province of New Brunswick having its registered office at Suite 200, 270 Douglas Avenue, Bathurst, New Brunswick.
 2. The applicant, Atlantic Fine Yarns Inc. is a body corporate under the laws of the Province of New Brunswick having its registered office at 12 Comeau Avenue, Atholville, New Brunswick.
 3. The grounds are to be set out are as follows:
 - (a) The facts set out in the affidavits of Rao Palaparty sworn to on October 25th, 2007, and Robert C. Smith sworn to on October 26th, 2007;
 - (b) The Applicants are each a company to which the CCAA applies;
 - (c) The Applicants are "affiliated debtor companies" within the meaning of the CCAA;
 - (d) PricewaterhouseCoopers Inc. has agreed to be appointed an officer of this Court and to act as Monitor of the applicant pursuant to any order made by this Court pursuant to the CCAA;

- (e) The Applicants' expected cash flows without an order made under the CCAA will exceed existing credit facilities and presently available funds;
 - (f) If an order under the CCAA is not made, the Applicants' viability as going concerns are doubtful;
 - (g) The Applicants employ, directly and indirectly, a significant number of people and make significant contributions to the local and regional economy;
 - (h) If an order is made under the CCAA, the Applicants will be able to operate and protect their assets, operations and employees;
 - (i) If an order is made under the CCAA, the Applicants will be able to restructure their operations which will enable them to continue as going concerns; and
 - (j) The Applicants rely on the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C. c-36, as amended, including section 3, 9, and 11 thereof, and Rules 1.03, 2.01, 2.02 and 3.02 of the Rules of Court.
4. The documentary evidence to be used at the hearing of the application are:
- (a) Affidavit of Rao Palaparty sworn to on October 25th, 2007;
 - (b) Affidavit of Robert C. Smith sworn to on October 26th, 2007; and

- (c) Such further and other documentary evidence as counsel may advise.

DATED at Saint John, New Brunswick this 26 day of October, 2007.

COX & PALMER

Per: 

Joshua J.B. McElman
Solicitor for the Applicants

Cox & Palmer
Suite 1500, One Brunswick Square
P.O. Box 1324
Saint John, New Brunswick
E2L 4H8
Telephone: (506) 632-8900

Schedule "A"

Cause No.: S/M/ /07

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

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

and

IN THE MATTER OF THE
APPLICATION OF ATLANTIC YARNS
INC., a body corporate and ATLANTIC
FINE YARNS INC., a body corporate

INITIAL ORDER

UPON APPLICATION of ATLANTIC YARNS INC. and ATLANTIC FINE YARNS INC. (each an "Applicant" and collectively the "Applicants") for an Order substantially in the form attached as Schedule "A" to the Notice of Application herein; and

UPON READING the Notice of Application, the Affidavit of Rao Palaparty sworn October 25, 2007, and the Affidavit of Robert C. Smith sworn October 25, 2007 and the consent of PricewaterhouseCoopers Inc. ("PWC") to act as proposed Monitor of the Applicants; and

UPON HEARING, Joshua J.B. McElman Counsel for the Applicants.

IT IS ORDERED THAT:

1. The time for any required service or notice of the Application herein be and it is hereby abridged and validated such that the Application is properly returnable today and further that any requirement for service of the Application herein upon any interested party is hereby dispensed with.
2. The Applicants are:

- a) companies to which the **Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36** (the "CCAA") applies; and
- b) "affiliated debtor companies" within the meaning of the CCAA and that the CCAA applies to each of the Applicants as such.

STAY OF PROCEEDINGS

3. Until and including November 23, 2007 or such later date as this Court may by further Order stipulate (the "Stay Termination Date"):
 - (a) any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings, enforcement processes or other remedies ("Proceedings") commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any of the Applicants' creditors, customers, clients, suppliers, contractors, lenders; factors, customs brokers, purchasing agents, lessors of real or personal property of any kind or nature whatsoever, sub-lessors, tenants, sub-tenants, licensors, licensees, consignors, co-owners, co-tenants, shareholders, joint venture partners, co-venturers, partners, governments of any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government in Canada, or elsewhere and any person, firm, corporation or other entity owned or controlled by or which is the agent of any of the foregoing, or by any charge, debit or credit card company or any other person, firm, corporation or entity wherever situate or domiciled (collectively, "Persons" and, individually, a "Person"), against or in respect of any of the Applicants, or their respective directors, officers, agents or employees, in such capacity, or in respect of any present or future property; assets, business and undertaking of the Applicants of any kind or nature whatsoever, whether real or personal and wherever located (the "Property"), whether pursuant to the *Bankruptcy and Insolvency Act* (the "BIA"), the *Winding-up and Restructuring Act* (the "WUA") or otherwise, are hereby stayed and suspended.
 - (b) the right of any Person to make demand or draw under any debenture, note, bond, or instrument of similar effect, issued by or on behalf of any of the Applicants prior to the date of this Order, to take possession of, exercise rights of garnishment, foreclose upon or otherwise realize upon or deal with any of the Property or to continue any such actions or proceedings if commenced prior to the date of this Order, is hereby restrained;
 - (c) the right of any Person (including, without limitation, any authority with jurisdiction to levy realty taxes) to commence or continue enforcement, realization or collection proceedings in respect of any encumbrance, tax, lien,

security interest, charge, mortgage, guarantee, attornment of rents, hypothecation, pledge or other security held in relation to, or any trust attaching to or deemed to attach to or comprise any of the Property, including without limitation the right of any creditor to take any step in asserting, perfecting or registering any right or interest (including, without limitation, any right to revendication, rescission, resiliation or any right to repossession or stoppage in transit of any goods supplied or shipped to or by any of the Applicants, whether taken in or delivered the Province of New Brunswick or elsewhere, and whether pursuant to the BIA or otherwise), is hereby restrained;

(d) the right of any Person to assert, enforce or exercise any right, option or remedy available to it, including, without limitation, any right of dilution, buy-out, divestiture, preemptive right of purchase, option to purchase on default, pledge agreement, forced sale, acceleration, termination, suspension, modification, cancellation or right to revoke or terminate any qualifications, registration or lending arrangements of any kind (collectively, "Rights"), including, without limitation, any Rights arising under or in respect of any arrangement or agreement to which either of the Applicants are a party or in which either of the Applicants have an interest (including, without limitation, any security agreement, mortgage, contract, partnership agreement, management agreement, lease, license agreement, agreements relating to any charge, credit or debit card arrangements, shareholders' agreement, joint venture agreement, co-ownership agreement, easement agreement, operating agreement or any agreement of purchase and sale but excluding any eligible financial contract within the meaning of the CCAA) where such Rights arise out of, relate to or are triggered by the occurrence of any default or non-performing by any of the Applicants thereunder, the making of this Order or filing of these proceedings, or any allegation contained in these proceedings, including, without limitation, the right to make any demand, to send any notice, to crystallize any security interest, to exercise any preemptive first right, to accelerate the repayment of any outstanding indebtedness or to terminate, accelerate rent due under, interfere with the Applicants' quiet possession in respect of, or otherwise deal with any lease of real or personal property in respect to which either of the Applicants are a lessee, is hereby restrained;

(e) all Persons having arrangements or agreements, written or oral, with either of the Applicants for the supply of goods and/or services by or to either of the Applicants, including, without limitation, raw materials and packaging, or to any of the Property, including, without limitation, leases of real or personal property of any nature or kind whatsoever, display contracts, licence agreements, consignment agreements, insurance contracts, product certification arrangements, warranty service contracts, distribution agreements, inventory financing agreements, conditional sales contracts, charge, credit and debit card agreements, bank and other operating accounts, management agreements, transportation

contracts, freight forwarding contracts, shipping and carrier contracts, security and truck carrier contracts, computer software and support systems, supply contracts, maintenance and service contracts, access or sharing of premises or common facilities arrangements with respect to any of the Applicants' locations or premises, are hereby restrained from accelerating, terminating, suspending, modifying or canceling any such agreements, arrangements or supply of goods or services so long as the Applicants pay the normal prices or charges (other than security or other deposits { whether by way of cash, letter of credit or guarantee or otherwise }, stand-by fees or similar items which the Applicants shall have no obligation to pay or grant) for such goods and services received after the date of this Order as the same become due and payable in accordance with present payment practices, or as may be hereafter agreed by the applicable Applicant from time to time, without the written consent of the applicable Applicant or leave of the Court. Without limiting the generality of the foregoing, all Persons are hereby restrained until further Order of this Court from, directly or indirectly, discontinuing, interfering with or cutting-off any utility or required services (including telephone, facsimile or other communications services at the present numbers used by the Applicants in respect of any of the Property), the furnishing of oil, gas, diesel, other petroleum products, inventory, water, heat or electricity, the supply of equipment, computer software, transportation, hardware support and electronic, internet, electronic mail and other data services, so long as the applicable Applicant pays the normal prices or charges (other than deposits, stand-by fees or similar items which the Applicants shall have no obligation to pay) for such goods and services received from and after the date of the within Order as same become due in accordance with present payment practices, or as may be negotiated from time to time, and that all such Persons shall continue to perform and observe the terms and conditions contained in any agreements entered into with the Applicants or either of them or in connection with any of the Property, as the case may be, of goods and services and from pursuing any right or remedies arising thereunder;

(f) all Persons are prohibited until further Order of This Court from terminating, canceling, suspending, amending or withdrawing any licences, sub-licences, royalty arrangements, permits or approvals or rights relating to uses of product or brand names issued or granted to either of the Applicants or in connection with any of the Property and from pursuing any rights or remedies arising thereunder;

(g) all Persons are restrained from exercising any extra-judicial remedy against the Applicants or either of them including, without limitation, any right of distress, revendication, resiliation, repossession, set-off or consolidation of accounts in relation to any amount due or accruing due in respect of or arising from any indebtedness or obligation of either of the Applicants as of the date hereof; or from retaining any cheque and/or money owing to either of the

Applicants or to which either of the Applicants are otherwise entitled, or from retaining any goods, including, without limiting the generality of the foregoing, any goods of the Applicants or of any of the Applicants' customers held by any bailee, warehouse, distributor, supplier, subcontractor, vendor, or other third party or any of their respective agents, purchasing agents, freight carriers, delivery companies or customs brokers and agents, in relation to or by reason of amounts past due to any such person, or customs duties and charges, taxes, freight, insurance, storage or other charges paid on behalf of or owed by the Applicants prior to the date hereof for which either of the Applicants have not reimbursed or paid such Person;

(h) notwithstanding subparagraph 3(d) hereof, this Order shall not prohibit any party to an "eligible financial contract" (as defined in section 2 of the CCAA) with either of the Applicants, which contract was entered into before the date of this Order, from terminating such eligible financial contract and setting off the obligations between the applicable Applicant and such other party in accordance with its provisions, provided that if the "net termination value" (as defined in section 2 of the CCAA) determined in accordance with the eligible financial contract is owed by the applicable Applicant to another party to the eligible financial contract, the other party shall be deemed to be a creditor of the applicable Applicant with a claim in respect of that net termination value;

(i) any deposit made by the Applicants or either of them or for their benefit (including without limiting the foregoing as a payment of an account receivable by a customer or otherwise) with any creditor from and after the making of this Order, whether in an operating account or otherwise and whether for its own account or for the account of any other entity, shall not be applied by such creditor in reduction or repayment of any amount owing as of the date of this Order or which may become due on or before the Stay Termination Date or in satisfaction of any interest, fees, charges or other amounts accruing in respect thereof, and shall be remitted to the applicable Applicant;

(j) no Person may commence or continue any Proceedings against any present or former director of the Applicants on any claim against such present or former director that arose before the commencement of these proceedings and that relates to obligations of either of the Applicants where, directors are under any law liable in their capacity as directors for payment of such obligations;

(k) the right of all creditors and shareholders of the Applicants to make demand for payment upon the applicable Applicant is hereby restrained;

(l) no Person shall cancel, or shall seek cancellation of, any policy of insurance which has been issued at the request of or for the benefit of either of the Applicants and other designated insured parties under any such policy of

insurance; directly or indirectly, and in the event of any process having been taken for the cancellation of any such policy of insurance, such process is hereby restrained and stayed, and all policies of insurance shall continue in full force and effect;

(m) without limiting the generality of any of the foregoing, no Person whose claim is joint, several or joint and several between either or both of the Applicants (the "Joint Liability") and any other Person (the "Joint Debtor") shall be permitted to commence, take or proceed with any Proceedings in respect of the Joint Liability against the Joint Debtor, whether or not the Joint Debtor is situated or domiciled in Canada; and

(n) all Persons shall continue to perform and observe the terms, conditions and provisions contained in any agreements with either of the Applicants on their part to be performed and observed.

4. Notwithstanding anything else contained herein no creditor of either of the Applicants shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants except as provided in paragraph 5 of this Order.
5. Notwithstanding paragraph 3 and 4 of this Order, any Person which provided letters of credit, standby letters of credit or shipping guarantees (the "Issuing Party") at the request of either of the Applicants shall be required to continue honouring any and all such letters of credit, standby letters of credit and/or shipping guarantees, issued on or before the date of this Order subject to the issuing Party being entitled to retain the bills of lading and/or shipping documents relating thereto until paid therefore. For greater certainty, the Issuing Party shall be prohibited from terminating, suspending, modifying, determining, refusing to honour or canceling any such letters of credit, standby letters of credit or shipping guarantees, and the beneficiaries of such letters of credit, standby letters of credit or shipping guarantees for the supply and delivery of goods shall be entitled to draw on such letters of credit, standby letters of credit or shipping guarantees, as the case may be, in accordance with their respective terms and conditions, without the prior written consent of the applicable Applicant and without the leave of this Court.
6. Without limiting anything contained in this Order, from 12:01 a.m. (Saint John time) on the date of this Order to the time of the granting of this Order, any act or action taken or notice given by any of the Applicants' creditors or other Persons in furtherance of their rights to commence or continue realization or to take or enforce any other step or remedy, whether in any Proceeding or otherwise, will be deemed not to have been taken or given, as the case may be, subject to the right of any such Person to further apply to this Court on proper notice to the Applicants

and the Monitor hereinafter appointed in respect of such step, act, action or notice given.

7. To the extent that any rights or obligations, or time or limitation periods relating to the Applicants or the Property may expire or terminate with the passage of time, the term of such rights, obligations or periods shall hereby be deemed to be extended by a period of time equal to the duration of the stay of proceedings effected by this Order and any further Order of this Court and, for greater certainty, in the event that either of the Applicants become bankrupt or a receiver is appointed in respect of the Applicants or either of them within the meaning of the BIA, the period between the date of this Order and the day on which such stay of proceedings is ended shall not be counted in determining the 30-day period referred to in Section 81.1 of the BIA or the 15 day period referred to in Section 81.2 of the BIA, provided that this paragraph shall not be construed to extend the term of any lease that expires during the pendency of such stay of proceedings.
8. All Persons having any other arrangements or agreements whether written or oral, with either of the Applicants, are hereby restrained from accelerating, terminating, suspending, modifying, determining or canceling any such arrangements or agreements, notwithstanding any provisions therein contained to the contrary, without the prior written consent of the applicable Applicant and concurrence of the Monitor or leave of this Court on proper notice to the Applicants and the Monitor. All such Persons shall continue to perform and observe the terms, conditions and provisions contained in such agreements on their part to be performed or observed. Without limiting the generality of the foregoing, all Persons be and they are restrained until further Order of this Court from terminating, resiliating, rescinding, repudiating, suspending, modifying, canceling, disturbing or otherwise interfering in any way with the present or future occupation by the Applicants of any premises leased, subleased or occupied by the Applicants, and the landlords of premises leased, subleased or occupied by the Applicants are hereby specifically restrained from taking any steps to terminate, resiliate or otherwise bring to an end any lease, sublease, occupancy or other agreement to which either of the Applicants are a party, whether by notice or otherwise, or to terminate any ancillary agreements or arrangements, including, without limitation, leasehold improvement arrangements with either of the Applicants, without the prior written consent of the applicable Applicant and concurrence of the Monitor or leave of this Court on proper notice to the Applicants and the Monitor, subject to the obligation of either of the Applicants to pay occupation rent (calculated in accordance with the terms of the particular lease, or as may otherwise be agreed in writing between the applicable Applicant and the relevant landlord and concurred in by the Monitor) for the period commencing with the date of this Order for leased premises actually occupied by either of the Applicants, but not arrears arising prior to the date of this Order or rents in dispute, once every two weeks in arrears, commencing on the date that the

next rental payment is due following the date of this Order, at the rental rate calculated on the per diem basis presently payable by it, applied proportionately to the period of actual occupation, or as otherwise may be agreed in writing by the applicable Applicant and the relevant landlord and concurred in by the Monitor from time to time. If any such occupation rent for any such leased premises remains outstanding for more than fifteen days after written notice of non-payment has been given by the relevant landlord to the applicable Applicant and to the Monitor, the stay of proceedings with respect to such premises shall thenceforth cease to have effect.

9. Until and including the Stay Termination Date, Her Majesty in Right of Canada may not exercise rights under subsection 224(1.2) of the Income Tax Act (Canada) in respect of either of the Applicants, where the applicable Applicant is a tax debtor under that subsection or any provision of the Canada Pension Plan or the Employment Insurance Act that refers to subsection 224 (1.2) and Her Majesty in Right of a Province may not exercise rights under provincial legislation substantially similar to that subsection in respect of the Applicant where the Applicant is a tax debtor under the provincial legislation.
10. The provisions of paragraphs 3 to 9 of this Order apply in accordance with their terms to stay any and all Proceedings or to restrain any matter provided therein that may be commenced or taken against any person who is or may be directly or indirectly obligated to any obligations of either of the Applicants otherwise than under any letter of credit or any guarantee in respect of any such obligations.
11. This Order and the proceedings in this Application leading to the granting of this Order, including the content of any Affidavit filed in these proceedings, shall not constitute or be relied upon in evidence or otherwise as constituting a default or breach by either of the Applicants, their respective directors, shareholders, employees, advisors and agents, under or pursuant to any agreement, statute, regulation, license, permit, contract, permission, covenant, undertaking, policy of insurance or other instrument or requirement.

OPERATIONS

12. The Applicants shall be entitled to exercise any rights of set-off and claim any allowances or benefits which it is entitled to claim against amounts payable by the applicable Applicant to any Person, including, without limitation, amounts payable to any supplier of goods or services or any landlord of premises leased or occupied by either of the Applicants and including rights arising in connection with any agreements or arrangements with any supplier with respect to advertising, marketing, installation of fixtures, product research and development, volume rebates and allowances and any other similar arrangements or product allowances.

13. The Applicants shall honour to the extent possible of all of its respective obligations to its customers both before and after the date of this Order, in accordance with its existing practices including, without limitation, all obligations with respect to refunds for goods purchased, warranty claims and deposits made by customers including without limitation the return of any deposits for orders not completed or of any overpayments.
14. All funds, monies, cheques, instruments, charge, debit or credit card vouchers and other forms of payment received or collected by either of the Applicants from and after the making of this Order from any source whatsoever, including without limitation the sale of any inventory, the collection of any account receivable or the sale of, realization upon or income from any other Property, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited in one or more new accounts opened by the Applicants (the "Post-Filing Accounts"), and the monies standing to the credit of such account or accounts from time to time shall be used by the applicable Applicant solely for the payment of those obligations of the applicable Applicant specifically authorized to be paid by the terms of this Order or any further Order of this Court. For greater certainty and without limiting the generality of subparagraph 3(g) hereof, the Applicants' bankers are hereby restrained from exercising or purporting to take the benefit of any right of set-off or combination of accounts or bankers lien in respect of any indebtedness or liability of either of the Applicants owed to the Applicants' bankers as at the time of the making of this Order against the credit balance at any time or from time to time standing to the credit of any of the Post-Filing Accounts, provided that, notwithstanding paragraph 3(i) and any other provisions of this Order, the Applicants' bankers shall be entitled to exercise the foregoing remedies or any of the remedies in subparagraph 3(g) in relation to any amount due or accruing due after the date of this Order arising from any indebtedness or obligation of the Applicants incurred after the date hereof. The Applicants and the Monitor shall keep accounts with respect to the source of all such receipts received by the Applicants from and after the date hereof.
15. Each Applicant shall remit, in accordance with legal requirements,
 - a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof which from and after the date hereof are required to be deducted from employees' wages, including, without limitation, amounts in respect of unemployment insurance, Canada Pension Plan and income taxes;
 - b) amounts accruing and payable by the applicable Applicant, in respect of wages paid from and after the date thereof, in respect of unemployment insurance, Canada Pension Plan, workers' compensation and employer health taxes with respect to employees;

- c) all goods and services or sales taxes payable by the applicable Applicant or its customers in connection with the sale of goods and services by the applicable Applicant to such customers from and after the date hereof.
16. From and after the date hereof, each of the Applicants shall pay all reasonable expenses incurred by the applicable Applicant in carrying on its business and carrying out the provisions of this Order, which expenses, pending any further Order of this Court, may include, without limitation, payment of:
- a) The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (in the case of the Monitor, on the basis of a chartered accountant and its own client and, in the case of such counsel on a solicitor and his own client basis) by the applicable Applicant and such fees shall be part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel of the Monitor, and counsel for the Applicants on a weekly basis, and, in addition, the Applicants are hereby authorized to pay each of the Monitor and counsel to the Applicants' retainers to be held by the recipient as security for payment of their fees and disbursements outstanding from time to time.
 - b) amounts to make such arrangements as may be necessary for payment of suppliers of goods or services actually supplied, delivered or provided to the either of the Applicants following the date of this Order, including where the applicable Applicant determines it necessary and economically beneficial to the applicable Applicant, with the prior concurrence of the Monitor, payment of any amounts due prior to the date of this Order;
 - c) all outstanding and future wages, salaries, employee benefits, vacation pay (for continuing employees in the normal course), and other like amounts (but excluding for greater certainty any severance, termination and other like amounts) due or accruing due to employees and present and future directors and the reimbursement of business expenses properly incurred by employees and present and future directors and payments to operate and fund the payroll accounts (including source deductions) in respect of such employees;
 - d) all expenses reasonably necessary for the preservation of the Property including, without limitation, payments on account of insurance, safety and security;
 - e) all present and future warranty claims and the acceptance of returns of merchandise for cash or credit in the ordinary course of business;
 - f) all outstanding and future premiums on directors' and officers' liability insurance and key-man insurance;

- g) any amount secured by the CCAA Lenders' Security (if any);
- h) any amount secured by the Administration Charge (as hereinafter defined and constituted);
- i) any amounts payable in respect of the Post-Filing Accounts; and
- j) any other amount specifically provided for by the terms of this Order.

POSSESSION OF PROPERTY

17. Subject to the terms of this Order, the Applicants shall remain in possession and control of the Property and shall continue to carry on business in a manner consistent (except as herein otherwise contemplated) with the preservation of the Applicants' business and Property, and shall be authorized and empowered to continue to retain and engage the agents, accountants, advisors, servants, solicitors and consultants currently engaged and paid by the Applicants, with liberty to retain, with the concurrence of the Monitor or approval of this Court, such further or other Persons as it deems reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan or the carrying out of the terms of this Order.

RESTRUCTURING

18. Each Applicant shall have the right, with the concurrence of the Monitor, to:
- a) cease, downsize or shut down any of its operations or locations and to make provision for any consequences thereof in the Plan;
 - b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and, to the extent not paid in the ordinary course, to make provision for any consequences thereof in that Plan;
 - c) vacate, abandon or quit any leased premises and/or terminate, repudiate or resiliate any lease and any ancillary agreements relating to any leased premises, on not less than seven days notice in writing to the relevant landlord on such terms as may be agreed upon between the applicable Applicant and such landlord with the concurrence of the Monitor and, failing agreement, on terms as the applicable Applicant deems appropriate and to make provision for any consequences thereof in the Plan, provided that the applicable Applicant may remain in occupation of any such premises despite such termination so long as the applicable Applicant pays occupation rent in accordance with paragraph 8 of this Order.

- d) subject to obtaining the prior concurrence of the existing, relevant secured lenders, proceed with the marketing for sale or other disposition of such of its Property and/or shares as either of the Applicants deems appropriate;
- e) subject to obtaining the prior concurrence of the existing relevant secured lenders, and subject to paragraph 18(f) hereof, proceed with an orderly liquidation of such of its property as either of the Applicants deems appropriate;
- f) subject to obtaining the prior concurrence of the existing relevant secured lenders, sell, transfer or assign, whether on credit, by private tender, public auction or otherwise, or to lease or mortgage the Property or any part or parts thereof out of the ordinary course of business, without compliance with, any applicable legislation or any other notice, statutory or otherwise, which a creditor or other party may be required to issue in order to dispose of the collateral of a debtor, in respect of which the Applicants be and are hereby relieved:
 - i. without the approval of the Court in respect of any transaction in the ordinary course of business;
 - ii. without the approval of the Court in respect of any transaction out of the ordinary course of business and not exceeding \$200,000 provided that the aggregate consideration for all such transactions does not exceed \$2,000,000; and
 - iii. with the approval of this Court in respect of any other transaction;
- g) notwithstanding paragraph 18(f) , to sell its current inventory of raw materials and to purchase new raw materials in an amount appropriate to the needs of the Company;
- h) terminate such of its arrangements or agreements of any nature whatsoever, whether oral or written, as the applicable Applicant deems appropriate and to make provision for any consequences thereof in the Plan.

all of the foregoing to permit each Applicant to proceed with an orderly restructuring of its business, property and affairs (the "Restructuring").

19. In order to facilitate the Restructuring, each Applicant shall be permitted to carry on its business in the manner and to the extent determined by it, to dispose of any or all of its inventory and other assets wherever situate through its retail, warehouse and distribution operations and facilities or otherwise without any interference of any kind from its landlords and, for greater certainty, each Applicant shall have the right to realize upon its inventory and other assets in such

manner and at such locations as the applicable Applicant deems suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom.

20. Each Applicant shall and does hereby indemnify each member of its board of directors and the Monitor of and from all claims, liabilities and obligations of any nature whatsoever, including without limitation, professional fees and disbursements on the basis of a chartered accountant and its client and legal fees and disbursements on a solicitor and client basis, which may arise out of their involvement with either of the Applicants, the Restructuring or the Plan, from and after the date hereof in the above-mentioned capacities save and except as may arise from willful misconduct or negligence on the part of any of them.
21. No person shall commence or continue with any proceeding against any directors, legal counsel to the Applicants, financial advisor to the Applicants, the Monitor or the legal counsel to the Monitor for or in respect of the Restructuring or the Plan or any other matter in connection with this proceeding, without first obtaining the leave of this Court, upon seven days' (or such other period as the Court may order) written notice to the Applicants, the Monitor and all potential defendants referred to in this paragraph.

PAYMENT OF CREDITORS

22. Subject to paragraphs 14, 15, 16, 17, 18 and 30 hereof and except as otherwise provided in this Order, each Applicant is hereby directed, until further Order of this Court:
 - a) to make no payments, whether of principal, interest thereon or otherwise, on account of amounts owing by the Applicants to any of its creditors as of this date;
 - b) to grant no mortgages, charges or other security upon or in respect of any of its present or future Property other than as otherwise authorized by further Order of this Court; and
 - c) except with the concurrence of the Monitor, not to enter into, incur, make or pay any monies or other consideration in respect of, any commitment, obligation, arrangement or agreement:
 - i. out of the ordinary course of its business and which involves the incurrence of obligations or payment of monies exceeding \$50,000.00 in the aggregate, except as is otherwise expressly provided for in this Order; and

- ii. in the ordinary course of its business for or in respect of the purchase of goods not intended for sale by the applicable Applicant until the Stay Termination Date, and which involves the incurrence of obligations or payment of monies exceeding \$200,000.00 in the aggregate.

PLAN OF ARRANGEMENT

23. The Applicants are hereby authorized and permitted to file with this court a plan of compromise or arrangement regarding the Applicants under the CCAA (the "Plan") on or before the Stay Termination Date or such other date as may be ordered by this Court.
24. Each Applicant shall, subject to the direction of this Court, summon and convene meetings between each Applicant and its secured and unsecured creditors under the Plan to consider and approve the Plan (collectively, the "Meetings").

MONITOR

25. Until further Order of this Court, PWC (the "Monitor") shall be and it is hereby appointed as an officer of this Court to monitor the business and affairs of the Applicants with the powers and obligations hereafter set forth and that each Applicant and its shareholders, officers, directors, employees, servants, agents and representatives shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations. Without limiting the generality of the foregoing, the foregoing persons shall provide the Monitor with such access to each Applicant's books, records, assets and premises as the Monitor requires to exercise its power and perform its obligations under this Order.
26. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
 - a) assist the Applicants, as applicable, in the development of the Plan and any amendments to and the implementation of the Plan;
 - b) monitor the Applicants' receipts and disbursements;
 - c) assist the Applicants with the marketing of their Property and/or shares;
 - d) assist the Applicants in their review and assessment of areas for cost reduction and revenue enhancement in the Applicants' businesses;
 - e) assist the Applicants, as applicable with the holding and administering of any Meetings for voting on the Plan and shall act as chair at any such Meeting;

- f) assist the Applicants in securing its required supply of goods and services by the issue of letters of comfort supported by cash on deposit;
 - g) inquire into and report to creditors, at or prior to any Meetings to consider the Plan, upon the financial condition and prospects of the Applicants;
 - h) be at liberty to engage legal counsel and engage such other agents as the Monitor deems necessary respecting the exercise of its powers and performance of its obligations under this Order;
 - i) report to this Court as the Monitor deems appropriate or as this Court directs, in respect of the marketing of the Property and/or shares, the Applicants' receipts and disbursements, the Plan, the Restructuring or the business of the Applicants or in respect of such other matters as may be relevant to the proceedings herein;
 - j) perform such other duties as are required by this Order or further Order of this Court;
 - k) provide such information to all secured creditors regarding the Applicants as is reasonably requested by any secured creditor and to consult with all secured creditors concerning the development of the Plan, the implementation of the Plan and the marketing of the Property and/or shares; and
 - l) generally to consult with the secured creditors with respect to the authority given to the Monitor pursuant to this paragraph.
27. The Monitor is authorized to provide all interested parties who so request with its report or assessment on the Plan. The Monitor shall incur no liability as a result of any report or assessment that it may make pursuant to this provision.
28. In response to any reasonable request for information made in writing by any of the Applicants' creditors addressed to the Monitor, the Monitor shall provide such creditor with the information requested. In the case of information which the Monitor has been advised by either of the Applicants is confidential, the Monitor shall not provide such information to the requesting creditor unless otherwise directed by this Court.
29. The Monitor is not empowered to take possession of any of the Property or to manage any of the Applicants' business or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession, management or control of the Property, or any part thereof, and shall not occupy any premises except in such circumstances as the Monitor deems necessary.

30. The reasonable fees and disbursements of the Monitor (including the reasonable solicitor and client fees and disbursements of any counsel retained by the Monitor) and the reasonable solicitor and client fees and disbursements of the Applicants' counsel in these proceedings shall be paid by the Applicants as part of the costs of these proceedings, the Plan and the Restructuring and the Applicants are hereby authorized and directed to pay the accounts of the Monitor, and the Applicants' counsel and counsel for the Monitor on a weekly basis. In addition, the Applicants are hereby authorized to pay each of the Monitor, counsel to the Monitor, and counsel to the Applicants such retainers as may be agreed upon to be held by the Monitor and each such counsel as security for payment of their fees and disbursements outstanding from time to time (including with respect to this Application), subject to any final assessment or taxation as may be ordered by this Court, in which case the remuneration of the Monitor shall be taxed on the basis of a chartered accountant and its own client and the legal costs of the Monitor's and/or the Applicants' counsel shall be taxed on the basis of a solicitor and its own client.
31. The Monitor, counsel to the Monitor and the Applicants' counsel, as security for their reasonable professional fees and disbursements incurred both before and after the making of this Order in respect of these proceedings, the Plan and the Restructuring, shall be entitled to the benefits of and are hereby granted a charge against all present and future Property, including without limitation the credit balances from time to time in the Post-Filing Accounts (the "Administration Charge"), such Administration Charge not to exceed \$400,000.00 without further order of this Court.
32. The Administration Charge shall attach to all present and future real and personal property of the Applicants, including any lease or other contract, notwithstanding any requirement for the consent of the lessor or other party to any such contract or any other Person, the necessity for the giving of any such consent is hereby dispensed with, and the absence of any such consent shall not constitute a breach of or default under any such lease or other contract.
33. The Administration Charge shall rank prior to all existing charges, liens, securities, security interests and other encumbrances against the Property or any part thereof.
34. The Administration Charge shall be deemed to be valid and effective notwithstanding any negative covenant, prohibition or any other provision with respect to incurring debt or the creation of liens or security contained in any existing agreement between either of the Applicants and/or its shareholder and any other Person, including without limitation those contained in the existing credit agreements with either of the Applicants and those contained in any agreement between either of the Applicants, its shareholder and any other Person.

Notwithstanding any provision to the contrary in any such agreements and without limiting the generality of the foregoing, the creation of the Administration Charge shall not create or be deemed to constitute a breach by either of the Applicants of any agreement to which it is a party.

35. It is further ordered:

- a) where the Monitor acts in good faith and takes reasonable care in preparing a report required by this Order, the Monitor is not liable for loss or damage to any Person resulting from that Person's reliance on the report;
- b) notwithstanding anything in federal or provincial law, the Monitor is not personally liable in that position for any environmental condition that arose or environmental damage that occurred;
 - i. before the Monitor's appointment; or
 - ii. after the Monitor's appointment unless it is established that the condition arose or the damage occurred as a result of the Monitor's gross negligence or willful misconduct;
- c) notwithstanding anything in any federal or provincial law but subject to subparagraph 35(b) above, the Monitor will not be personally liable for failure to comply with any order made which has the effect of requiring the Monitor to remedy any environmental condition or environmental damage affecting any Property, and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order,
 - i. if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Monitor, if the order is in effect when the Monitor is appointed, or during the period of stay referred to in subparagraph 35(c)(ii) below, the Monitor
 - A. complies with the order, or
 - B. on notice to the Person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
 - ii. during the period of a stay of the order granted, on application made within the time specified in the order referred to in subparagraph 35(c)(i)

above or within 10 days after the order is made or within 10 days after the appointment of the Monitor, if the order is in effect when the Monitor is appointed, by

- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Monitor to contest the order, or
 - B. the court having jurisdiction under the CCAA for the purposes of assessing the economic viability of complying with the order; or
 - iii. if the Monitor had, before the order was made, abandoned or renounced any interest in any real property affected by the condition or damage;
 - d) the Monitor shall not be liable for any other act or omission as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except for negligence or willful misconduct on its part or for any debt incurred by either of the Applicants whether before or after the date of this Order; and
 - e) no action application or other proceeding shall be taken, made or continued against the Monitor without the leave of this Court first being obtained.
36. The appointment of the Monitor shall not constitute the Monitor as an employer or a successor employer under any agreement or contract between either of the Applicants and any of its present or former employees or within the meaning of any legislation governing employment or labour standards or in respect of pensions or benefits or any other statute, regulation or rule of law or equity for any purpose whatsoever and, further, that the Monitor shall not be deemed to be an owner or in possession, control or management of the Property or of the business and affairs of the Applicants whether pursuant to any legislation enacted for the protection of the environment, health and safety or any other statute or regulation of any federal, provincial or other jurisdiction or under any rule of law or equity for any purpose whatsoever.

DEBTOR IN POSSESSION FINANCING

37. The Applicants shall be at liberty to apply to the court on two days prior written notice to the creditors to whom Notice of this Application was given, to seek the Court's approval for debtor in possession ("DIP") financing upon such terms and with such priority as this Court may approve.
38. Except for the use of credit cards in the ordinary course of either of the Applicants' businesses, each Applicant shall not borrow any money from or grant any mortgage, charge, security interest, hypothec, lien or other encumbrance over

any of its present or future Property to any Person other than the CCAA Lender (if any) without the prior written consent of the CCAA Lender (if any) or further order of this Court on proper notice to the CCAA Lender (if any), and any obligations incurred and any mortgage, charge, security interest, hypothec, lien or other encumbrance granted by either of the Applicants contrary to this Order shall be subordinate in all respects to the payment of the indebtedness and liability owed to the CCAA Lender (if any) and the Applicants to the CCAA Lender's Security (if any).

39. Notwithstanding (a) the pendency of these proceedings and the declarations of insolvency made herein, (b) the pendency of any proceedings heretofore or hereafter taken pursuant to the BIA in respect of the Applicants and (c) the provisions of any federal or provincial statute, (i) the obligation of the Applicants pursuant to the DIP Commitment (if any) and any documents delivered pursuant thereto shall constitute legal, valid and binding obligations of the Applicants enforceable against the applicable Applicant in accordance with the terms thereof, and (ii) any payments made by the Applicants pursuant to the DIP Commitment (if any) and the granting of any security constituted by the CCAA Lender's Security (if any) do not and shall not be construed to constitute a fraudulent preference or other challengeable or reviewable transaction under any applicable law.
40. The Administration Charge and the CCAA Lender's Security (if any) shall be deemed to be valid and effective notwithstanding any negative covenant, prohibition or any other provision with respect to incurring debt or the creation of liens or security contained in any existing agreement between either of the Applicants, their shareholders and any other Person, and that, notwithstanding any provision to the contrary in any such agreements, (a) neither the creation of the Administration Charge or the CCAA Lender's Security (if any) nor the execution, delivery, perfection or registration of the CCAA Lender's Supplemental Security (if any) or notice in respect thereof shall create or be deemed to constitute a breach by either of the Applicants of any agreement to which it is a party, and (b) the CCAA Lender (if any) shall have no liability to any Person whatsoever as a result of any breach of any agreement caused by or resulting from the Applicants entering into the DIP Commitment (if any) or the execution and delivery of the CCAA Lender's Supplemental Security (if any).

GENERAL TERMS

41. Each Applicant shall be at liberty to:
- a) serve this Order, any other orders in these proceedings, notices of all other proceedings, the Plan, any notices of Meetings and all other notices, and to deliver any letters to creditors, information circulars,

proofs of claim, proxies and disallowances of claims, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the applicable Applicant's creditors (or their solicitors where known) at their respective addresses as last shown on the records of the applicable Applicant and that any, such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the fourth business day after mailing;

- b) with the concurrence of the Monitor consent to the appointment of a receiver and/or receiver and manager of any of the Property otherwise protected by this Order, at any time.
42. Notwithstanding any other provision of this Order, the Applicants may apply at any time to this Court to seek any further relief, and any interested Person may apply to this Court to vary or rescind this Order or seek other relief on seven days' notice to the Applicants and the Monitor and to any other Person likely to be affected by the Order sought or on such other notice, if any, as this Court may order.
 43. Any of the Applicants or the Monitor may, from time to time, apply to this Court for direction in the discharge of the Monitor's powers and duties hereunder or in respect of the proper execution of this Order.
 44. This Order and any other Orders in these proceedings shall have full force and effect in all provinces and territories in Canada and abroad and as against all Persons against whom it may otherwise be enforceable.
 45. This Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to Section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
 46. For the purposes of seeking the aid and recognition of any court or any judicial, regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of the Applicants.

47. All amounts set out in this order shall have all applicable taxes added thereto as required by applicable legislation.

DATED at Saint John, New Brunswick this ____ day of October, 2007.

Judge of the Court of Queen's Bench
of New Brunswick