

Court File No. CV-09-8221-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF COPPLEY APPAREL GROUP LIMITED**

**THIRD REPORT OF
BDO DUNWOODY LIMITED
IN ITS CAPACITY MONITOR OF
COPPLEY APPAREL GROUP LIMITED**

DATED JULY 22, 2009

Schedule A	Approval and Vesting Order dated July 13, 2009
Schedule B	Budget versus Actual Cash Flow - Five Weeks ending July 10, 2009
Schedule C	Cash Flow Forecast (DIP Budget) for the six week period ending August 28, 2009

1. Introduction and Background

1.1 On June 10, 2009 pursuant to an application made by Copley Apparel Group Limited ("**Copley**" or the "**Company**"), the Court made an Order (the "**Initial Order**") declaring that Copley is a company to which the *Companies' Creditors Arrangement Act* ("**CCAA**") applies, and granting the customary initial relief, including a Stay of Proceedings against Copley until and including July 8, 2009. On July 8, 2009 Madam Justice Pepall granted an Order extending the CCAA stay of proceedings until and including July 14, 2009 (the "**Stay Period**").

1.2 BDO Dunwoody Limited was appointed Monitor under the Initial Order under the CCAA (the "**Monitor**") and was authorized to take a number of actions including, but not limited to, monitoring receipts and disbursements, assisting Copley with its required cash flow reporting requirements to the Debtor-in-Possession Lender, Wachovia Capital Finance Corporation (Central) ("**Wachovia**" or the "**DIP Lender**"), in accordance with the Forbearance Agreement dated June 8, 2009 (the "**Forbearance Agreement**"), assisting with the dissemination of financial information, consulting and assisting Copley to conduct a sales process in accordance with the Canadian Bid Procedures (the "**Sales Process**") and advising Copley on the development of a Plan of Arrangement.

1.3 As a result of the timelines agreed to by Copley in the Canadian Bid Procedures, the Sales Process required that offers for the assets of Copley be received by the Monitor no later than 5:00pm on Sunday June 21, 2008 in order that, if necessary an auction could take place among any

parties having submitted “Qualified Bids” (as hereinafter defined) and the stalking horse bidder in the Canadian Bid Procedures, Emerisque Brands UK Limited and SKNL North America B.V. and its assignee HMX Canada Acquisition Corp. (collectively “**Emerisque**”) on June 23, 2009, and the transaction with Emerisque, if the successful bidder, could close on or before July 3, 2009.

1.4 On June 19, 2009, Emerisque requested an extension of the closing date for the Canadian Agreement of Purchase and Sale (the “**Canadian APA**”) to July 20, 2009. The Company was authorized to extend the bid deadline in the Canadian Bid Procedure by one day, which it did while it prepared materials to apply to Court on June 23, 2009 for an Order amending the terms of the Canadian Bid Procedure and extending the milestone dates effectively extending the sale process for an additional two week period as discussed in greater detail below.

1.7 The “Proposed” Monitor’s First Report dated June 9, 2009 (the “**First Report**”) was filed in support of the Company’s initial application under the CCAA and briefly reported and commented on the following:

- a) the projected statement of Anticipated Receipts and Disbursements for the seven weeks ending July 17, 2009 (the “**DIP Budget**”) provided by Copley to the Court;
- b) the Debtor-In-Possession Financing as described in the Forbearance Agreement; and

- c) the proposed sale process as outlined in the affidavit of Richard Sexton, Chief Financial Officer of Copley, sworn on June 8, 2009 and described as the Canadian Bid Procedure.

1.8 The Second Report to the Court dated July 10, 2009 was filed in support of the Company's application for the approval of the sale of its assets to Emerisque including:

- a) to update this Court on the events and the activities of the Company and of the Monitor since June 10, 2009, the date of the First Report;
- b) to report to Court on the cash flow results of the Company since June 10, 2009;
- c) to report on the actions undertaken by the Company and the Monitor to carry out the Sales Process;
- d) to report on the results of the Sale Process;
- e) to recommend to the Court that it approve the sale of the assets of Copley, excluding the inventory and equipment of the former Royal Shirt manufacturing facility in Concord, Ontario (the "**Concord Assets**"), to Emerisque in accordance with the terms and conditions set out in the Canadian APA;

- f) to seek approval of the Monitor's conduct and activities to date as set out in this report; and
- g) to seek approval of the professional fees of the Monitor and its legal counsel to July 3, 2009.

The order dated July 13, 2009 approval of the Emerisque transaction is attached as **Schedule A**.

1.9 The purpose of this Third Report to the Court is as follows:

- a) to update the Court on the events and the activities of the Company and of the Monitor since July 10, 2009, the date of the Second Report;
- b) to recommend to the Court that it approve the extension of the Stay to July 27, 2009 to accommodate the parties negotiation of transactions for the Canadian and US businesses including an extension of the Closing Date;
- c) to report to the Court on the Company's weekly cash flow forecast for the six weeks ending August 28, 2009 ("DIP Budget") filed in support of the requested extension;
- d) to update the Court on the realization of the Company's Concord Assets.

2. Monitor's Activities

2.1 The key activities of the Monitor since July 10, 2009, the date of the Second Report, include the following:

- a) reviewing Copley's cash flow and providing a weekly variance analysis to the Company and the DIP Lender comparing actual results to forecasted amounts for the five week period ending July 10, 2009 as discussed below;
- b) reviewing availability under the borrowing base with Copley and reporting the results to the DIP Lender;
- c) monitoring progress to completion of the Emerisque transaction and the sale of the Concord Assets.

3. Cash Flow Reporting

A. Results to July 10, 2009

3.1 The Company filed with the Court a DIP Budget in support of its initial CCAA application. The DIP Budget covered the short period of time required to carry out the abbreviated sale process dictated by the Canadian Bid Procedures. On June 23, 2009 the Company applied for and was granted an Order amending the terms of the Canadian Bid Procedure and extending the Bid Procedure dates.

3.2 The Company filed with the Court a revised Anticipated Receipts and Disbursements Schedule Version 2 (the “**Revised Cash Flow Forecast**”) and entered into an Amending Agreement to the original Forbearance Agreement (the “**Amended Forbearance Agreement**”) in support of the extended Sale Process.

3.3 As part of the terms of the Amended Forbearance Agreement, the DIP Lender agreed to provide up to \$803,000 in additional funding during the CCAA proceedings to fund the projected Company’s cumulative shortfall from operations as contemplated in the Revised Cash Flow Forecast.

3.4 Below is a table summarizing the budget versus actual cash flow analysis for the five week period ended July 10, 2009:

	Projected (CDN \$ 000's)	Actual (CDN \$ 000's)	Variance	
			\$	%
Collections				
A/R Collections	2,678	2,873	195	7%
	<u>2,678</u>	<u>2,873</u>	<u>195</u>	<u>7%</u>
Disbursements				
Employee Related Disbursements	1,867	1,778	(89)	-5%
Inventory Related Disbursements	852	780	(72)	-8%
Overhead Related Disbursements	430	366	(64)	-15%
Financing Related Disbursements	57	64	7	12%
Professional Fees	912	590	(322)	-35%
	<u>4,118</u>	<u>3,578</u>	<u>(540)</u>	<u>-51%</u>
Net Change in Cash Position	(1,440)	(705)	(735)	51%
Opening Cash Balance	1,041	1,041	-	0%
Closing Cash Balance	<u>(399)</u>	<u>336</u>	<u>(735)</u>	<u>184%</u>

A detailed schedule of the budget versus actual cash flow analysis for the five week period ended July 10, 2009 is attached as **Schedule B**.

3.6 The Company was holding approximately \$336,000 in cash at July 10, 2009. The Company's net ending cash position as at July 10, 2009 was \$735,000 higher than projected and accordingly, approximately \$399,000 of anticipated borrowing from the DIP Lender was not required by the Company to fund operations.

3.7 Overall, collections of accounts receivable to July 10, 2009 were higher by \$195,000 or about 79% over projections while operating disbursements were \$540,000 lower than projected. The \$735,000 favourable cash variance is a result of an \$85,000 permanent reduction in payroll related disbursements with \$650,000 of the variance caused by temporary timing issues in the cash flow. Nearly all of the variance is considered temporary by the Company given the uncertainty surrounding future receivable collections and the unknown professional restructuring costs.

B. Cash Flow Forecast ("DIP Budget")

3.8 As Emerisque, Wachovia and Copley are negotiating an extension of the Closing Date, the Company prepared a weekly cash flow forecast for the six week period ending August 28, 2009 ("DIP" Budget") attached as **Schedule C**.

3.9 The DIP Lender, Wachovia, has agreed to forbear from its secured remedies until July 27, 2009 to accommodate the estimated time required to (1) complete the negotiations with Emerisque, (2) review the latest DIP Budget and (3) negotiate the terms of an amendment to the Forbearance Agreement. The issue of funding approximately \$863,000 to pay all post-filing claims as presented in this forecast has not been resolved.

3.10 For the six week period ending August 28, 2009, the Company has forecasted receipts of \$1,509,495 and disbursements of \$2,500,483 resulting in a net cash outflow \$990,988. This extended DIP Budget was provided to the Monitor on July 20, 2009 and as such a comprehensive review has not yet been completed. However, based on the Company's actual cash flow results to July 10, 2009 the Monitor is satisfied that the forecast will likely be achievable in the circumstances, assuming Wachovia will provide the necessary funding.

4. Sale Process Update

A. Emerisque Sale

4.1 Emerisque acquisition of the US business of Hartmarx was to be completed on July 17, 2009 and as stated, the Canadian transaction was to be completed on July 20, 2009.

4.2 The Monitor was advised on July 20, 2009 that the parties are re-negotiating various terms of the transaction including an extension of the Closing Date.

4.3 As the DIP Lender is the only creditor to benefit from the sale of Copley to Emerisque, and they have agreed to the extension of the Stay period to July 27, 2009, the Monitor recommends the extension.

B. Concord Assets

4.4 As the six offers from various liquidators for the Concord Assets were considered somewhat low, the Company approached Emerisque again to acquire these assets. The Company is seeking other going-concern sale alternatives for the Concord Assets. The decision on the realization of the Concord Assets remains pending.

5. Summary and Recommendations

5.1 The Monitor recommends the extension of the Stay Period to July 27, 2009.

All of which is respectfully submitted this 22nd day of July, 2009.

BDO DUNWOODY LIMITED
Monitor in the CCAA of
Copley Apparel Group Limited
Per:



Blair F. Davidson, CA, CIRP, CBV
President