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CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF QUEBEC  
No division : 01-MONTREAL  
No Cour : 500-11-057691-194  
No dossier : 41-2597413

SUPERIOR COURT  
(Commercial Division)

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

**8318085 CANADA INC.**, legal person duly incorporated according to law having its principal place of business at 5353, Thimens Blvd., suite 200, in the city of Montreal, judicial district of Montreal, province of Quebec, H4R 2H4;

*Applicant / Debtor*

- and -

**KPMG INC.**, a corporation duly incorporated under the *Canada Business Corporations Act* (Canada), having a place of business at 600, boul. De Maisonneuve Blvd. West, Suite 1500 Montreal, QC, H3A 0A3

*Trustee*

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SIXTH REPORT OF THE TRUSTEE ON  
THE SALE OF THE ASSETS OUTSIDE OF THE ORDINARY COURSE OF BUSINESS  
(SECTION 65.13 BIA)

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I, Stéphane De Broux, CPA, CA, CIRP, LIT, of KPMG Inc., in my capacity as Trustee under the Notice of Intention to make a Proposal filed by the Applicant, report to this Honorable Court as follows.

**INTRODUCTION**

1. On December 17, 2019, 8318085 Canada Inc. (the "**Debtor**" or the "**Company**") filed a Notice of Intention to Make a Proposal (the "**NOI**") pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (the "**BIA**"), and KPMG was appointed as Trustee to the NOI. As a result of the filing of the NOI, all proceedings against the Company and its assets were stayed until January 16, 2020 (the "**Stay Period**").
2. On December 18, 2019, the Trustee issued its First Report to Court ("**First Report**"). The Debtor was seeking the authorization and approval of a sale and solicitation process ("**SSP**").
3. On December 19, 2019, the Court issued an "Order for a Sale and Solicitation Process" (the "**SSP Order**") authorizing a sale and solicitation process in order to market the Debtor's business and related assets (the "**Sale Process**") and the rules related thereto (the "**SSP Rules**").
4. On January 16, 2020, the Court issued an Order extending the delay to file a proposal under the NOI until February 28, 2020, which was supported by the Trustee ("**Second Report**").
5. On January 29, 2020, the Debtor filed a Motion seeking the Approval of a transaction and Issuance of a Vesting Order (the "**First Approval and Vesting Order**"), which was supported by the Trustee ("**Third Report**").

6. On January 31, 2020, following the conclusion of the Sale Process, this Honourable Court issued the First Approval and Vesting Order approving the sale of certain of the Debtor's assets to an unrelated party pursuant to s. 65.13 BIA (the "**Thread Sale Transaction**"). The Thread Sale Transaction was concluded immediately thereafter and the Trustee issued the Certificate as provided in the First Approval and Vesting Order.
7. On February 27, 2020, the Court issued an Order extending the delay to file a proposal under the NOI until April 10, 2020, which was supported by the Trustee ("**Fourth Report**").
8. On April 9, 2020, the Court issued an Order extending the delay to file a proposal under the NOI until May 25, 2020, which was supported by the Trustee ("**Fifth Report**").
9. The purpose of this Report ("**Sixth Report**") is to provide this Court with information regarding:
  - a) The company's activities;
  - b) The Sale and Solicitation Process;
  - c) The analysis of the offers received including the terms of the offer received (the "**Proposed Offer**") from 12025221 Canada Inc. (the "**Proposed Purchaser**"), a party related to the Debtor regarding the sale of certain of the Debtor's assets (the "**Proposed Transaction**");
  - d) The alternative to the Proposed Transaction; and
  - e) The Trustee's recommendation that this Court issue an order authorizing and approving the sale of certain of the Debtor's assets to the Proposed Purchaser pursuant to the Proposed Offer (the "**Approval and Vesting Order**").

#### **RESTRICTIONS AND SCOPE LIMITATIONS**

10. In preparing this report, the Trustee has been provided with and has relied upon, unaudited financial information, books and records prepared by certain senior management of the Debtor ("**Senior Management**"), and discussions with Senior Management. Except as further described in this report:
  - a) The Trustee has reviewed the information for reasonableness, internal consistency and use in the context in which it was provided. However, the Trustee has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CASs**") pursuant to the Chartered Professional Accountants Canada Handbook and accordingly, the Trustee expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
  - b) Some of the information referred to in this report consists of financial forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.
11. Future oriented financial information referred to in this report was prepared based on Senior Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections. Even if the assumptions materialize, the variations could be significant.
12. The information contained in this report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Debtor.
13. Unless otherwise stated, all monetary amounts contained in this report are expressed in Canadian dollars, which is the Debtor's common reporting currency.

## THE COMPANY'S ACTIVITIES

14. This report should be read in conjunction with the Motion for Sale Approval and Vesting Order and the Trustee's First Report, Second Report, Third Report, Fourth Report and Fifth Report which provide background and other information regarding the Debtor and the NOI proceedings. Capitalized terms not defined in this report are used as defined in the Motion for Sale Approval and Vesting Order.
15. The Debtor is a privately owned company operating a business which designs, imports and distributes women's outerwear garments, and sells such products in Canada as well as Internationally (hereinafter "**Business**").
16. Several factors had led to the Debtor's insolvency including a reduction in sales. As a result, the Business was negatively affected, and its performance decreased to the point of insolvency.
17. Upon filing the NOI, the Debtor had three (3) secured lenders being Royal Bank of Canada ("**RBC**"), Investissement Québec ("**IQ**") and 172893 Canada Inc. (the "**Remaining Secured Lender**"), a related party. The Trustee has received an independent opinion with respect to the validity of the security of the secured lenders.
18. The Debtor continued to run the Business through this restructuring process and fully repaid the debt owed to RBC and IQ. As of the date hereof, the amount owed to the Remaining Secured Lender is approximately \$3,980,000.
19. From the time of the last NOI Extension until the COVID-19 pandemic caused a Province-wide shutdown of commercial activities, the Debtor was operating the Business on a going concern basis and had seven (7) employees. In particular, the Business continued to sell existing inventory, receive and sell current inventory and was aggressively pursuing the collection of its accounts receivable.
20. Once the Québec government declared a public health emergency due to the COVID-19 pandemic, the Debtor significantly reduced its operations and headcount to two (2) employees, focusing its efforts on the collection of significant accounts receivable.

## SALE AND SOLICITATION PROCESS

21. As part of its restructuring process, the Debtor, assisted by the Trustee, conducted a fulsome process, that started in December 2019, in order to market the Business and related assets to one or more potential purchasers and interested parties.
22. The Sale Process was held over the period of five (5) weeks. Over 40 parties, including many of the Debtor's competitors, were solicited, resulting in the Trustee receiving three (3) offers to purchase and one offer for liquidation services.
23. Ultimately, the Thread Sale Transaction was held to be the best offer and most advantageous, was approved by this Honourable Court and concluded. More information on the Sale Process, the description and analysis of the offers received is presented in the Trustee's Third report.
24. Following the Thread Sale Transaction, the Debtor's remaining assets ("**Remaining Assets**") were as follows:
  - Accounts receivable with a book value of \$1,445,000 as of the date hereof;
  - Inventory with a book value of \$1,515,000 as of the date hereof; and
  - Fixed assets, prepaid expenses and several trademarks with a total book value of approximately \$500,000 as of the date hereof.

25. Following the Thread Sale Transaction, the Debtor, assisted by the Trustee, continued pursuing the solicitation of the Remaining Assets.
26. Pursuant to these discussions, one offer was received by Gordon Brothers, a well-known US based liquidator who had participated and made an offer in the Sale Process. A copy of this offer is produced herewith under seal as **Exhibit A** (the “**GB Offer**”).
27. The GB Offer provided for the purchase of all of the Debtor’s remaining inventory and intellectual property for the price of \$250,000, the whole subject to the purchaser’s inspection and delivery by the Debtor together with payment of all duties, at the sole cost and expense of the Debtor. Note that the GB Offer was received prior to the COVID-19 pandemic, at a time when the inventory had most probably a higher market value.
28. While pursuing the solicitation of the Remaining Assets, the Debtor entered into negotiations with a retail service provider in order explore the option of selling remaining inventory through one or more retail channels. However, this selling option was not available until the fall selling season and necessitated carrying costs which would ultimately eclipse such inventory’s value.
29. Since the Québec government declared a public health emergency due to the COVID-19 pandemic, any interest the Debtor had garnered for the sale of its remaining inventory vanished.
30. Likewise, with respect to the successful collection of accounts receivable, the Debtor’s major customers closed their stores or scaled down their own operations, therefore creating a further challenge in the Debtor’s collection of accounts receivable and a stop in business activity. As such, accounts receivable were no longer an asset of interest to previously interested parties.
31. More recently during the COVID-19 pandemic, the Trustee received an offer from Continental Capital Investments, a Montreal-based liquidator and retail service provider, offering accounts receivable collection services for a fee of 20% of such collections and the price of \$150,000 for the purchase of all of the Debtor’s remaining inventory (the “**Continental Offer**”), a copy of which is produced herewith under seal as **Exhibit B**. The Continental Offer takes the current pandemic situation into consideration.
32. Accordingly, in the face of the current global pandemic, the Debtor’s inventory value is negligible, its intellectual property has little value and the collectability of its receivables is dependent on the performance of the account debtors, who are themselves, in a crisis situation.
33. In an effort to save what is left of the Business and protect the loan owing to the Remaining Secured Lender, the Proposed Purchaser has submitted the Proposed Offer providing for the purchase of all of the Remaining Assets, except for agreements relating to its occupation of premises and finance leases (collectively, the “**Leases**”), the whole for a consideration which exceeds any offer received prior to or following the COVID-19 pandemic. A copy of the Proposed Offer is produced herewith under seal as **Exhibit C**.

#### **ANALYSIS OF THE OFFERS RECEIVED**

34. The Proposed Offer, totaling approximately \$2,455,000 is summarized as follows:
  - \$875,000 for the remaining inventory, to be purchased on an as-is, where-is basis, without any inspection or adjustment;
  - \$1,445,000 representing the estimated amount of the outstanding accounts receivable at closing; and
  - \$138,000 for the fixed assets, trademarks and all other property of the Debtor.

35. The consideration for the purchase of the “Purchased Property” (as defined in the Proposed Offer) is the Proposed Purchaser’s assumption of the indebtedness owing by the Debtor to the Remaining Secured Lender equal to the “Purchase Price” (as defined in the Proposed Offer) and the tolerance of the Remaining Secured Lender’s Security.
36. The Proposed Offer, the GB Offer and the Continental Offer are summarized as follows:

8318085 Canada Inc.	
Analysis of the Offers	Purchase Price
Proposed Offer	- \$875,000 for the inventory - \$1,445,000 for the accounts receivable (book value at closing) - \$138,000 for the trademarks and fixed assets
GB Offer	- \$250,000 less duties, freight for the inventory and trademarks - No offer for the accounts receivable and the other assets
Continental Offer	- \$150,000 for all the inventory - Accounts receivable collection services for a fee of 20%

37. The Trustee’s comments on the offers are as follows:
- i. The GB Offer, which is no longer available for acceptance, was received prior to the COVID-19 pandemic, at a time when the inventory had most probably a higher market value, particularly considering the current health crisis and state of the retail industry. Furthermore, the GB Offer was subject to inspection and payment of the duties and freight by the Debtor.
  - ii. The Continental Offer is strictly for the purchase of inventory at a price far inferior to what has been offered under the Proposed Offer and offers accounts receivable collection services, not the purchase thereof, for a fee of 20% of such collections.
  - iii. The Proposed Offer is made with the Proposed Purchaser’s intention to carry on and continue the Business as it relates to the Purchased Property, retain the Debtor’s current two (2) employees and eventually re-establish operations and re-hire and/or hire employees to pre-epidemic levels.

## ALTERNATIVE TO THE PROPOSED TRANSACTION – LIQUIDATION SCENARIO

38. As an alternative to the Proposed Transaction, the Trustee estimated the net proceeds to stakeholders under a liquidation scenario following a bankruptcy, as presented in the following table:

8318085 Canada Inc.						
Estimated liquidation value as at April 30, 2020						
Description	Book value	Estimated value				
			Low		High	
<b>Current Assets</b>						
Accounts receivable	1 445 000	50%	722 500	75%	1 083 750	
Inventories	Note 1 1 515 000	10%	151 500	15%	227 250	
Prepays and other current assets	45 455	0%	-	0%	-	
<b>Total current assets</b>	<b>3 005 455</b>		<b>874 000</b>		<b>1 311 000</b>	
<b>Non-Current Assets</b>						
Trademarks	11 874		-		-	
Fixed assets and other assets	455 736	5%	22 787	10%	45 574	
<b>Total non-current assets</b>	<b>467 610</b>		<b>22 787</b>		<b>45 574</b>	
<b>Estimated value before professional fees, priority claims and liabilities</b>	<b>3 473 065</b>		<b>896 787</b>		<b>1 356 574</b>	
<b>Estimated priority claims</b>						
Salaries, vacation and DAS payable			TBD		TBD	
<b>Total estimated priority claims</b>			-		-	
Estimated administration and professional fees			(150 000)		(100 000)	
<b>Estimated liquidation value before liabilities</b>			<b>746 787</b>		<b>1 256 574</b>	
<b>Due to secured creditors</b>						
172893 Canada Inc. (as at January 24, 2020)	(3 980 000)		(3 980 000)		(3 980 000)	
	<b>(3 980 000)</b>		<b>(3 980 000)</b>		<b>(3 980 000)</b>	
<b>Estimated (deficit) before unsecured creditors</b>			<b>(3 233 213)</b>		<b>(2 723 426)</b>	

Note 1 : Liquidation value estimated based on offer received

39. The table above shows that, while providing for a partial repayment for the Remaining Secured Lender, the net proceeds to the unsecured creditors is estimated to be Nil in a liquidation scenario.
40. In addition, under a liquidation scenario, we note that two (2) jobs would not be preserved, and suppliers would lose a potential customer going forward.

## TRUSTEE'S RECOMMENDATIONS AND CONCLUSIONS

41. The Trustee is of the opinion, based upon all of the reasons described throughout this Sixth Report, that the Proposed Offer should be approved. The main reasons are summarized as follows:
- The Proposed Transaction offers the highest potential return to the Stakeholders;
  - The Trustee estimates that the realization following the Proposed Offer is superior to the consideration that would be realized under the GB Offer, the Continental Offer and under a liquidation scenario;
  - Unlike a liquidation scenario, the Proposed Purchaser intends to carry on and continue the Business as it relates to the Purchased Property, retain the Debtor's current two (2) employees and eventually re-establish operations and re-hire and/or hire employees to pre-epidemic levels;
  - The Proposed Offer was obtained following a formal solicitation process conducted by the Trustee and duly authorized by the Court as well as pursuing additional solicitation efforts and discussions with interested parties;
  - The Proposed Transaction is reasonable and fair taking into account all of the circumstances, including the current health crisis and state of the economy, and would be more beneficial to the stakeholders than a liquidation following a bankruptcy;

- f) The Proposed Transaction will preserve the ability to maximize the collection of the accounts receivable;
  - g) Despite the fulsome and comprehensive sale process conducted and additional solicitation efforts and negotiations, no superior or advantageous offers or proposals were received by non-related parties, including liquidators, competitors and alternative selling channels;
  - h) In addition, the Debtor has tax losses that it may be able to utilize in making a proposal to its creditors in the event the Proposed Transaction is authorized and concluded. This possibility will be explored further once the Proposed Transaction is complete.
42. For the reasons outlined above, the Trustee supports the Debtor's motion for the issuance of the Approval and Vesting Order.

All of which is respectively submitted this 7<sup>th</sup> day of May, 2020.

KPMG INC., in its capacity  
as Licensed Insolvency Trustee  
of 8318085 Canada Inc.



Per: Stéphane De Broux, CPA, CA, CIRP, LIT  
Partner

**EXHIBIT A**  
*(under seal)*

**EXHIBIT B**  
*(under seal)*

**EXHIBIT C**  
*(under seal)*