

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No.: 500-11-057985-208

DATE: April 28, 2020

BEFORE THE HONOURABLE MARIE-ANNE PAQUETTE, J.S.C.

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

STOKES INC.
Debtor / Petitioner

and

RICHTER ADVISORY GROUP INC.
Trustee

**ORDER EXTENDING THE TIME TO FILE A PROPOSAL
AND GRANTING ANCILLARY RELIEF**


- [1] **CONSIDERING** the Application for extension of time to file a proposal and for ancillary relief (the "**Application**") pursuant to section 50.4(9) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended ("**BIA**") by the Debtor / Petitioner Stokes Inc. (the "**Petitioner**") and the affidavit of Mr. Mohammad Rahaman, filed in support thereof;

- [2] **CONSIDERING** the Trustee's Third Report dated April 22, 2020;
- [3] **CONSIDERING** the representations of counsel made at the virtual hearing of April 28, 2020;
- [4] **CONSIDERING** the absence of contestation to the Application;
- [5] **CONSIDERING** that the Trustee and the Bank of Nova Scotia, senior secured lender of the Debtor support the Application;
- [6] **CONSIDERING** the provisions of the BIA;
- [7] **CONSIDERING** that the landlords reserve their right to debate the facts and applicable law mentioned in paragraphs 15 and 25 of the Application;

THE COURT HEREBY:

- [8] **GRANTS** the Application.
- [9] **EXTENDS** the time period within which the Petitioner may file a proposal under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 to June 12, 2020.
- [10] **EXTENDS** the Sale Termination Date, as per the Consulting Agreement to **June 12, 2020**
- [11] **APPROVES** and **RATIFIES** the Amended Sale Guidelines attached to this Order as Schedule I.
- [12] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Petitioner, the Trustee and their respective agents in carrying out the terms of this Order.
- [13] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.

[14] **THE WHOLE WITHOUT COSTS.**



Marie-Anne Paquette, J.S.C.

MTRE JULIEN MORISSETTE
MTRE ILIA KRAVTSOV
(OSLER HOSKIN & HARCOURT LLP)
COUNSEL TO THE PETITIONER

Hearing date: April 28, 2020

AMENDED SALE GUIDELINES

The following procedures shall apply to any sales to be held at Stokes Inc. ("**Stokes**") retail stores designated in the Consulting Agreement (as defined below) (the "**Stores**"). Terms capitalized but not defined in these Sale Guidelines have the meanings ascribed to them in the Consulting Agreement.

1. Except as otherwise expressly set out herein, and subject to: (i) the Order of the Superior Court of Québec (Commercial Division) (the "**Court**") approving the Consulting Agreement between a joint venture comprised of Tiger Asset Solutions Canada, ULC and GA Retail Canada ULC (the "**Consultant**") and Stokes (the "**Consulting Agreement**") and the transactions contemplated thereunder (the "**Approval Order**") or (ii) the provisions of the *Bankruptcy and Insolvency Act* ("**BIA**") and any further Order of the Court; or (iii) any subsequent written agreement between Stokes and its applicable landlord(s) (individually, a "**Landlord**" and, collectively, the "**Landlords**") and approved by the Consultant, the Sale shall be conducted in accordance with the terms of the applicable leases and other occupancy agreements for each of the affected Stores (individually, a "**Lease**" and, collectively, the "**Leases**"). However, nothing contained herein shall be construed to create or impose upon Stokes or the Consultant any additional restrictions not contained in the applicable Lease or other occupancy agreement.
2. The Sale shall be conducted so that each of the Stores remain open during their normal hours of operation provided for in the respective Leases for the Stores until the applicable premises vacate date for each Store under the Consulting Agreement (the "**Vacate Date**"), and in all cases no later than June 12, 2020. Rent payable under the respective Leases shall be paid as provided in the Approval Order.
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws, unless otherwise ordered by the Court.
4. All display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Stores as a "everything on sale", "everything must go", "store closing" or similar theme sale at the Stores (provided however that no signs shall advertise the Sale as a "bankruptcy", a "liquidation" or a "going out of business" sale, it being understood that the French equivalent of "clearance" is "liquidation" and that "liquidation" is permitted to be used in French language signs). Forthwith upon request, the Consultant shall provide the proposed signage packages along with proposed dimensions by e-mail or facsimile to the applicable Landlords or to their counsel of record and the applicable Landlord shall notify the Consultant of any requirement for such signage to otherwise comply with the terms of the Lease and/or the Sale Guidelines and where the provisions of the Lease conflicts with these Sale Guidelines, these Sale Guidelines shall govern. The Consultant shall not use neon or day-glow signs or any handwritten signage (save that handwritten "you pay" or "topper" signs may be used). If a Landlord is concerned with "Store Closing" signs being placed in the front window of a Store or with the number or size of the signs in the front window, Stokes, the Consultant and the Landlord will work together to resolve the dispute. Furthermore, with respect to enclosed mall Store location without a separate entrance from the exterior of the enclosed mall, no exterior signs or

signs in common area of a mall shall be used unless explicitly permitted in the applicable Lease. In addition, the Consultant shall be permitted to utilize exterior banners/signs at stand alone or strip mall Stores or enclosed mall Store locations with a separate entrance from the exterior of the enclosed mall; provided, however, that: (i) no signage in any other common areas of a mall shall be used; and (ii) where such banners are not explicitly permitted by the applicable Lease and the Landlord requests in writing that banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the Service List. Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Store and shall not be wider than the premises occupied by the affected Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the facade of the premises of a Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of Stokes. The Consultant shall not utilize any commercial trucks to advertise the Sale on Landlord's property or mall ring roads.

5. The Consultant shall be permitted to utilize sign walkers and street signage; provided, however, such sign walkers and street signage shall not be located on the shopping center or mall premises.
6. The Consultant shall be entitled to include additional merchandise in the Sale provided that (a) the additional merchandise is currently in the possession of Stokes (including in its warehouse and distribution center) and has previously been ordered by or on behalf of Stokes and is currently in transit to Stokes; and (b) the additional merchandise is of like kind and category and no less quality to the Merchandise, and consistent with any restrictions on usage of the Stores set out in the applicable Leases.
7. Conspicuous signs shall be posted in the cash register areas of each Store to the effect that all sales are "final" and customers with any questions or complaints are to call Stokes' hotline number.
8. The Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Stores on any Landlord's property, unless explicitly or expressly permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Store is located. Otherwise, the Consultant may solicit customers in the Stores themselves. The Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as explicitly or expressly permitted under the applicable Lease, or agreed to by the Landlord.
9. At the conclusion of the Sale in each Store, the Consultant and Stokes shall arrange that the premises for each Store are in "broom-swept" and clean condition, and shall arrange that the Stores are in the same condition as on the commencement of the Sale, ordinary wear and tear excepted. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (other than Stokes FF&E (as defined below) for clarity) may be removed without the Landlord's written consent unless otherwise provided by the applicable Lease and in accordance with the Approval Order. Any trade fixtures or personal property left in a Store after the applicable Vacate Date in respect of which the applicable Lease has been disclaimed by Stokes shall be deemed abandoned, with the

applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord. Nothing in this paragraph shall derogate from or expand upon the Consultant's obligations under the Consulting Agreement.

10. Subject to the terms of paragraph 9 above, the Consultant shall sell furniture, fixtures and equipment owned by Stokes ("**Stokes FF&E**") and located in the Stores during the Sale. For greater certainty, Stokes FF&E does not include any portion of the Stores' HVAC, sprinklers, fire suppression, or fire alarm systems. Stokes and the Consultant may advertise the sale of Stokes FF&E consistent with these Sale Guidelines on the understanding that the Landlord may require such signs to be placed in discreet locations within the Stores reasonably acceptable to the Landlord. Additionally, the purchasers of any Stokes FF&E sold during the Sale shall only be permitted to remove the Stokes FF&E either through the back shipping areas designated by the Landlord or through other areas after regular Store business hours or, through the front door of the Store during Store business hours if the Stokes FF&E can fit in a shopping bag, with Landlord's supervision as required by the Landlord and in accordance with the Approval Order. Stokes shall repair any damage to the Stores resulting from the removal of any Stokes FF&E by Consultant or by third party purchasers of Stokes FF&E.
11. The Consultant shall not make any alterations to interior or exterior Store lighting, except as authorized pursuant to the affected Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these Sale Guidelines, shall not constitute an alteration to a Store.
12. Stokes hereby provides notice to the Landlords of Stokes and the Consultant's intention to sell and remove Stokes FF&E from the Stores. The Consultant shall make commercially reasonable efforts to arrange with each Landlord that so requests, a walk-through with the Consultant to identify the Stokes FF&E subject to the Sale. The relevant Landlord shall be entitled upon request to have a representative present in the applicable Stores to observe such removal. If the Landlord disputes the Consultant's entitlement to sell or remove any Stokes FF&E under the provisions of the Lease, such Stokes FF&E shall remain on the premises and shall be dealt with as agreed between Stokes, the Consultant and such Landlord, or by further Order of the Court upon application by Stokes on at least two (2) days' notice to such Landlord and the proposal Trustee. If Stokes has disclaimed or resiliated the Lease governing such Store in accordance with the BIA, it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the BIA), and the disclaimer or resiliation of the Lease shall be without prejudice to Stokes's or the Consultant's claim to the Stokes FF&E in dispute.
13. If a notice of disclaimer or resiliation is delivered pursuant to the BIA to a Landlord while the Sale is ongoing and the Store in question has not yet been vacated, then: (a) during the notice period prior to the effective time of the disclaimer or resiliation, the Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving Stokes, the proposal Trustee and the Consultant 24 hours' prior written notice; and (b) at the effective time of the disclaimer or resiliation, the relevant Landlord shall be entitled to take possession of any such Store without waiver of or prejudice to any

claims or rights such Landlord may have against Stokes in respect of such Lease or Store, provided that nothing herein shall relieve such Landlord of any obligation to mitigate any damages claimed in connection therewith.

14. The Consultant and its agents and representatives shall have the same access rights to the Stores as Stokes under the terms of the applicable Lease, and the Landlords shall have the rights of access to the Stores during the Sale provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).
15. Stokes and the Consultant shall not conduct any auctions of Merchandise or Stokes FF&E at any of the Stores.
16. The Consultant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact for Consultant shall be (i) Mark P. Naughton who may be reached by phone at (312) 894-6081 or email at mnaughton@tigergroup.com. If the parties are unable to resolve the dispute between themselves, the Landlord or Stokes shall have the right to schedule a "status hearing" before the Court on no less than two (2) days written notice to the other party or parties, during which time the Consultant shall cease all activity in dispute other than activity expressly permitted herein, pending determination of the matter by the Court; provided, however, subject to paragraph 4 of these Sale Guidelines, if a banner has been hung in accordance with these Sale Guidelines and is the subject of a dispute, the Consultant shall not be required to take any such banner down pending determination of any dispute.
17. Nothing herein or in the Consulting Agreement is or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any Lease, or shall, or shall be deemed to, or grant to the Landlord any greater rights than already exist under the terms of any applicable Lease.
18. These Sale Guidelines may be amended by written agreement between the Consultant, Stokes and the applicable Landlord.