

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-022070-037

DATE: JANUARY 15, 2004

IN THE PRESENCE OF: THE HONOURABLE MR. JUSTICE CLÉMENT GASCON

LES BOUTIQUES SAN FRANCISCO INCORPORÉES
and
LES AILES DE LA MODE INCORPORÉES
and
LES ÉDITIONS SAN FRANCISCO INCORPORÉE
Petitioners
and
RICHTER & ASSOCIÉS INC.
Monitor

AMENDED INITIAL ORDER

- [1] **FOR THE REASONS GIVEN ORALLY AND REGISTERED, THE COURT:**
- [2] **GRANTS** the Motion for the Extension of the Initial Order (no. 16 and 17);
- [3] **DECLARES** that the Initial Order of this Court rendered on December 17, 2003 (Initial Order) in the present file remains in full force and effect and that the Stay Termination Date, as defined in paragraph 41 of this Initial Order, is extended to March 16, 2004;

[4] **RECONVENES** the parties in front of this Court on March 16, 2004, at 9h00 a.m., in a room yet to be determined of the Montreal Courthouse, to reassess the situation;

[5] **DECLARES** Gaétan Frigon, chief restructuring officer, to be an officer of Petitioners and that he benefits in such capacity from the indemnification and from the Directors and Officers Indemnification Hypothec as provided in paragraphs 54, 55 and 56 of the Initial Order;

[6] **DECLARES** that Laurent Mériaux and Jean-Claude Gagnon, in the performance of the services rendered to Petitioners, benefit from the indemnification and from the Directors and Officers Indemnification Hypothec as provided in paragraphs 54, 55 and 56 of the Initial Order;

[7] **AMENDS** the Initial Order such that:

(a) paragraph 45(d) of the Initial Order is modified to read as follows:

"Notwithstanding the above, the Petitioners will pay the interest and the instalments of principal, the first of which is due on January 16, 2004, pursuant to the secured credit agreement dated May 2, 2003 between National Bank of Canada, Royal Bank of Canada, Canadian Imperial Bank of Commerce and Laurentian Bank of Canada and Petitioners and BSF will pay the interest owed pursuant to the secured note entered into between Roynat Inc. and BSF and Petitioners or any of them will be at liberty, but not required, to pay any principal amount other than that mentioned above and any other interest owed pursuant to any loan, term loan, leasehold improvement loan, secured note, debenture or other like instrument for the period starting from the day of issuance of this Order and ending on the Stay Termination Date. No person being a party to or holder of any such loan, term loan, leasehold improvement loan, secured note, debenture or other like instrument with one or more of the Petitioners may terminate, suspend, accelerate, amend or otherwise vary the performance of such loan, term loan, leasehold improvement loan, secured note, debenture or other like instrument by reason that the Petitioners or any other person or persons related thereto are insolvent, by reason of the commencement of this proceeding or any admission or evidence in this proceeding or by reason of any default or non-performance by the Petitioners or any of them;"

(b) paragraph 47(c) of the Initial Order is modified to read as follows:

"Shall continue to operate, maintain and sell merchandise from their stores and boutiques under the banners San Francisco, New York-New York, Bikini Village, San Francisco Maillots, Victoire Delage, Moments Intimes and Les Ailes de la Mode, subject to the right of the Petitioners at their discretion but with the written consent of the Monitor, on not less than seven days' written notice to the relevant landlord, to close stores or boutiques and to liquidate merchandise at retail or wholesale;"

(c) paragraph 48.1 is added to the Initial Order and reads as follows:

"[48.1] **AUTHORIZES** Petitioners, notwithstanding paragraph 48 hereof, to undertake a process whereby it will seek to sell, dispose of, convey or otherwise transfer the property, assets and undertakings relating to the divisions of BSF presently operated under the banners San Francisco and Victoire Delage/Moments Intimes, subject to the prior approval by the Petitioners' bank syndicate and by the Court of the final offer accepted by the Petitioners;"

(d) paragraph 49 of the Initial Order is modified to read as follows:

"[49] **ORDERS** that, after the date of this Order and except as otherwise provided to the contrary herein, the Petitioners shall be entitled to pay all reasonable expenses incurred in the carrying on of business in the ordinary course and that, pending any subsequent order of this Court, such expenses shall include, without limitation:

- a) All amounts owing for goods and services supplied to any of the Petitioners after the date of this Order;
- b) All wages, benefits, vacation pay and other amounts due or accruing due to employees of any of the Petitioners and all deductions at source and pension or other contributions in connection with such employees;
- c) Principal and interest, interest only, lease payments, costs, fees, expenses or charges to creditors and lessors, including lessors of movable property and lessors of premises, accruing from the date of issuance of this Order;

- d) All amounts due or becoming due by any of the Petitioners under any credit card arrangement including, without limitation, with respect to American Express, MasterCard and Visa cards;
- e) All insurance premiums, payments under financing arrangements for insurance premiums and other sums payable pursuant to insurance contracts or policies;
- f) All accounts of legal, accounting and other advisers and consultants advising the Petitioners in connection with the preparation of the Arrangement or generally advising the Petitioners in connection with possible restructuring, refinancing or recapitalisation;
- g) All accounts of the Monitor and its counsel, advisers and consultants;
- h) Amounts normally paid or transferred between the Petitioners and between the Petitioners and their respective subsidiaries in the ordinary course of business;
- i) All amounts reasonably necessary for the preservation of the property, assets or undertakings of the Petitioners;
- j) Any other amounts provided for by Arrangement or by the terms of this Order;
- k) Any amount to be paid or credited pursuant to a gift certificate, credit note, loyalty program, return or layaway granted by any of the Petitioners;
- l) All amounts due or becoming due by any of the Petitioners to their respective directors as fees and expenses;
- m) Any other liability incurred prior to the issuance of the Initial Order to the extent that it is deemed necessary to the continuation of the operations of Petitioners, provided that if the liability exceeds \$10,000 and/or that the total amount of all of the liabilities paid exceeds \$100,000, the prior written approval of the bank syndicate will be required;

(e) paragraph 53 of the Initial Order is replaced with the following paragraphs:

"[53] **ORDERS** that:

- 1) The Petitioners and each of them may, on not less than seven days' written notice to the other party or parties concerned, terminate, cancel, resiliate or repudiate such contracts, agreements, arrangements, leases, subleases, licences or sublicences, in accordance with their terms or otherwise, as they deem appropriate, and to make provision for any consequences thereof in the Arrangement;
- 2) If a Petitioner terminates, cancels, resiliates or repudiates a lease or sublease of premises and vacates or abandons the premises, or terminates, cancels, resiliates or repudiates a lease of movable property, the Petitioner will only be required to pay the rent owed for the pro rata portion of the month representing the number of days the premises were occupied or the movable property was used by the Petitioner after the issuance of the Initial Order;
- 3) If a Petitioner terminates, cancels, resiliates or repudiates a lease or sublease of premises and vacates or abandons the premises, or terminates, cancels, resiliates or repudiates a lease of movable property, the landlord or other party to such lease or sublease may take possession of the premises or recover possession of the movable property and make provisions in the Arrangement for any claim that it may have against the Petitioners or any of them with respect of the termination, cancellation, resiliation or repudiation of such lease or sublease, or the vacating or abandonment of such premises, and such landlord or other party, may lease or dispose of such premises or property to any other person on such terms as the landlord or other party considers advisable, provided that nothing herein shall release the landlord or other party of any obligation to mitigate any damages claimed in connection therewith;
- 4) The Petitioners may terminate the employment of or temporarily lay off employees, as the Petitioners

deem appropriate and make provision for the consequence thereof in the Arrangement;

- 5) The Petitioners may proceed, on not less than seven days' written notice to the relevant landlord or contracting party, with the shutting down of any of their stores or boutiques and make provision for the consequences thereof in the Arrangement;
- 6) The Petitioners may resolve any claims relating to the ownership or disposal of furnishings, fixtures and equipment relating to store or boutique locations shut down and make provision for any consequences thereof in the Arrangement provided, however, that persons removing fixtures that the Petitioners or any of them are entitled to remove shall cause no unnecessary damage to the premises;"

(f) paragraph 70 of the Initial Order is modified to add after the word «proceedings» of the second line the words « or any notice of repudiation, termination or resiliation of lease »;

[8] **CONFIRMS** that any document or information in any form whatsoever communicated by Petitioners to the Monitor, in its capacity as financial advisor to the Petitioners, is confidential;

[9] **DISPENSES** Petitioners with the service of the motion for this Amended Order and of the supporting affidavit and exhibits and any notice and delay of presentation relating thereto;

[10] **ORDERS** provisional execution of this Amended Order notwithstanding any appeal and without the necessity of furnishing security;

[11] **WITHOUT COSTS.**


Clément Gascon, J.S.C.

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Date of hearing : January 15, 2004