

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC
DIVISION NO.: 01-MONTREAL
COURT NO.: 500-11-047847-146
ESTATE NO.: 41-1938986

SUPERIOR COURT
(Commercial Division)
Bankruptcy and Insolvency Act

IN THE MATTER OF THE PROPOSAL OF :

Mexx Canada Company

a body politic and corporate, duly
incorporated according to law and having
had its head office and its principle place of
business at:
905 Hodge Street
Saint-Laurent, QC H4N 2B3

Debtor

- and -

Richter Advisory Group Inc.

Trustee

**REPORT OF THE TRUSTEE ON THE FINANCIAL SITUATION
OF THE DEBTOR AND ON THE PROPOSAL
(Sections 50(5) and 50(10)(b) of the *Bankruptcy and Insolvency Act*)**

1. The purpose of the First Meeting of Creditors is to consider the proposal filed on June 1, 2015 (hereinafter referred to as the "Proposal") by Mexx Canada Company (hereinafter referred to as the "Debtor" or "Mexx").
2. Pursuant to Sections 50(5) and 50(10)(b) of the *Bankruptcy and Insolvency Act* (hereinafter referred to as the "Act"), and in order to assist the Ordinary Unsecured Creditors (hereinafter referred to as the "Unsecured Creditors") in considering the Proposal, the Trustee is hereby submitting its report on the financial situation of the Debtor and on the Proposal.
3. The Trustee cautions the reader that it has neither conducted an audit nor a verification of the books and records of the Debtor. Consequently, the Trustee cannot render an opinion as to the accuracy of the information contained therein. The information discussed herein emanates from the books and records of the Debtor, as well as from discussions with the Management of the Debtor.
4. All the terms that are not otherwise defined herein shall have the meaning ascribed thereto in the Proposal.

INTRODUCTION

5. On December 3, 2014, Mexx filed a Notice of Intention to File a Proposal pursuant to the Act (hereinafter referred to as the "NOI"), the whole as appears from the documents filed into the court records.
6. On December 10, 2014, documents were sent by regular mail to all creditors of the Debtor, as they were identified by it, which included a copy of the Debtor's NOI, the whole as appears from the documents filed into the court records.
7. On December 18, 2014, January 26, 2015, March 12, 2015 and April 16, 2015, the Court granted extensions of time for the filing of a Proposal through to June 1, 2015 in order to allow the Debtor to pursue the liquidation of its inventory and the wind down of its operations.
8. On June 1, 2015, the Debtor filed a Proposal to its creditors. We enclose herewith the Proposal made by the Debtor to its Creditors, a proof of claim form, a voting form, a proxy and a notice indicating the place and time of the Creditors' meeting to address the Proposal and an employee notice (where applicable).
9. This report summarizes the relevant information and key elements that may assist the Creditors in evaluating the Debtor's affairs and the Proposal. The report is presented with the following sections:
 - Overview of the Debtor
 - Causes of Insolvency
 - Restructuring Initiatives
 - Financial Information
 - Proposal
 - Estimated Distribution to the Ordinary Unsecured Creditors
 - Conclusion and Recommendation
10. Information related to the overview of the Debtor, causes of insolvency and restructuring measures have previously been summarized in prior reports of the Trustee, most notably in the Trustee's First Report dated December 16, 2014. All prior reports can be located on the Trustee's website at: <http://www.richter.ca/en/insolvency-cases/m/mexx-canada-company>

OVERVIEW OF THE DEBTOR

11. At the time of the filing of the NOI, Mexx operated a chain of 95 retail stores located across Canada. In addition, Mexx operated a wholesale business and had point of sale locations in various department stores operated by the Bay. Mexx was a part of the Mexx Group, which was an international fashion group engaged in the design and sale of clothing and accessories for men, women and children. The Debtor relied upon the Mexx Group for various services including accounting, treasury, design and procurement.

12. The parent company of Mexx was Mexx Lifestyle B.V. (“Mexx HoldCo”). An affiliate of The Gores Group (“Gores”) was the ultimate controlling party of Mexx HoldCo.
13. At the time of the filing of the NOI, the Debtor employed approximately 1,700 people in its retail operations and a further 85 people at its head office and distribution center located in Montreal, Quebec.

CAUSES OF INSOLVENCY

14. Commencing in 2011, Mexx began experiencing a decline in sales and operations with a significant downturn in 2014. Management attributes this negative trending to a number of factors including:
 - Increasing competition in the marketplace;
 - Fixed cost structure (head office and distribution center) not in line with the level of operations;
 - Unprofitability of numerous retail locations.

RESTRUCTURING INITIATIVES

15. As a result of the downturn commencing in 2011, the Debtor undertook various restructuring measures including reduction of head office personnel, closure of unprofitable retail locations and retention of external consultants to perform marketing and profitability analyses.
16. In September 2014, the Debtor engaged Richter Advisory Group Inc. to assist in its restructuring efforts which included store profitability analyses, liquidity management and modeling as part of a restructuring plan that would have included the closure of a significant number of the existing 95 retail locations, head office personnel reductions, refinancing of its current loans and the exiting of its head office and distribution center. Unfortunately, the Debtor could not reach an agreement for new financing, and as a result of its liquidity issues as well as financial difficulties being experienced by its related entities in Europe, it was determined to commence formal restructuring proceedings by filing the Notice of Intention. Mexx Europe BV (“Mexx Europe”), the legal owner of the trademarks used under license by the Debtor in Canada and the operational nexus of the Mexx Group’s global activities outside Canada, filed for bankruptcy as well on December 3, 2014 in the Netherlands along with various affiliated companies, and a trustee (hereinafter referred to as the “Dutch Trustee”) was appointed to take control over those operations. Mexx HoldCo subsequently filed for bankruptcy in the Netherlands, and the Dutch Trustee was appointed to take control over its operations as well.
17. The Dutch Trustee commenced a marketing process for the sale of the Mexx operations in Europe and also sought buyers for the purchase of a scaled down operation in Canada. While the Dutch Trustee was successful in completing a sale for part of the European operations, no interested parties were ultimately located for the Canadian operations.
18. Following the commencement of the NOI and in view of a lack of financing to continue operations in Canada, and a lack of support to continue operations from the Mexx Group, the Debtor determined that the best way to maximize value for all of its stakeholders would be to conduct an orderly liquidation of its operations.

19. In this respect, the Trustee circulated a request for proposals to various interested parties to liquidate all of the inventory and fixtures located in the retail locations and the head office / distribution center. The Debtor ultimately determined that a joint venture proposal consisting of Merchant Retail Solutions ULC and Gordon Brothers Canada ULC would provide the highest recovery. Following court approval, the liquidation commenced on or about December 19, 2014 with the final stores being closed in early March 2015. The head office / distribution center was closed by March 31, 2015 and all employees were terminated by March 31, 2015 as well, with a few subsequently retained on a contractual basis to assist in accounting and treasury.

FINANCIAL INFORMATION

20. We summarize the assets and liabilities of the Debtor in the following sections:

A) Assets

As a result of the above-noted liquidation, as of the filing of the Proposal, the Debtor's statement of affairs reflected the following assets:

Mexx Canada Company Estimated Assets As of May 31, 2015 (in thousands)	
Cash and other assets	\$ 5,204
Accounts Receivable	430
	<u>\$ 5,634</u>

Cash and Other Assets (\$5.2 million)

Representing cash on hand of approximately \$5.0 million plus collection of funds held in the Trustee's escrow account as well as various supplier deposits (assumed to be in June 2015).

Accounts Receivable (\$0.4 million)

Consisting of wholesale accounts receivable, the majority of which are disputed and likely uncollectible. All accounts have been remitted to a third party collection agent.

B) Liabilities

The Debtor's statement of affairs reflects the following liabilities:

Mexx Canada Company			
Estimated Liabilities			
As of May 31, 2015			
(in thousands)			
Secured Creditors		\$	-
Preferred Creditors			-
Subsequent Creditors			-
Unsecured Creditors			
Trade creditors	\$	15,992	
Related Parties		81,588	
Employees (severance)		4,227	
Landlord Damages		46,300	148,107
			<u>\$ 148,107</u>

We comment as follows:

Secured Creditors (\$0)

At the time of the filing of the NOI, Mexx owed approximately \$17.7 million to GE Canada Finance Holding Company (\$4.7 million) and to Crystal Financial LLC (\$13 million). All amounts owing to the secured creditors were repaid in full during the liquidation process. The Trustee obtained an independent legal opinion as to the validity of the security held by the secured creditors.

Preferred Creditors (estimated at \$0)

The Company believes that all amounts owing to Preferred Creditors have been paid in full by the Company. However, it will be determined through the claims process if any creditors will claim preferred status.

Subsequent Creditors (estimated at \$0)

To the knowledge of the Trustee, substantially all Subsequent Creditors have been paid (or have been accounted for in the calculation of cash on hand) including the payment of approximately US\$0.3 million to Gores for services rendered subsequent to the filing of the Debtor's NOI on account of consulting and monitoring during the liquidation which are in line with past practice.

Unsecured Creditors (\$148.1 million)

Please note that the following:

- Trade Creditors: the amounts reflected above are based on the books and records of the Debtor.
- Related Parties: the amounts reflected above are based on the books and records of the Debtor and relate primarily to amounts owing to Mexx's parent company Mexx HoldCo as

well as Mexx Europe (as the owner of the intellectual property licensed and utilized by the Debtor).

- Employees: the amounts reflected above consist of estimated amounts owing for notice in connection with the termination of employment of all employees. All wages as well as accrued vacation pay were paid to terminated employees. The \$4.6 million estimate for severance and notice is anticipated to be \$3.0 million based on a revised calculation incorporating a recently received government notice.
- Landlords: the amounts reflected below represent an estimate of the aggregate amount that could be claimed by landlords pursuant to section 65.2(4)(b) of the Act in respect of damages for resiliated leases.

Proof of claim forms will be sent to all known creditors. However, at the present date, the Trustee is unable to determine if the Debtor's records are consistent with those of its creditors. Upon reception of the proofs of claim, the Trustee will review them and deal with any discrepancies for purposes of collocation of claims.

The Trustee cautions that these amounts may change as proofs of claims are filed and such changes may be significant.

PROPOSAL

21. The Trustee notes that the following is only a summary of the Terms of the Proposal. Creditors are advised to read the Proposal for complete details of the Terms of the Proposal.

A) Summary

The Terms of the Proposal provide that following Approval, the Debtor will remit to the Trustee all cash on hand (including collection of receivables and deposits) which shall be used to create a Settlement Fund (which is estimated to be no less than \$4.7 million) which will be used for distribution to the Subsequent Creditors, Secured Creditors, the Preferred Creditors and then the Unsecured Creditors in full and final settlement of their Claims against the Debtor. As noted below, a further \$0.6 million (the "Gores Contribution") shall be remitted to the Trustee for payment to Employee Creditors.

B) Proposal Expenses

Proposal expenses which consist primarily of the fees and expenses of Debtor's counsel, the Trustee and its counsel shall be paid by Mexx in priority to all Claims and Subsequent Claims.

C) Subsequent Creditors

Refers to the payment of claims arising from goods supplied and services rendered from and after the filing of the NOI. These amounts will be paid by the Debtor or the Trustee in the ordinary course of business.

D) Secured Creditors

Secured Creditors (if any) shall be paid in accordance with arrangements existing between the Debtor and the holders of Secured Claims or as may be arranged between the Debtor and the holders of Secured Claims.

E) Preferred Creditors

According to the terms of the Proposal, the following amounts must be paid in priority, from the Settlement Fund:

- Claims of Her Majesty in right of Canada or a province which could be subject to a demand under Section 224 (1.2) of the *Income Tax Act*, or under any substantially similar provision of provincial legislation, owing at the time of the filing of the NOI, will be paid in full, within six (6) months of Approval;
- Claims that employees would be qualified to receive under paragraph 136(1)(d) of the Act if the Debtor became bankrupt, if any, will be paid in full, immediately after the approval by the Court of the Proposal. It should be noted that with respect to all of the employees creditors who are currently employed by the Debtor, all of their employees' claims, excluding severance or notice, have been or shall have been paid in full by the Debtor to such employees in the normal course of business;
- Preferred Claims other than those referred to above shall be paid, without interest or penalty, in full, in priority to the claims of Unsecured Creditors within thirty (30) days after Approval.

F) Unsecured Creditors

The balance of the Settlement Fund shall be distributed to Unsecured Creditors in full and final settlement of their Unsecured Claims, without interest, as follows:

- i. the lesser of a) the amount of the Proven Claim of each such Unsecured Creditor and b) \$1,800 (the "First Level Distribution") which amount (subject to any required reserves for disputed claims) shall be received within thirty (30) days after Approval for all Unsecured Creditors other than Employee Creditors and fifteen (15) days after receipt by the Trustee of the required governmental confirmation in respect of Employee Creditors;
- ii. an amount equal to each Unsecured Creditor's pro rata share of any amount remaining in the Settlement Fund after distribution of the First Level Distribution amounts (subject to any required reserves for disputed claims) (the "Second Level Distribution"), paid as follows:
 - a. 80% of the Second Level Distribution within thirty (30) days after Approval for all Unsecured Creditors other than Employee Creditors and fifteen (15) days after receipt by the Trustee of the required governmental confirmation in respect of Employee Creditors only;
 - b. 20% of the Second Level Distribution, within ninety (90) days after Approval.

- iii. No later than ten (10) days after Approval, Gores will remit the Gores Contribution to the Trustee to be remitted to the Employee Creditors on a pro-rata basis of their respective Proven Claim.

G) Other

The Proposal provides that the statutory terms of Sections 91 to 101 of the Act, and similar provincial provisions, shall not apply as permitted by Section 101.1 of the Act.

The Proposal will constitute a compromise of all claims against the present and past directors of the Debtor and will operate as a full and complete discharge in favour of such directors with respect to such claims.

Each of the Unsecured Creditors with a Proven Claim equal to or less than \$1,800 shall be deemed to have voted in favour of the Proposal. Likewise, any employee that has not filed a proof of claim, prior to the first meeting of creditors, shall be deemed to have voted in favour of the Proposal in an amount equal to their respective Employee Claim.

The proposal shall be deemed to be accepted by the creditors if, and only if, the Unsecured Creditors vote for the acceptance of the Proposal by a majority in number and two thirds in value of the Unsecured Creditors present, personally or by proxy, at the meeting and voting on the resolution or are deemed to have voted in favour of the resolution.

ESTIMATED DISTRIBUTION TO ORDINARY UNSECURED CREDITORS

22. In the event that the creditors reject the Proposal, the Debtor will automatically be bankrupt and the net proceeds from the liquidation of the assets (after payment of the Trustee's fees and expenses) will be distributed to the creditors in the order provided for under the Act. The following information is to inform the creditors on the estimate as to the distribution to creditors under the Proposal in comparison to the estimated distribution under a bankruptcy scenario.
23. The following table is a comparison of the estimated recovery to creditors under a proposal versus a bankruptcy:

Mexx Canada Company
Comparison of Alternatives
As of May 31, 2015
(in thousands)

	Proposal			Bankruptcy		
Cash Available per Cash Flow	\$ 4,770,000			\$ 4,770,000		
Incremental Professional Fees	-			(200,000)		
Gores Contribution	600,000			-		
Funds Available for Distribution	\$ 5,370,000			\$ 4,570,000		
WEPPA payment ¹	-			1,855,623		
Total Distribution	\$ 5,370,000			\$ 6,425,623		
Distribution Allocation						
	Claim	\$	%	Claim	\$	%
Employees (\$1,800)	\$ 1,305,066	\$ 1,305,066	100.0%			
Employees	600,000	600,000	100.0%			
Employees	1,141,073	23,505	2.1%			
Employees ¹	3,046,139	1,928,571	63.3%	3,046,139	1,883,557	61.8%
Trade (\$1,800)	350,638	350,638	100.0%			
Trade	96,371,712	1,985,160	2.1%			
Trade	96,722,350	2,335,798	2.4%	96,722,350	2,269,469	2.3%
Landlords (\$1,800)	154,800	154,800	100.0%			
Landlords	46,159,099	950,831	2.1%			
Landlords ²	46,313,899	1,105,631	2.4%	95,000,000	2,229,057	2.3%
Government (WEPPA) ³	-	-	0.0%	1,855,623	43,540	2.3%
	\$ 146,082,388	\$ 5,370,000	3.7%	\$ 196,624,113	\$ 6,425,623	3.3%

¹ In a bankruptcy, approximately \$1.7 million of the amount to be paid to employees is assumed to be paid directly by the Federal Government through amounts that can be claimed under the Wage Earner Protection Program Act ("WEPPA").

² In a bankruptcy, landlord claims have been assumed to be approximately 75% of the estimated maximum claim amount in respect of damages (to the end of the leases) for all resiliated leases.

³ In a bankruptcy, the Federal Government would have an unsecured claim for the amount paid to employees under the WEPPA.

Based on Management's representations and the aggregate amount of the Unsecured Creditors, as reflected in the Debtor's statement of affairs, at the present time, the Trustee estimates that the proceeds from the Settlement Funds available for distribution to Unsecured Creditors would represent an estimated recovery of 3.7% of the Unsecured Creditors and that approximately 970 employees and trade creditors would be paid in full, whereas in a bankruptcy the estimated recovery to Unsecured Creditors would be 3.3% with 1,060 employees paid in full.

The approval of the Proposal will avoid a bankruptcy and is expected to result in a quicker distribution to the creditors generally.

CONCLUSION AND RECOMMENDATION

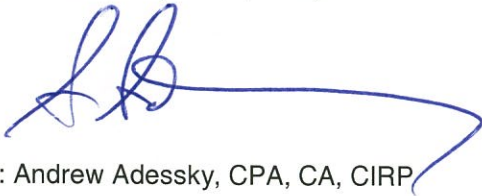
24. The proposal provides for the distribution of all available cash on hand (estimated to be no less than \$4.7 million) plus an amount equal to \$0.6 million to be contributed by Gores for the exclusive benefit of the significant number of former employees of the Company, representing approximately seventy-five

percent (75%) of the creditors of the Company. For this significant group of creditors and for the majority of trade creditors generally, the recovery available under the proposal is slightly better than the recovery available under a bankruptcy for all creditors other than the landlords. Accordingly, while the Trustee recommends that employees and trade creditors approve the proposal, it is unable to make the same recommendation to the landlords. In light of the expedited process for determining claims and the reduced administrative expenses under the proposal, the proposal is fair and reasonable for the majority of the creditors who represent approximately 98% in number and 68% in value of all creditors.

25. Pursuant to the terms of the proposal, the majority of the Settlement Fund will be distributed within 30 days following the approval of the proposal by the court (and the receipt of any required governmental confirmations in respect of the employees only). In the context of a bankruptcy, further analysis and work by the undersigned trustee would be required in order to address all administrative matters arising in the bankruptcy including the final determination of claims, certain of which may be significantly higher in a bankruptcy than in a proposal. The foregoing matters should be carefully considered by all creditors.

Dated at Montréal, Province of Québec, this 5th day of June 2015.

Richter Advisory Group Inc., Trustee



Per: Andrew Adessky, CPA, CA, CIRP