

IN THE MATTER OF THE BANKRUPTCY OF
Sherson Group Inc.
of the City of Toronto, in the Province of Ontario

TRUSTEE'S REPORT TO THE FIRST MEETING OF CREDITORS
ON PRELIMINARY ADMINISTRATION

BACKGROUND

Sherson Group Inc. ("**Sherson**" or the "**Company**") was incorporated under the *Business Corporations Act* (Ontario) and was the Canadian wholesaler and retail licensee of "Nine West" brand footwear and accessories for nearly 30 years. As at June 2015, Sherson operated 45 retail stores across Canada and acted as wholesaler to all other Canadian retailers carrying Nine West products. Sherson operated under a license agreement (the "**License Agreement**") with its U.S. licensors, Nine West Development Corporation and related corporations (collectively, the "**NW Group**").

As a result of a number of factors, including an unsuccessful growth strategy developed in conjunction with the NW Group, a challenging retail environment and significant foreign exchange losses, the Company's financial results suffered culminating in an operating loss for the year ended January 31, 2015. As a result of these losses, Sherson experienced significant liquidity constraints and defaulted on certain financial and other covenants with the Company's then existing first and second-ranked secured lenders, Bank of Montreal ("**BMO**") and BDC Capital Inc. ("**BDC**"), respectively. Due to the Company's declining financial performance, Sherson exhausted its liquidity and the Company elected to file a Notice of Intention to Make a Proposal ("**NOI**") pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"). Richter Advisory Group Inc. ("**Richter**") was appointed proposal trustee (the "**Proposal Trustee**").

Richter was also appointed by the Court as foreign representative in the NOI proceedings. As foreign representative Richter sought and obtained recognition of the NOI proceedings under Chapter 15 of the U.S. Bankruptcy Code.

The primary objectives of the NOI proceedings included stabilizing and restructuring the Company's operations, including the proposed closure of underperforming stores. As the terms of the License Agreement imposed significant restrictions on Sherson's ability to sell and/or otherwise transfer the License Agreement and operate its business, the Company's ability to successfully restructure and develop a viable proposal to its creditors was dependent on NW Group's willingness to participate in the Company's restructuring and ongoing business.

In light of the foregoing, as described by the Proposal Trustee in its reports to Court during the NOI proceedings, the Proposal Trustee and its counsel, Cassels Brock and Blackwell LLP (“**Cassels**”) facilitated discussions between the Company and NW Group. Ultimately, on August 20, 2015, the Court approved the sale (the “**Transaction**”) of substantially all of the Company’s business and assets to Nine West Canada LP (“**NW Canada**” or the “**Purchaser**”), a party related to NW Group. The Transaction, which closed on August 21, 2015 (the “**Closing Date**”), provided that the Purchaser would have a maximum of 90 days following closing to review the Company’s contracts and to inform the Company of those contracts (including real property leases) that the Purchaser wished to assume as well as which Company employees the Purchaser wished to extend offers of employment.

The consideration for the Transaction included (i) a cash payment sufficient to satisfy the secured amounts owed by Sherson to BMO and BDC (with certain reductions agreed to by BMO and BDC in exchange for, among other things, full releases being provided to them by Sherson) and provide partial recovery to Stephen Applebaum Inc. (“**SAI**”) on its secured indebtedness (plus a \$50,000 payment to administer the Company’s bankruptcy proceedings), (ii) the assumption of certain Sherson liabilities, and (iii) payments to the Proposal Trustee so that the Proposal Trustee could pay, on behalf of Sherson, certain of the Company’s liabilities related to the period subsequent to the NOI filing date, including professional fees, sales taxes and other amounts.

The consideration, however, was insufficient to fully satisfy SAI’s secured indebtedness or support a distribution to Sherson’s other creditors (including lower ranking secured and unsecured creditors). During the NOI proceedings, the time during which Sherson had to file a proposal was extended by the Court up to November 19, 2015. As Sherson failed to present a proposal to its unsecured creditors and no further extension was sought, on November 19, 2015, Sherson was deemed to have made an assignment in bankruptcy. Richter was appointed trustee in bankruptcy (the “**Trustee**”) of the bankrupt estate.

On November 26, 2015, notice of the first meeting of creditors, a list of creditors, proof of claim form and proxy were sent to all known creditors of Sherson and, on the same date, a notice of the bankruptcy and the first meeting of creditors was published in the National Post.

The activities of the Trustee since its appointment have primarily consisted of statutory work in accordance with the provisions of the BIA.

CAUSES OF BANKRUPTCY AND FINANCIAL POSITION

Sherson operated in the footwear and accessories retail market which, in recent years, has become increasingly challenging with decreased foot traffic and consumer spending. These industry dynamics, along with an unsuccessful growth strategy and significant foreign exchange losses, negatively contributed to the Company’s operations and profitability, culminating in an operating loss of approximately \$2.5 million for the year ended January 31, 2015. For the three-month period ended May 2, 2015, Sherson’s operating income was nil.

By June 2015, Sherson's significant losses had consumed a significant amount of working capital and it was no longer able to operate efficiently or pay its obligations as they became due. In addition, as a result of the Company's continued losses, it breached certain of its financial covenants with its first and second-ranked secured lenders, which financed Sherson's operating activities.

As noted previously, during Sherson's NOI proceedings, the Court made an Order approving the sale of substantially all of the Company's assets. As the net proceeds from the Transaction were insufficient to support a distribution to all of Sherson's secured creditors or any of Sherson's unsecured creditors, no proposal was filed and, on November 19, 2015, the Company was deemed to have made an assignment in bankruptcy.

FINANCIAL POSITION/ASSETS

As noted above, substantially all of the assets of Sherson were sold as part of the Transaction. The only excluded assets were (i) the Company's interest in a receivable in the amount of \$672,395.00 owing by Stephen Applebaum (personally) to Sherson (the "**Applebaum Receivable**"); (ii) any claims against and obligations under certain agreements with BMO and BDC (which were released as part of the closing of the Transaction, as approved by the Court), and (iii) the benefits of any contracts or agreements that were not assigned to the Purchaser as part of the Transaction (which do not appear to have any realizable value).

As noted below, the Trustee understands that SAI remains owed over \$2.5 million and has security over any remaining assets, including the Applebaum Receivable. As a result, it is anticipated that there will be no funds available for distribution to the unsecured creditors of the Company.

SECURED CREDITORS

The Company's Statement of Affairs indicates that there were no known secured creditors as at the date of bankruptcy. Prior to the bankruptcy, as part of the NOI proceedings, the Proposal Trustee obtained an opinion from Cassels that, subject to typical qualifications and assumptions, the security granted by Sherson to BMO, BDC and SAI was valid and enforceable. This opinion was provided to the Court as part of the NOI proceedings.

As noted above, during the NOI proceedings, the Court authorized distributions to BMO and BDC in full satisfaction of amounts owed by Sherson to those creditors. Both BMO and BDC agreed, as part of the Transaction, to accept a payment of amounts less than what they claimed to be owed, in full satisfaction of all obligations owed to them. In the NOI proceedings, the Court also authorized a distribution to SAI of up to \$750,000, as partial consideration of the approximately \$3.4 million owed by Sherson to SAI.

Stephen Applebaum also registered security over Sherson personally. However, given the level of expected recoveries, a review of Stephen Applebaum's personal security was not undertaken.

SECURITY FOR UNPAID WAGES – S.81.3 CLAIMS

The Trustee is in the process of reviewing the Company's records to determine what, if any, amounts are owed to the Company's terminated employees, which were not offered employment with NW Canada, that would rank as claims pursuant to section 81.3 of the BIA. It is not anticipated that such claims would exceed \$40,000.00.

The Trustee is complying with the requirements of the *Wage Earner Protection Program Act* and will be advising Service Canada of all amounts owed by Sherson to its terminated employees that were not offered employment with NW Canada, including any amounts owed for termination and severance pay.

PREFERRED CREDITORS

The Company's Statement of Affairs indicates that there were no known preferred creditors as at the date of bankruptcy.

UNSECURED CREDITORS

The Company's Statement of Affairs indicates that there are 140 unsecured creditors with claims totalling approximately \$25 million, excluding the unsecured amounts owed to the Company's former landlords in respect of disclaimed leases and the Company's terminated employees (which amounts were not calculated at the time of preparing the Statement of Affairs).

PROVABLE CLAIMS

As at 4:00pm on the date of this report, the Trustee has recorded Proof of Claims filed, as follows:

	Claims Filed (#)	Amount (\$)	Proxies in Favour of Trustee (#)	Amount (\$)
Secured	Nil	Nil	Nil	Nil
Unsecured	12	\$2,969,800.48	1	\$165,946.24
TOTAL	12	\$2,969,800.48	1	\$165,946.24

PREFERENCE PAYMENTS AND TRANSFERS AT UNDER VALUE

The Trustee has not performed a review of the Company's books and records, with respect to potential fraudulent preferences, settlements or transfers at undervalue, as defined in the BIA. It is the intention of the Trustee to discuss the scope of its review with the Inspectors to be appointed at the first meeting of creditors.

TRUSTEE'S FEES

In consideration for consenting to act in these proceedings, NW Group has provided a deposit to the Trustee in the amount of \$50,000 (the "**Deposit**") to guarantee payment of the Trustee's fees and disbursements, including the fees and disbursements of its legal counsel. The Deposit is being held by the Trustee in an account segregated from the funds of the estate.

OTHER

Further information related to the Company's bankruptcy or NOI proceedings may be obtained from Richter's website at <http://www.richter.ca/en/folder/insolvency-cases/s/sherson-group-inc>

Dated at Toronto, Ontario, this 7th day of December, 2015.

RICHTER ADVISORY GROUP INC.

in its capacity as Trustee of the estate of
Sherson Group Inc.
and not in its personal capacity



Adam Sherman, MBA, CIRP