

No. S080752  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. C-36, as amended

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.A. 2000, c. B-9

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION, and  
GRAY'S APPAREL COMPANY LTD.

PETITIONERS

**AFFIDAVIT #6 OF JOHN M. MCNAMARA**

I, JOHN M. MCNAMARA, Businessman, of Vancouver, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am a director and officer of Backbay Retailing Corporation and an officer of Gray's Apparel Company Ltd. and as such have personal knowledge of the facts hereinafter deposed to except where the same are stated to be based upon information and belief, which facts I verily believe to be true.
2. The Petitioners are the general partners of Mariposa Stores Limited Partnership ("**Mariposa**").
3. I am authorized to make this Affidavit on behalf of the Petitioners and Mariposa.
4. As discussed in my Affidavit # 5 sworn May 27, 2009, the purpose of this affidavit is to provide an update on the status of various assignments of Mariposa's leases in

connection with the purchase and sale agreement (the “**Purchase Agreement**”) between Mariposa with 656750 Ontario Limited (the “**Purchaser**”). This affidavit also explains various changes to the form of Order being sought by Mariposa as a result of discussions and negotiations with various parties over the past few days.

### **Negotiations with Landlords for Assignments of Leases**

5. As discussed at length in my prior affidavits, the Petitioners have engaged a leasing consulting firm, Oberfeld Snowcap Inc. (“**Oberfeld**”), to assist with negotiating the assignment of the leases to be purchased under the Purchase Agreement (the “**Leases**”).

6. While nearly all of the landlords approached were agreeable in principle to the assignment of the Leases to the Purchaser, a number of the assignment and landlord consent agreements (“**Assignment Agreements**”) have not yet been concluded, despite the diligent efforts of Mariposa and Oberfeld to obtain them. Attached hereto as **Exhibit “A”** is a list of the Leases for which I understand assignments and consents have been settled and are in the process of being signed. For Store 136, located in Timmins Ontario, there is no Assignment Agreement but an agreement as to the lease terms has been made between the Puchaser, Mariposa and the landlord, and the landlord has confirmed to Oberfeld that they do not oppose the Procedural Order (there simply isn’t time to put an Assignment Agreement together as the lease terms have just been settled this morning).

7. My understanding is that the “sticking points” on the Assignment Agreements generally fall into two categories of provisions that the landlords wish to include and that the Purchaser will not agree to:

- (a) The Purchaser will not agree to be liable for past defaults of Mariposa under the Leases; and
- (b) The Purchaser requires an assignment of all of the rights under the Leases, including those rights that are expressed to be personal to Mariposa under the terms of the Leases.

8. We have worked very hard to ensure that the landlords will not be prejudiced in by the assignment of the leases to the Purchaser, because our strong preference has been to try to obtain all of the Assignment Agreements by consent. Perhaps not surprisingly, with over 30 Assignment Agreements to negotiate it has simply not been possible to complete that process in the time available. While I appreciate that the landlords may not want to give up any rights that they may have under the terms of their Leases, we have done everything we can to ensure that any issues are flushed out so that the landlords are made whole and are not prejudiced by the assignments. On Saturday, May 24, 2008 we sent to all of each of the landlords a summary of the terms of their Lease and asked them to confirm if there were any defaults under the Lease that we were not aware of. We have not received a response from any of the landlords to the summary of Lease terms; none of them have alerted us to any defaults under the Leases. I am not aware that we are in default of any of our Lease terms other than insolvency defaults which of course are stayed by the CCAA proceedings.

9. During the course of negotiations for the Assignment Agreements, various landlords have asked for amounts (totalling less than \$40,000 in the aggregate) to be paid to them for things like common area rent adjustments for the prior year, lease amendment fees, and so on, as a precondition to their agreeing to the Assignment Agreements. We have agreed to pay all of those amounts, as long as they are properly owed, in order to bring the leases into good standing and remedy all defaults. In order to facilitate the closing of the Purchase Agreement, the

Procedural Order we are seeking would allow us to pay these amounts even if they relate to the pre-filing period.

10. The Purchaser is a wholly-owned subsidiary of YM Inc. (Sales), a well known Canadian retailer, and I have no doubt that the Purchaser will be a good and successful tenant. Most of Mariposa's landlords already lease various locations to the Purchaser's affiliates, and from what I know of the YM Group, they are reliable tenants who perform well in the malls they are located, which ultimately benefits the landlords. I do not believe any of the landlords could seriously dispute that. Certainly, with the Purchaser as a tenant the landlords will be in a better position than they are currently in with Mariposa as an insolvent tenant.

11. Without the ability to deliver the Leases to the Purchaser, the Purchase Transaction will not close, to the serious detriment of all of Mariposa's stakeholders, including trade creditors and employees. It could very well result in the bankruptcy of the Petitioners, which would be disastrous for all concerned (including the landlords: I understand from Mariposa's counsel that a trustee in bankruptcy can assign leases without landlord consent, and in that scenario the landlords could be stuck with a undesirable tenants). On the other hand, I am aware of no material detriment to the landlords in the Leases being assigned to the Purchaser: I am not aware of any defaults that have not been disclosed, we have offered to make whatever payments are necessary to bring the leases into good standing, and all we ask is that the Leases be assigned to the Purchaser so that the landlords will get exactly the same bargain that that they entered into with Mariposa, but with a stronger tenant. The Order that is sought is simply intended to assign the leases to the Purchaser without the Purchaser suffering any negative effects under the lease terms as a result of the assignment, the insolvency of Mariposa, or past defaults (which Mariposa has offered to cure). All other obligations and covenants under the Leases will be binding on the Purchaser on a go-

forward basis. If there are defaults that are continuing after closing, the Purchaser will be responsible for those. Accordingly, the landlords simply are not prejudiced by the assignment.

12. Without exception, Mariposa's leases provide that the Leases may be assigned with the landlord's consent, such consent not to be unreasonably withheld. Given all of the circumstances I have discussed above, I believe that it is unreasonable for the landlords to object to the assignment where they will be made whole for all past defaults, and will continue to enjoy all of their remedies and rights under the Leases for defaults that are continuing after the assignment.

#### **Changes to the Procedural Order**

13. Attached hereto is **Exhibit "B"** is a revised form of Procedural Order, blacklined to show the changes from the form of Order exhibited to my May 27, 2008 Affidavit #5. The changes are explained in the following paragraphs.

14. Paragraph 21 vests the Purchased Assets in the Purchaser, free and clear of all claims. Paragraph 22 accomplishes the same with respect to the Mariposa trademarks and trade name that the Purchaser is buying. The trademarks and trade name are actually owned by Gerhard Horn Investments Inc. ("**Gerhard Horn**"), the parent company to the Petitioner, Gray's Apparel Company Ltd. Mariposa has licenced that intellectual property from Gerhard Horn for many years. Because the Purchaser will carry on with the Mariposa business at the purchased locations, it is buying the intellectual property.

15. Paragraph 27 has been added to allow the Petitioners to pay, from the proceeds of sale under the Purchase Agreement, their GST arrears which total approximately \$100,000. Those amounts are currently not permitted to be paid as a result of the existing CCAA Order, but I

understand that Canada Revenue Agency has a super-priority deemed trust claim for unremitted GST and since we are not proposing to compromise the claims of secured creditors under the Petitioners' Plan of Arrangement, that liability will have to be paid in any event and it should be paid as soon as possible to avoid accruing interest.

16. Paragraphs 28 to 30 have been added as a result of negotiations with the landlord for our head office and warehouse space on 88 West 1<sup>st</sup> Avenue in Vancouver. Our landlord, Pinnacle International (West First) Plaza Inc., has agreed not to apply to lift to stay in order to terminate our head office lease, on the condition that we agree to vacate the premises on or before August 31, 2008. This is acceptable to the Petitioners.

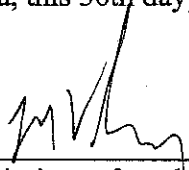
17. Schedule "G" to the Procedural Order has been revised to include just the locations for which the Petitioners are seeking an assignment of the corresponding Lease under the Procedural Order. The rest of the Leases in the original form of Order have either been transferred under an Assignment Agreement, or they are "Option Leases" for which it was necessary first for the landlord to agree to an amendment to the rent provisions before that Purchaser would take them, and that agreement has not yet been obtained.

#### **Revision to the Plan of Arrangement**

18. Attached as **Exhibit "C"** hereto is an excerpt from the Petitioners' Plan of Compromise or Arrangement, blacklined to show a change to the definition of "Claim" on Page 2 to make it clear that the Petitioners do not propose to compromise any of the claims of pre-filing secured creditors, include Crown creditors with statutory liens that would have priority in a bankruptcy. Mariposa does have some liability for tax withholdings (those amounts were listed in the Petitioners' list of creditors in these proceedings), and the intention is to pay those amounts.

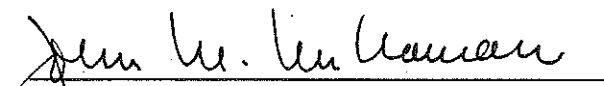
19. I swear this affidavit in support of the Petitioners' application for a Procedural Order the form attached hereto as **Exhibit "B"**, and for no other reason.

SWORN BEFORE ME at the City of )  
Vancouver, in the Province of British )  
Columbia, this 30th day of May, 2008 )



\_\_\_\_\_)  
A Commissioner for taking Affidavits )  
for British Columbia )

**MAGNUS C. VERBRUGGE**  
BARRISTER & SOLICITOR  
1200 Waterfront Centre, 200 Burrard Street  
P.O. Box 48600, Vancouver, Canada V7X 1T2  
(604) 640-4198

  
\_\_\_\_\_)  
JOHN M. MCNAMARA

**EXHIBIT "A"**

**Leases for which landlords have consented to the Assignment**

<u>Store #</u>	<u>Location</u>
#41	Pine Centre
#90	Lloyd Mall
#119	White Oaks
#27	Willowbrook
#108	Grant Park
#40	Totem
#93	Lawson Heights
#34	West Shore
#44	Village Green

This is Exhibit "A" referred to in the  
affidavit of JOHN N. McRAMARA  
made before me on MAY 30 20 03  
[Signature]  
A Commissioner for taking Affidavits  
for British Columbia

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R. S. C. 1985, c. C-36, as amended

This is Exhibit " B " referred to in the  
JOHN M. MCNAMARA  
MAY 30, 2008  
A Commissioner for taking Affidavits  
for British Columbia

AND

BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

PETITIONERS

**PROCEDURAL ORDER**

BEFORE THE HONOURABLE ) FRIDAY, THE 30<sup>th</sup> DAY OF MAY,  
MR. JUSTICE HINKSON ) 2008

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia this day; AND UPON HEARING Magnus C. Verbrugge, counsel for the Petitioners, Kibben Jackson, counsel for the Monitor, Deloitte & Touche Inc., and Sharon Urquhart, counsel for Ivanhoe Cambridge Inc., 20 VIC Management Inc., OMERS Realty Management Corporation and Morguard Investments Inc. the other counsel listed in Schedule "H" hereto, AND UPON READING the material filed, including the Affidavit #5 of John M. McNamara sworn May 27, 2008 and filed, and the Affidavit #6 of John M. McNamara sworn May 30, 2008 and filed:

1. Any capitalized term not otherwise defined in this Order shall have the meaning set out in the Plan of Compromise or Arrangement ("**Plan**") filed in this proceeding by the Petitioners.
2. The Petitioners may, on a consolidated basis, file and circulate the Plan substantially in the form annexed to the May 23-27, 2008 Affidavit #5 of John M. McNamara (as amended as discussed in the May 30, 2008 Affidavit #6 of John M. McNamara), to be considered and voted upon by the Creditors.

**MEETING OF CREDITORS**

3. The Petitioners shall hold a meeting ("**Meeting**") of each Class of Creditors of the Petitioners, to consider and vote on the Plan, at 10:00am on Friday, July 25, 2008, at Borden Ladner Gervais, Suite 1200 - 200 Burrard Street, Vancouver, British Columbia.
4. The quorum required at the Meeting shall be one of each Class of Creditors present in person or by Proxy. If the requisite quorum is not present, or if the Meeting is postponed by a vote of the majority in number of the Creditors present in person or by proxy, the Meeting shall be adjourned by the Chair to a later date, time and place designated by the Chair.

5. The Meeting shall be conducted as set out in the Plan.

### **PROOF OF CLAIM PACKAGE**

6. No later than June 6, 2008 the Petitioners will send to each creditor currently known to the Petitioners (hereinafter referred to as a “**Creditor**”) in the manner prescribed in this Order, the proof of claim (“**Proof of Claim**”) form annexed as Schedule “A”, the Notice to Creditors annexed as Schedule “B”, a copy of this Order, the Voting Letter annexed as Schedule “E”, the Proxy annexed as Schedule “F”, a copy of the Plan, and such other explanatory and supplemental materials as the Petitioners or the Monitor may deem appropriate (collectively, the “**Proof of Claim Package**”), to the address of each Creditor as shown on the records maintained by the Petitioners.

7. If the Petitioners become aware of any further claims of persons not currently known to be Creditors after the date of initial distribution, the Petitioners shall forthwith distribute copies of the Proof of Claim Package to such persons, but the entitlement of each such person to receive notice is abridged to the date the Proof of Claim Package is distributed to each such person, subject to further order of this Court.

8. The Petitioners may distribute the Proof of Claim Package to Creditors by ordinary mail, personal delivery, facsimile, e-mail / .pdf file, or other electronic means, or any combination thereof, as determined by the Petitioners in their sole discretion. Mailing shall be deemed to be effective on the day of mailing.

9. The delivery of the Proof of Claim Package shall constitute good and sufficient service of such materials.

### **CLAIMS PROCEDURE**

10. Each Creditor must, on or before July 15, 2008 (the “**Claims Bar Date**”), deliver to the Petitioners a Proof of Claim in the form attached as **Schedule “A”**, and the Petitioners shall provide to the Monitor copies of all Proofs of Claims received. Subject to any further Order of this Court, any Creditor who does not submit a Proof of Claim by the Claims Bar Date shall not be entitled to participate in any dividend payable under the Plan to Creditors, and such Creditor shall be forever barred from enforcing its Claim against the Petitioners.

11. Where a Proof of Claim is filed by a Creditor, the Petitioners will be deemed to have accepted the Claim as set forth in the Proof of Claim unless they deliver to the Creditor a Notice of Disallowance in the form attached as **Schedule “D”** on or July 31, 2008.

12. If the Petitioners do not agree with a Creditor’s Proof of Claim, they shall, after consultation with the Monitor, issue a Notice of Disallowance (in the form of **Schedule “D”**) to that Creditor and the Monitor on or before July 31, 2008, disallowing that Creditor’s Claim in whole or in part.

13. Upon receipt of a Notice of Disallowance, a Creditor may:

- (a) no later than 10 days after receipt of the Notice of Disallowance, deliver to the Petitioners a Notice of Dispute (in the form of **Schedule "C"**), objecting to the disallowance, in whole or in part, of its claim; and
- (b) no later than 30 days after receipt of the Notice of Disallowance, file and serve on legal counsel for the Petitioners a Notice of Motion seeking to determine that portion of the Creditor's claim that was disallowed by the Petitioners.

14. Unless such Notice of Dispute is resolved between the Creditor and the Petitioners, the Creditor's claim will be submitted by the Creditor to the Monitor, who will attempt on a without prejudice basis to mediate the dispute and facilitate an agreement between the Petitioners and the Creditor. If the claim is still not resolved within 10 days of being submitted to the Monitor, the claim will be resolved by the Court upon subsequent application by the Creditor, supported by affidavit material, to be filed and served upon counsel for the Petitioners on or before that date which is two clear business days prior to the Creditor's application to the Court.

15. A Creditor who does not file a Notice of Dispute within 10 days of receipt of a Notice of Disallowance or does not file and serve a Notice of Motion within 30 days of receipt of such Notice of Disallowance, shall be deemed to have accepted the Petitioners' determination of the amount due and owing to the Creditor as at the Date of Filing of February 1, 2008, and such Creditor shall be forever barred from advancing any other Claim against the Petitioners.

16. The Petitioners shall deliver to each employee who is terminated during these proceedings a notice setting out the name and address of the terminated employee, and the Petitioners' calculation of the "severance amount" for such terminated employee which shall be an amount equal to the greater of (a) the statutory termination and/or severance pay payable to such terminated employee, and (b) such terminated employee's entitlement to payment on termination in accordance with the Petitioners' employment policy. The "severance amount" shall constitute a Claim in respect of the terminated employee under the Plan, unless such terminated employee files a Proof of Claim in a different amount than the "severance amount".

#### **EXTENSION OF STAY OF PROCEEDINGS**

17. The stay of all proceedings against the Petitioners, and other relief provided for in the Order of Mr. Justice Hinkson pronounced February 29, 2008 in this proceeding, is hereby extended to 5:00 p.m. on August 31, 2008.

#### **COURT SANCTIONING OF PLAN**

18. The Monitor shall report to the Court the results of the Meeting. If the Plan is approved by the required majorities of Creditors, the Petitioners shall within 5 days of the Meeting bring a motion seeking a Plan Approval Order sanctioning the Plan.

#### ASSET PURCHASE AGREEMENT

19. The Petitioners are at liberty to complete the agreement dated May 1, 2008 (the "**Purchase Agreement**") made with 656750 Ontario Limited (the "**Purchaser**") for the sale of certain leases and related assets (collectively, the "**Purchased Assets**") of the Petitioners in accordance with the terms and conditions of the Purchase Agreement, and are hereby authorized to execute and deliver such documents as may be contemplated by the Purchase Agreement and as may be necessary to complete the transactions contemplated thereby.

20. The *Bulk Sales Act*, R.S.O. 1990, c.B.14 and any other applicable bulk sales legislation shall not apply to the purchase and sale of the Purchased Assets.

21. Upon the closing of the transactions contemplated by the Purchase Agreement, the Purchased Assets shall be transferred to and shall vest in the Purchaser free and clear of all claims, demands, actions, suits, liabilities, liens, encumbrances, security interests and charges whatsoever.

22. Upon the closing of the transactions contemplated by the Purchase Agreement, the Trademarks and Trade Name (as defined in the Purchase Agreement) (the "Trademarks") to be sold by Gerhard Horn Investments Ltd. to the Purchaser under a Trademark and Trade Name Purchase Agreement (the "Trademark Agreement") concurrently with the closing of the Purchase Transaction, shall be transferred to and shall vest in the Purchaser free and clear of all claims, demands, actions, suits, liabilities, liens, encumbrances, security interests and charges whatsoever, save and except as provided in the Trademark Agreement.

23. The Petitioners are hereby authorized to assign and transfer the Petitioners' real property leases in respect of the Petitioner's retail stores listed in **Schedule "G"** (individually referred to as a "Lease" or collectively as the "Leases") to the Purchaser in accordance with the terms of the Purchase Agreement, and upon such assignment and transfer, the Leases shall be assigned and transferred to, and assumed by, the Purchaser as tenant thereunder, and the need for the approval or consent of the landlords under the Leases to the transfer, assignment and assumption of the Leases by the Petitioners to the Purchaser, if required under the terms of the Leases, is hereby dispensed with, and subject to the payment of rent from and including June 1, 2008 and to the observance of and performance from and including June 1, 2008 of the terms, covenants and conditions contained in each Lease on the part of the tenant therein to be observed and performed, the Purchaser may enter into and upon and hold and enjoy each premises contemplated by the Lease (and any renewals and all rights, benefits and privileges that may be personal to the tenant named in the Leases or any predecessor in interest) for its own use and benefit without any interruption from the Petitioners, the landlords under the Leases or any person whomsoever claiming through or under the Petitioners or the landlords under the Leases.

~~23~~24. No landlord under any Lease, nor any person claiming through any landlord under any Lease shall, upon the assignment, transfer and assumption of such Lease by the Purchaser hereunder or under the Purchase Agreement, make or pursue any demand, claim, action or suit against the Purchaser relating to any matter that arose prior to June 1, 2008, or exercise any right or remedy under such Lease which may arise due to any default, non-performance or breach by Mariposa prior to the date of the assignment of such Lease, including without limitation:

- (a) the assignment, transfer or assumption of such Lease hereunder or under the Purchase Agreement; or
- (b) the Petitioners having sought or obtained relief under the CCAA,

and for greater certainty but without limitation, no landlord under any Lease shall, upon the assignment, transfer and assumption of such Lease hereunder or under the Purchase Agreement, make or pursue any demand, claim, action or suit against the Purchaser relating to any matter that arose prior to June 1, 2008, or increase any amount payable under such Lease pursuant any term of such Lease (or charge any amount pursuant to the terms of such Lease) that would permit such increase or charge by reason of any default, non-performance or breach that would otherwise arise under the Lease including without limitation, due to any default, non-performance or breach by Mariposa prior to the date of the assignment of such Lease, including without limitation as a result of the actions contemplated by either of subparagraphs (a) or (b) above. For greater certainty, the landlords under such Leases shall be forever barred and estopped from taking such action.

2425. In connection with the assignment of the Leases to the Purchaser, the Petitioners shall be entitled to pay to the landlords the amounts that the Petitioners consider to be properly owing under the subject Leases, and that are required by the landlords under such Leases in connection with such landlords' consent to the assignment of such Leases to the Purchaser or that are required to cure past defaults under the Leases that are capable of being cured by a monetary payment, regardless of whether such amounts became due and owing to such landlords before or after the Date of Filing, and to the extent that the Petitioners have made any such payments prior to the date of this Order, such payments are approved *nunc pro tunc* and the Purchaser shall not be obliged to make any further payment to the landlords in connection therewith.

2526. From the period beginning June 1, 2008 and ending on August 31, 2008 (unless the transactions contemplated by the Purchase Agreement are consummated, in which case such period shall end on June 30, 2008), the Petitioners or the Purchaser, as the case may be, shall be entitled to pay rent to the landlords under the Petitioners' current real property leases on a pro-rated basis, on the first day and the sixteenth day of each calendar month, relating respectively to the period from the first day to the fifteenth day of each such month, and the period from the sixteenth day to the last day of each such month.

27. Upon the closing of the transactions contemplated by the Purchase Agreement, the Petitioners shall be entitled to pay from the proceeds of sale received from the Purchaser any statutory lien claims that would be paid in priority to the claims of creditors in a bankruptcy of the Petitioners, including amounts owing to Canada Revenue Agency in respect of unremitted GST collected by the Petitioners and by Mariposa Stores Limited Partnership, regardless of the date that such obligations arose.

#### HEAD OFFICE AND WAREHOUSE LEASE

28. The Lease (the "West First Lease") dated August 25, 2005 between Mariposa Stores Limited Partnership and Pinnacle International (West First) Plaza Inc. ("Pinnacle") in respect of the offices and warehouse located at 88 West 1<sup>st</sup> Avenue in Vancouver, British Columbia (the "Demised Premises") shall be terminated and shall be of no further force or effect as of August 31, 2008. Mariposa Stores Limited Partnership any other person that may be in possession of or occupying all or part of the Demised Premises will deliver vacant possession of the Demised Premises on or before

August 31, 2008 in accordance with the terms of the West First Lease. As of August 31, 2008, if vacant possession of the Demised Premises has not been delivered by Mariposa Stores Limited Partnership to Pinnacle, Pinnacle shall have immediate entry to and occupation and use of the of the Demised Premises and a writ of possession shall be issued without further order of this Court.

29. In consultation with Pinnacle, Mariposa Stores Limited Partnership will use reasonable efforts to vacate all or a portion of the Demised Premises before August 31, 2008.

30. Until August 31, 2008, and subject to paragraph 27 hereof, the West First Lease shall remain in full force and effect and Mariposa Stores Limited Partnership will continue to make regular payments of rent thereunder.

**MISCELLANEOUS**

2631. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

BY THE COURT

\_\_\_\_\_  
DISTRICT REGISTRAR

APPROVED AS TO FORM:

\_\_\_\_\_  
Counsel for the Petitioners

**SCHEDULE "A"**

**IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.**

(Collectively the "Petitioners")

**CREDITORS' PROOF OF CLAIM**

**PURSUANT TO THE**

**COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA")**

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Please read carefully the instructions accompanying this Proof of Claim. Please print legibly.

Full Name of Creditor: \_\_\_\_\_

(the "Creditor")

Full Mailing Address of Creditor:  
(All notices and correspondence  
regarding your Claim will be  
forwarded to this address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax No. \_\_\_\_\_

Telephone No. \_\_\_\_\_

Attention: \_\_\_\_\_

**CLAIM DETAILS**

Please indicate the amount of your Claim as against each of the Petitioners as at February 1, 2008, and the currency. Do not include Post-Filing Claims (see attached Schedule). "Claim" has the meaning set forth on the attached Schedule. Please total all Claims against all of the Petitioners and fill in the Total Claim Amount where indicated (below). All amounts in U.S. dollars will be converted to Canadian dollars at the Bank of Canada spot rate of exchange for exchanging U.S. dollar to Canadian dollars as at February 1, 2008.

<u>The Petitioners</u>	<i>Amount</i>	<i>U.S.\$</i>	<i>CAN \$</i>
Backbay Retailing Corporation	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>
Gray's Apparel Company Ltd.	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>
Mariposa Stores Limited Partnership	\$ _____	<input type="checkbox"/>	<input type="checkbox"/>
<b>Total Claim Amount:</b>		\$ _____	\$ _____

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the Creditor (or I am the \_\_\_\_\_ [title] of the Creditor).
2. My Claim is unsecured in the amount of \$ \_\_\_\_\_.
3. I have knowledge of all the circumstances concerning the Claim hereafter referred to.
4. Attached as schedules to this Proof of Claim are:
  - (a) a statement of account, affidavit of solemn declaration showing the amount of the Claim;
  - (b) documents which establish the validity and amount of the Claim; and
  - (c) a description of the transaction or agreement giving rise or relating to the Claim.

DATED at \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
 \_\_\_\_\_  
 (Signature of Witness)

(Signature of individual completing this form)

\_\_\_\_\_  
 \_\_\_\_\_  
 (please print name)

(please print name)

In order to participate in any distribution under the Plan, the duly completed Proof of Claim, together with all schedules and accompanying documents, must be returned to the Petitioners, at the following address on or before the **Claims Bar Date of July 15, 2008**:

Mariposa Stores Limited Partnership  
88 First Avenue West  
Vancouver, BC  
V5Y 3K8

Attention: Douglas R. Bowley  
Fax: (604) 873-4561

If your Claim is disallowed in whole or in part, then by July 31, 2008, the Petitioners will send you a Notice of Disallowance along with particulars as to how you may dispute the Notice of Disallowance. If you do not receive a Notice of Disallowance by that deadline, then the Petitioners have accepted your Claim for the purpose of voting and receiving distributions under the Plan of Arrangement to be filed by the Petitioners in the CCAA proceedings.

## SCHEDULE TO PROOF OF CLAIM FORM

**“Claim”** means any right or claim of any Person against any one or more of the Petitioners whatsoever, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of the Petitioners, which indebtedness, liability or obligation is in existence at the Filing Date and which is not a Post-Filing Claim, and any interest that may accrue thereon up to and including the Filing Date where there is an obligation to pay such interest, pursuant to the terms of any contract with such Person, by operation of statute or other law or in equity, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known or unknown by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, based in whole or in part on facts which exist on or before the Filing Date, together with any claims that would have been claims provable in bankruptcy had the Petitioners become bankrupt on the Filing Date including, without restriction, a claim arising after the Filing Date as a result of the termination of an executory contract or lease by any of the Petitioners as part of the restructuring of the business of the Petitioners.

**“Filing Date”** means February 1, 2008

**“Person”** includes all of the Petitioners’ current and former shareholders and directors, creditors, customers, suppliers, contractors, lenders, customs, brokers, purchasing agents, landlords and lessors (including, without limitation, equipment lessors and lessors of real property and immoveables), sub-landlords, tenants, sub-tenants, licensors and licensees, issuers of permits or holders of permits, grantors of indefeasible rights of use or holders of indefeasible rights of use, the federal and provincial Crown, municipalities or any other entity exercising executive, legislative, judicial regulatory or administrative functions of or pertaining to government in Canada, the United States or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, and any other person, firm, corporation or entity wherever situate or domiciled.

**“Post-Filing Claim”** means any right or claim of any Person against the Petitioners whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of the Petitioners, with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, arising from or caused by, directly or indirectly, any action taken by the Petitioners from and after the Filing Date.

**SCHEDULE "B"**

**NOTICE TO CREDITORS**

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA")

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

TAKE NOTICE that by Order of the Supreme Court of British Columbia dated May 30, 2008 the Petitioners have been directed to solicit claims from all Creditors for the purpose of determining which Creditors will be entitled to vote on and participate in the Plan of Arrangement filed by the Petitioners in the proceedings commenced under the CCAA in Supreme Court of British Columbia Action No. S080752.

In order to participate in any voting or distribution associated with the Plan or the CCAA proceedings, any party having a claim against the Petitioners or any of them must deliver to the Petitioners a Proof of Claim form on or before the **Claims Bar Date of 5:00 p.m.** (Vancouver time) on July 15, 2008.

A Proof of Claim form may be obtained by contacting Kwame Moloko at the Petitioners' office at (604) 640-4903.

**The Claims Bar Date for filing Proofs of Claims is July 15, 2008; all claims are to be filed by this date.**

**SCHEDULE "C"**

No. S080752  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. c-36

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.  
(Collectively the "Petitioners")

**NOTICE OF DISPUTE**

TO: THE PETITIONERS

We give you notice to our intention to dispute the Notice of Disallowance issued by the Petitioners.

(a) **Name of Creditor:** \_\_\_\_\_

(b) **Reasons for Dispute:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(attach full supporting documentation, if any)

\_\_\_\_\_  
Signature of Individual completing this Dispute)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Please print name)

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_

\_\_\_\_\_

**THIS FORM IS TO BE RETURNED BY COURIER OR FAX TO EACH OF THE FOLLOWING:**

COUNSEL for the Petitioners:

Borden Ladner Gervais LLP  
Lawyers • Patent & Trade-mark Agents  
1200 – 200 Burrard Street,  
PO Box 48600  
Vancouver, BC V7X 1T2

Attention: Magnus C. Verbrugge  
Fax: (604) 622-5898

- AND -

The MONITOR:

Deloitte & Touche Inc. CCAA Monitor of  
Mariposa Stores Limited Partnership  
2800 – 1055 Dunsmuir Street,  
PO Box 49279  
Vancouver, BC V7X 1P4

Attention: Kwame Moloko  
Fax: (604) 899-7005

**SCHEDULE "D"**

No. S080752  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. c-36

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

**NOTICE OF DISALLOWANCE**

Name of Creditor: \_\_\_\_\_

Pursuant to the Procedural Order, the Petitioners give you notice that your Proof of Claim dated \_\_\_\_\_, 2008 has been reviewed and the Petitioners have revised or rejected your Claim for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subject to further dispute by you in accordance with the provisions of the Proof of Claim, your claim will be allowed for voting and distribution purposed in the following amount: \$ \_\_\_\_\_.

DATED at Vancouver, British Columbia, Canada this \_\_\_\_\_ day of \_\_\_\_\_, 2008

**BACKBAY RETAILING CORPORATION  
GRAY'S APPAREL COMPANY LTD.  
MARIPOSA STORES LIMITED PARTNERSHIP**

Per: \_\_\_\_\_  
Authorized Signatory

**SCHEDULE "E"**

No. S080752  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. c-36

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

**VOTING LETTER**

I, \_\_\_\_\_, representative  
of \_\_\_\_\_, a creditor

in the above matter, am indebted for the sum of \$ \_\_\_\_\_ (Canadian Funds), hereby  
request the Monitor acting with respect to the CCAA of the Petitioners to record my vote

For

Against

the acceptance of the Plan of Compromise or Arrangement of the Petitioners as made on the 30<sup>th</sup> day of  
May, 2008.

Dated at the City of \_\_\_\_\_, in the Province / State of \_\_\_\_\_

this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Creditor

\_\_\_\_\_  
Name and Title of Signing Officer

**SCHEDULE "F"**

No. S080752  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. c-36

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

**PROXY**

I / We, \_\_\_\_\_ (name of creditor), of the City of \_\_\_\_\_, in the  
Province / State of \_\_\_\_\_, a creditor in the above matter, hereby appoint  
\_\_\_\_\_ of the City of \_\_\_\_\_, in the Province / State  
of \_\_\_\_\_ to be my proxy in the above matter, except as to the receipt of  
dividends, with power to appoint another proxy in his or her place.

Dated at the City of \_\_\_\_\_, in the Province / State of \_\_\_\_\_, this  
\_\_\_ day of \_\_\_\_\_, 20 \_\_\_.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Creditor

\_\_\_\_\_  
Name and Title of Signing Officer

**(Where a creditor is a corporation, the proxy must be completed and signed in the Corporate Name)**

## SCHEDULE "G"

### Leases

<u>Store #</u>	<u>Mall Name</u>	<u>Location</u>
11	Metrotown T.C.	Burnaby, BC
18	Coquitlam Centre	Coquitlam, BC
22	Guildford S.C.	Surrey, BC
27	Willowbrook S.C.	Langley, BC
30	Mayfair	Victoria, BC
41	Pine Centre	Prince George, BC
49	Chahko Mika	Nelson, BC
60	Kingsway Garden	Edmonton, AB
70	Parkland	Red Deer, AB
74	Deerfoot Outlet	Calgary, AB
75	Sunridge	Calgary, AB
84	Park Place	Lethbridge, AB
89	Medicine Hat	Medicine Hat, AB
90	Lloyd Mall	Lloydminster, AB
95	Midtown Plaza	Saskatoon, SK
103	Polo Park	Winnipeg, MB
110	St. Vital C.	Winnipeg, MB
111	Kildonan Pl.	Winnipeg, MB
119	White Oaks	London, ON
125	Lynden Park	Brantford, ON
136	Timmins Sq. S.C.	Timmins, ON
<del>137</del>	<del>Timmins Sq. S.C.</del>	<del>Timmins, ON</del>
163	Cottonwood	Chilliwack, BC
13	Brentwood	Burnaby, BC
16	Loughheed	Burnaby, BC
34	Westshore	Colwood, BC
40	Totem Mall	Fort St. John, BC
44	Village Green	Vernon, BC
77	Marlborough	Calgary, BC
105	Garden City	Winnipeg, BC
108	Grant Park	Winnipeg, BC
117	Crossroads Mall	London, ON
142	Frontenac Mall	Kingston, ON
190	Southland Mall	Regina, SK
93	Lawson Heights	Saskatoon, SK

*should go back in*



SCHEDULE "H"

Counsel Appearing

Magnus Verbrugge and Martha Martindale, counsel for the Petitioners and Mariposa Stores Limited Partnership

Kibben Jackson, counsel for the Monitor, Deloitte & Touche Inc.

18. The Monitor shall report to the Court the results of the Meeting. If the Plan is approved by the required majorities of Creditors, the Petitioners shall within 5 days of the Meeting bring a motion seeking a Plan Approval Order sanctioning the Plan.

### ASSET PURCHASE AGREEMENT

19. The Petitioners are at liberty to complete the agreement dated May 1, 2008 (the "**Purchase Agreement**") made with 656750 Ontario Limited (the "**Purchaser**") for the sale of certain leases and related assets (collectively, the "**Purchased Assets**") of the Petitioners in accordance with the terms and conditions of the Purchase Agreement, and are hereby authorized to execute and deliver such documents as may be contemplated by the Purchase Agreement and as may be necessary to complete the transactions contemplated thereby.

20. The *Bulk Sales Act*, R.S.O. 1990, c.B.14 and any other applicable bulk sales legislation shall not apply to the purchase and sale of the Purchased Assets.

21. Upon the closing of the transactions contemplated by the Purchase Agreement, the Purchased Assets shall be transferred to and shall vest in the Purchaser free and clear of all claims, demands, actions, suits, liabilities, liens, encumbrances, security interests and charges whatsoever.

22. Upon the closing of the transactions contemplated by the Purchase Agreement, the Trademarks and Trade Name (as defined in the Purchase Agreement) (the "**Trademarks**") to be sold by Gerhard Horn Investments Ltd. to the Purchaser under a Trademark and Trade Name Purchase Agreement (the "**Trademark Agreement**") concurrently with the closing of the Purchase Transaction, shall be transferred to and shall vest in the Purchaser free and clear of all claims, demands, actions, suits, liabilities, liens, encumbrances, security interests and charges whatsoever, save and except as provided in the Trademark Agreement.

23. The Petitioners are hereby authorized to assign and transfer the Petitioners' real property leases in respect of the Petitioner's retail stores listed in **Schedule "G"** (individually referred to as a "Lease" or collectively as the "Leases") to the Purchaser in accordance with the terms of the Purchase Agreement, and upon such assignment and transfer, the Leases shall be assigned and transferred to, and assumed by, the Purchaser as tenant thereunder, and the need for the approval or consent of the landlords under the Leases to the transfer, assignment and assumption of the Leases by the Petitioners to the Purchaser, if required under the terms of the Leases, is hereby dispensed with, and subject to the payment of rent from and including June 1, 2008 and to the observance of and performance from and including June 1, 2008 of the terms, covenants and conditions contained in each Lease on the part of the tenant therein to be observed and performed, the Purchaser may enter into and upon and hold and enjoy each premises contemplated by the Lease (and any renewals and all rights, benefits and privileges that may be personal to the tenant named in the Leases or any predecessor in interest) for its own use and benefit without any interruption from the Petitioners, the landlords under the Leases or any person whomsoever claiming through or under the Petitioners or the landlords under the Leases.

~~23~~24. No landlord under any Lease, nor any person claiming through any landlord under any Lease shall, upon the assignment, transfer and assumption of such Lease by the Purchaser hereunder or under the Purchase Agreement, make or pursue any demand, claim, action or suit against the Purchaser relating to any matter that arose prior to June 1, 2008, or exercise any right or remedy under such Lease which may arise due to any default, non-performance or breach by Mariposa prior to the date of the assignment of such Lease, including without limitation:

- (a) the assignment, transfer or assumption of such Lease hereunder or under the Purchase Agreement; or
- (b) the Petitioners having sought or obtained relief under the CCAA,

and for greater certainty but without limitation, no landlord under any Lease shall, upon the assignment, transfer and assumption of such Lease hereunder or under the Purchase Agreement, make or pursue any demand, claim, action or suit against the Purchaser relating to any matter that arose prior to June 1, 2008, or increase any amount payable under such Lease pursuant any term of such Lease (or charge any amount pursuant to the terms of such Lease) that would permit such increase or charge by reason of any default, non-performance or breach that would otherwise arise under the Lease including without limitation, due to any default, non-performance or breach by Mariposa prior to the date of the assignment of such Lease, including without limitation as a result of the actions contemplated by either of subparagraphs (a) or (b) above. For greater certainty, the landlords under such Leases shall be forever barred and estopped from taking such action.

2425. In connection with the assignment of the Leases to the Purchaser, the Petitioners shall be entitled to pay to the landlords the amounts that the Petitioners consider to be properly owing under the subject Leases, and that are required by the landlords under such Leases in connection with such landlords' consent to the assignment of such Leases to the Purchaser or that are required to cure past defaults under the Leases that are capable of being cured by a monetary payment, regardless of whether such amounts became due and owing to such landlords before or after the Date of Filing, and to the extent that the Petitioners have made any such payments prior to the date of this Order, such payments are approved *nunc pro tunc* and the Purchaser shall not be obliged to make any further payment to the landlords in connection therewith.

2526. From the period beginning June 1, 2008 and ending on August 31, 2008 (unless the transactions contemplated by the Purchase Agreement are consummated, in which case such period shall end on June 30, 2008), the Petitioners or the Purchaser, as the case may be, shall be entitled to pay rent to the landlords under the Petitioners' current real property leases on a pro-rated basis, on the first day and the sixteenth day of each calendar month, relating respectively to the period from the first day to the fifteenth day of each such month, and the period from the sixteenth day to the last day of each such month.

27. Upon the closing of the transactions contemplated by the Purchase Agreement, the Petitioners shall be entitled to pay from the proceeds of sale received from the Purchaser any statutory lien claims that would be paid in priority to the claims of creditors in a bankruptcy of the Petitioners, including amounts owing to Canada Revenue Agency in respect of unremitted GST collected by the Petitioners and by Mariposa Stores Limited Partnership, regardless of the date that such obligations arose.

#### HEAD OFFICE AND WAREHOUSE LEASE

28. The Lease (the "West First Lease") dated August 25, 2005 between Mariposa Stores Limited Partnership and Pinnacle International (West First) Plaza Inc. ("Pinnacle") in respect of the offices and warehouse located at 88 West 1<sup>st</sup> Avenue in Vancouver, British Columbia (the "Demised Premises") shall be terminated and shall be of no further force or effect as of August 31, 2008. Mariposa Stores Limited Partnership any other person that may be in possession of or occupying all or part of the Demised Premises will deliver vacant possession of the Demised Premises on or before

August 31, 2008 in accordance with the terms of the West First Lease. As of August 31, 2008, if vacant possession of the Demised Premises has not been delivered by Mariposa Stores Limited Partnership to Pinnacle, Pinnacle shall have immediate entry to and occupation and use of the of the Demised Premises and a writ of possession shall be issued without further order of this Court.

29. In consultation with Pinnacle, Mariposa Stores Limited Partnership will use reasonable efforts to vacate all or a portion of the Demised Premises before August 31, 2008.

30. Until August 31, 2008, and subject to paragraph 27 hereof, the West First Lease shall remain in full force and effect and Mariposa Stores Limited Partnership will continue to make regular payments of rent thereunder.

**MISCELLANEOUS**

2631. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

BY THE COURT

\_\_\_\_\_  
DISTRICT REGISTRAR

APPROVED AS TO FORM:

\_\_\_\_\_  
Counsel for the Petitioners

**SCHEDULE "A"**

**IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.**

(Collectively the "Petitioners")

**CREDITORS' PROOF OF CLAIM**

**PURSUANT TO THE**

**COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA")**

---

Please read carefully the instructions accompanying this Proof of Claim. Please print legibly.

Full Name of Creditor: \_\_\_\_\_

(the "Creditor")

Full Mailing Address of Creditor:  
(All notices and correspondence  
regarding your Claim will be  
forwarded to this address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax No. \_\_\_\_\_

Telephone No. \_\_\_\_\_

Attention: \_\_\_\_\_

**SCHEDULE "B"**

**NOTICE TO CREDITORS**

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA")

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

TAKE NOTICE that by Order of the Supreme Court of British Columbia dated May 30, 2008 the Petitioners have been directed to solicit claims from all Creditors for the purpose of determining which Creditors will be entitled to vote on and participate in the Plan of Arrangement filed by the Petitioners in the proceedings commenced under the CCAA in Supreme Court of British Columbia Action No. S080752.

In order to participate in any voting or distribution associated with the Plan or the CCAA proceedings, any party having a claim against the Petitioners or any of them must deliver to the Petitioners a Proof of Claim form on or before the **Claims Bar Date of 5:00 p.m.** (Vancouver time) on July 15, 2008.

A Proof of Claim form may be obtained by contacting Kwame Moloko at the Petitioners' office at (604) 640-4903.

**The Claims Bar Date for filing Proofs of Claims is July 15, 2008; all claims are to be filed by this date.**

**SCHEDULE "D"**

No. S080752  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*  
R.S.C. 1985, c. c-36

AND

IN THE MATTER OF BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

**NOTICE OF DISALLOWANCE**

Name of Creditor: \_\_\_\_\_

Pursuant to the Procedural Order, the Petitioners give you notice that your Proof of Claim dated \_\_\_\_\_, 2008 has been reviewed and the Petitioners have revised or rejected your Claim for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subject to further dispute by you in accordance with the provisions of the Proof of Claim, your claim will be allowed for voting and distribution purposed in the following amount: \$ \_\_\_\_\_.

DATED at Vancouver, British Columbia, Canada this \_\_\_\_\_ day of \_\_\_\_\_, 2008

**BACKBAY RETAILING CORPORATION  
GRAY'S APPAREL COMPANY LTD.  
MARIPOSA STORES LIMITED PARTNERSHIP**

Per: \_\_\_\_\_  
Authorized Signatory

**SCHEDULE "G"**

**Leases**

<u>Store #</u>	<u>Mall Name</u>	<u>Location</u>
11	Metrotown T.C.	Burnaby, BC
18	Coquitlam Centre	Coquitlam, BC
22	Guildford S.C.	Surrey, BC
27	Willowbrook S.C.	Langley, BC
30	Mayfair	Victoria, BC
41	Pine Centre	Prince George, BC
49	Chahko Mika	Nelson, BC
60	Kingsway Garden	Edmonton, AB
70	Parkland	Red Deer, AB
74	Deerfoot Outlet	Calgary, AB
75	Sunridge	Calgary, AB
84	Park Place	Lethbridge, AB
89	Medicine Hat	Medicine Hat, AB
90	Lloyd Mall	Lloydminster, AB
95	Midtown Plaza	Saskatoon, SK
103	Polo Park	Winnipeg, MB
110	St. Vital C.	Winnipeg, MB
111	Kildonan Pl.	Winnipeg, MB
119	White Oaks	London, ON
125	Lynden Park	Brantford, ON
136	Timmins Sq. S.C.	Timmins, ON
<del>137</del>	<del>Timmins Sq. S.C.</del>	<del>Timmins, ON</del>
163	Cottonwood	Chilliwack, BC
13	Brentwood	Burnaby, BC
16	Loughheed	Burnaby, BC
34	Westshore	Colwood, BC
40	Totem Mall	Fort St. John, BC
44	Village Green	Vernon, BC
77	Marlborough	Calgary, BC
105	Garden City	Winnipeg, BC
108	Grant Park	Winnipeg, BC
117	Crossroads Mall	London, ON
142	Frontenac Mall	Kingston, ON
190	Southland Mall	Regina, SK
93	Lawson Heights	Saskatoon, SK



SCHEDULE "H"

Counsel Appearing

Magnus Verbrugge and Martha Martindale, counsel for the Petitioners and Mariposa Stores Limited Partnership

Kibben Jackson, counsel for the Monitor, Deloitte & Touche Inc.

**PLAN OF COMPROMISE OR ARRANGEMENT**

IN THE SUPREME COURT OF BRITISH COLUMBIA

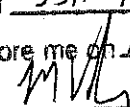
IN THE MATTER OF THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R. S. C. 1985, c. C-36, as amended

AND

BACKBAY RETAILING CORPORATION AND  
GRAY'S APPAREL COMPANY LTD.

(Collectively the "Petitioners")

FILED MAY 30, 2008

This is Exhibit " C " referred to in the  
affidavit of JOHN A. McNAMARA  
made before me on MAY 30 2008  
  
A Commissioner for taking Affidavits  
for British Columbia

**ARTICLE 1**  
**DEFINITIONS & INTERPRETATION**

**1.1 Definitions**

In this Plan, unless otherwise stated or unless the context otherwise requires, the following words and phrases shall have the indicated meanings and grammatical variations of such words and phrases shall have corresponding meanings:

**"Accepted Claim for Voting Purposes"** of a Creditor means the Proven Claim of a Creditor unless the Proven Claim of the Creditor is not finally determined at the time of the applicable Meeting, in which case it means the Claim of the Creditor which is accepted for voting purposes as provided for in this Plan;

**"Assets"** means all present or future real property, personal property, licences, undertaking or other property of either of the Petitioners.

**"Business Day"** means any day (other than a Saturday or a Sunday) on which Schedule I Banks in Vancouver, British Columbia are generally open for business;

**"CCAA"** means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as the same may be amended or re-enacted from time to time, or any successor legislation thereto;

**"Chair"** has the meaning ascribed thereto in Section 5.2 hereof;

**"Claim"** means a claim for an amount alleged by a person to be owed to it (as at the Date of Filing, or deemed by any Court Order to have been owing as at the Date of Filing) or any present or future right of a person to claim against the Petitioners or the Directors and Officers of the Petitioners in connection with any Indebtedness, Liability, Losses or obligation of the Petitioners of any kind or for which the Petitioners or the Directors and Officers of the Petitioners are liable,

whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, accrued, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by indemnity, guarantee, by surety or otherwise and whether or not such a claim or right is executory in nature and including, without limitation:

- (a) future rental or lease payments in respect of the real or personal property of the Petitioners;
- (b) any Indebtedness, Liability, Losses or obligation for which the Petitioners are liable either jointly or jointly and severally with another person or persons;
- (c) any Indebtedness, Liability, Losses or obligation which has been guaranteed by any of the Petitioners;
- (d) any Indebtedness, Liability, Losses or obligation for which the Petitioners are liable to any employee of the Petitioners, including severance obligations for any employee terminated on or before the Effective Time but after the Date of Filing. For greater certainty, employee claims for severance will not be a Post Filing Claim even if terminated after the Date of Filing;
- (e) any liability of the directors and officers of the Petitioners that relates to the obligations of the Petitioners where the directors or officers are by law liable as directors or officer for the payment of such obligations, including without limitation any obligations arising out of or in connection with liabilities of the Petitioners to employees pursuant to the *Employment Standards Act* (British Columbia); and
- (e) any Future Claim.

but excludes any such claim to the extent that it is secured by a Lien on assets of the Petitioners up to the value of such assets, and for greater certainty excludes any statutory priority claim(s) that would be paid in priority to the claims of Unsecured Creditors in a bankruptcy of the Petitioners.

“**Claims Bar Date**” means 5:00pm (Vancouver time) on July 15, 2008, or such later date as the Court may set.

“**Class**” means all Creditors;

“**Court**” means the Supreme Court of British Columbia;

“**Creditor(s)**” means a person or persons having a Claim;

“**Crown**” means Her Majesty the Queen in Right of Canada or Her Majesty the Queen in Right of the Province of British Columbia, as the case may be;

“**Date of Filing**” means February 1, 2008, the date of the Initial CCAA Order;

“**Effective Time**” means 5:00 p.m. Vancouver time on (1) the day following the day on which the appeal period with respect to the Plan Approval Order has expired without an appeal or application for leave to appeal of such Order having been commenced, or (2) if such an appeal or