



**First Report to Court of
KSV Restructuring Inc.
as Proposal Trustee of
Scotch & Soda Canada Inc. and Scotch
& Soda Retail Canada Inc.**

May 11, 2023

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Court File No.: _____

ONTARIO**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)****IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SCOTCH & SODA CANADA INC. AND SCOTCH & SODA RETAIL CANADA INC.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO****FIRST REPORT OF KSV RESTRUCTURING INC.
AS PROPOSAL TRUSTEE OF
SCOTCH & SODA CANADA INC. AND SCOTCH & SODA RETAIL CANADA INC.****May 11, 2023****1.0 Introduction**

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”), in its capacity as proposal trustee (the “Proposal Trustee”) of Scotch & Soda Canada Inc. (“Wholesale”) and Scotch & Soda Retail Canada Inc. (“Retail”, and with “Wholesale”, the “Companies”) in connection with Notices of Intention to Make a Proposal (each an “NOI” and jointly, the “NOIs”) the Companies each filed on May 8, 2023 (the “Filing Date”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”). Copies of the certificates of filing issued by the Office of the Superintendent of Bankruptcy are provided in Appendix “A”.
2. The principal purpose of these proceedings is to create a stabilized environment to allow the Companies to explore opportunities to continue some or all of their operations, while (i) Retail contemporaneously conducts a store closing sale in the event that the store operations cannot be continued; and (ii) Wholesale sells its remaining inventory (including, potentially, in the store closing sale) and collects its accounts receivable.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about the Companies;
 - b) summarize a consulting agreement dated May 11, 2023 (the “Consulting Agreement”) between the Companies and Tiger Asset Solutions Canada, ULC (“Tiger”) pursuant to which Tiger is to assist the Companies to sell their inventory located at the stores or owned by the Companies (the “Merchandise”) and furniture, fixtures and equipment (the “FF&E”)¹;

¹ Most of the FF&E is believed to be property of Retail.

- c) explain the Proposal Trustee’s rationale for recommending that the Court approve (i) the Consulting Agreement and the Sale Guidelines, both of which are appended to the Affidavit of Filip Tufvesson dated May 11, 2023 (the “Tufvesson Affidavit”), the Managing Director and President of Retail and the Companies’ controller, and (ii) the Approval Order (as defined below);
- d) procedurally consolidating the Companies’ NOI proceedings and ordering that the style of cause be amended to reflect same;
- e) explain why the Proposal Trustee supports the Companies’ request for an order expanding the scope of the stay of proceedings in these proceedings as it relates to the terms of supply and service to the Companies on a basis consistent with the provisions of the model Initial Order in a proceeding under the *Companies’ Creditors Arrangement Act* (Canada) (the “CCAA”);
- f) provide the Proposal Trustee’s recommendation for a declaration that Retail² meets the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations, SOR/2008-22 (“WEPPR”), such that its employees, upon termination, would be entitled to receive payments under the *Wage Earner Protection Program Act*, SC 2005, c 47, (“WEPPA”);
- g) discuss the rationale for the Companies seeking approval of the following Court-ordered charges (the “Court-ordered Charges”):
 - i. as against each of Retail³ and Wholesale, a charge in the amount of \$125,000 (the “Administration Charge”) for the fees and disbursements of the Proposal Trustee, the Proposal Trustee’s counsel, DLA Piper (Canada) LLP (“DLA”), and the Companies’ counsel, Cassels Brock & Blackwell LLP (“Cassels”, and together with the Proposal Trustee and DLA, the “Administrative Professionals”); and
 - ii. a charge in favour of the directors and officers of the Companies against Retail’s Property, in the amount of \$90,000, and as against Wholesale’s Property, in the amount of \$70,000 (the “Director’s Charge”);
- h) discuss the recommended priority of the Court-ordered Charges;
- i) discuss the Companies’ request for an extension of the deadline for each of the Companies to file a proposal from June 8 to July 22, 2023;
- j) report on the Companies’ weekly cash flow projection for the period May 8 to July 22, 2023; and
- k) recommend that the Court grant the relief sought by the Companies in the proposed Approval Order, and the reasons therefore.

² Wholesale’s employees are employed by Retail.

³ For clarity, a total charge of \$250,000.

1.2 Currency

1. Unless otherwise noted, all currency references in this Report are to Canadian dollars.

1.3 Restrictions

1. In preparing this Report, the Proposal Trustee has relied upon the Companies' unaudited financial information, the Companies' books and records and discussions with the Companies' representatives. The Proposal Trustee has not performed an audit or otherwise attempted to verify the accuracy or completeness of the financial information on which it relied in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information should perform its own diligence.
2. The Proposal Trustee accepts no responsibility for any reliance placed by any third party on the Companies' financial information presented herein. An examination of the Cash Flow Forecast as outlined in the *Chartered Professional Accountants Canada Handbook* has not been performed. Future oriented financial information relied upon in this Report is based upon the Companies' assumptions regarding future events; actual results achieved may vary from this information and these variations may be material.

1.4 Court Materials

1. Court materials filed in these proceedings are available on the Proposal Trustee's website at: <https://www.ksvadvisory.com/experience/case/scotch-and-soda>.

1.5 KSV's Prior Mandate

1. KSV Advisory Inc. ("KSV Advisory"), an affiliate of KSV, was engaged by the Companies to provide advisory services pursuant to an engagement letter dated April 13, 2023 (the "Engagement Letter"). KSV Advisory's primary role since that time has been to assist the Companies to consider their restructuring options.
2. The Engagement Letter states that KSV Advisory's mandate terminates if the Companies commence an insolvency process and KSV is appointed as the court officer in that proceeding.

2.0 Background

1. The Companies' registered office is in British Columbia, being the office of its former counsel. The locations from which the Companies operate are as follows:
 - a) Retail leases four stores as follows: two in the Greater Toronto Area, one in Vancouver, British Columbia and one in Laval, Quebec; and
 - b) Wholesale has a showroom in Montreal.
2. In addition to the above, the Companies' major distribution center is a third-party logistics provider located in the Greater Toronto Area, Ontario. The majority of the Companies' non-store inventory is located at this location.
3. In March 2023, the Companies' parent, Scotch & Soda Group B.V ("Scotch & Soda Netherlands"), commenced insolvency proceedings in the Netherlands. In those insolvency proceedings, the rights to the Companies' intellectual property were sold to S&S Brand Holdings, LLC ("Bluestar 1"). A different Bluestar entity, S&S Operations LLC ("Bluestar 2") acquired certain accounts receivable owing to Scotch & Soda Netherlands, including the accounts receivable owing from the Companies to that entity. The acquisition of these receivables made Bluestar 2 the largest creditor of Retail and Wholesale, which amounts are unsecured (see Sections 2.1 and 2.2 below). A third Bluestar entity, S&S Lenders LLC ("Bluestar 3") acquired from PNC Bank its secured debt in respect of their advances to certain Scotch & Soda entities, which amounts were also secured by the business and assets of Retail and Wholesale. As of the date of this Report, Bluestar 3 was in the process of completing a foreclosure process against certain business and assets of Scotch & Soda in the United States (the "US Assets"), which will extinguish the debt of Bluestar 3 against the Companies.
4. Since the date the Netherlands Proceedings commenced, the viability of the Companies has been uncertain. The Companies cannot operate without the intellectual property acquired by Bluestar 1 and Bluestar 1 has advised that, outside of the NOI process, the Companies cannot continue to use the intellectual property. Accordingly, on May 8, 2023, the Companies commenced these proceedings by filing the NOIs.

2.1 Retail

1. Retail operates four stores in Canada. It has approximately 28 employees. Subject to the completion of the US foreclosure process noted above, it has no secured creditors.⁴ A summary of its creditors (excluding off-balance sheet claims, such as employee claims) is provided in the table below.

⁴ ING Bank NV has a registration against the Companies in the Personal Property Registry Systems in Ontario and British Columbia.

	Amount (\$CAD)
Unsecured Creditors	
Scotch & Soda Export B.V.	2,341,623
Cadillac Fairview Corporation	33,247
Simon Toronto Outlet (8004)	14,684
Bos Group Footwear B.V.	11,512
Freshco	6,966
Staples Advantage	2,397
HS Footwear GmbH	1,977
T.E.C. Leaseholds Limited	1,179
Monkhouse Law	1,022
Bway.net	711
Loranger Marcoux	613
Delush Interior Fragrances	425
Vancouver Fire & Radius Security	424
Brinks Canada Ltd.	318
Anselmo Window Cleaning	172
Delmar International INC	107
ADT Security Services Canada Inc.	13
UPS Canada	13
Total	2,417,403

- Retail's most significant asset is its inventory. As of the date these proceedings commenced, its inventory had a book value of \$947,000 and an estimated Retail value of \$4,734,000 (at full mark-up)⁵.

2.2 Wholesale

- Wholesale distributes to retailers across Canada. It utilizes the services of three employees of Retail, and one employee of Scotch & Soda, LLC. Subject to the completion of the foreclosure process noted above, it has no secured creditors. A summary of Wholesale's known creditors (excluding off-balance sheet claims) is provided in the table below.

	Amount (\$CAD)
Unsecured Creditors	
Scotch & Soda Export B.V.	5,311,451
Le Carre de Gaspé Inc.	16,562
Bell Canada	1,317
Cybersource Corporation	2,119
FedEx (CAD)	30
Total	5,331,479

⁵ This amount is subject to change as the Companies' books and records do not appear to have been kept current since the date that the Scotch & Soda Netherlands proceedings commenced.

2. Wholesale's most significant assets are inventory and accounts receivable. As of the date these proceedings commenced, its inventory had a book value of approximately \$645,000. At full mark-up, the value of this inventory is estimated to be \$1,466,000.⁶ The book value of Wholesale's accounts receivable as of the commencement of these proceedings was approximately \$1,714,000.

2.3 Additional Background Information

1. Additional background information about the Companies and the events preceding these proceedings is included in the Tufvesson Affidavit.

3.0 Consulting Agreement⁷

1. In order to maximize the realizable value of the Companies' inventory, Retail has entered into a Consulting Agreement with Tiger. Tiger has extensive experience carrying out retail liquidations, including several high-profile liquidations, including as part of the liquidator joint venture consortium retained in the Nordstrom Canada ("Nordstrom") proceedings under the CCAA. A copy of the Consulting Agreement is appended to the Tufvesson Affidavit.
2. The sale is to be carried out in accordance with the Sale Guidelines attached to the Approval Order. The Sale Guidelines set out, among other things, the manner in which the sale is to be advertised, stores are to be vacated and FF&E is to be sold or disposed at the end of the sale. The Sale Guidelines also address the operating hours for the sale and certain of the landlord's rights during the sale. The Sale Guidelines also provide that the Consultant shall have various protections, including that it will not be deemed a successor-employer of the Companies' employees. The Sale Guidelines are based on those recently approved in other Retail liquidation proceedings, including the Nordstrom, Bed, Bath & Beyond and David's Bridal proceedings, and have evolved over time based on agreements among restructuring professionals, liquidators and landlords.

⁶ See footnote 5.

⁷ Unless other defined, capitalized terms in this section have the meaning provided to them in the Consulting Agreement.

3. The table below provides a summary of the Consulting Agreement.

Parties	<p>Companies and Tiger</p> <p>If Wholesale is not able to sell its inventory through its normal channels, it is contemplated that it may be sold in the store closing sale. These sales will be accounted for, with the net proceeds of sale paid to Wholesale. Certain costs will be allocated to Wholesale in determining the net proceeds of sale.</p>
Sale commencement date	First business day following the entry of the Approval Order, which is estimated to be May 17, 2023.
Tiger obligations	<p>Tiger shall (i) provide a mutually agreed upon Sale management team, including an operational lead and a financial lead, to assist Companies in conducting the Sale; (ii) provide a mutually agreed upon number of qualified supervisors to assist Companies in conducting the Sale; (iii) oversee the liquidation and disposal of the Merchandise and FF&E to assist Companies in maximizing the net proceeds from the Sale; (iv) recommend and implement, with approval of Companies, appropriate advertising to effectively sell the Merchandise during the Sale; (v) recommend and implement the appropriate merchandising, pricing and discounting of the Merchandise; (vi) determine the need for and facilitate transfers of inventory between Stores and any applicable warehouse or storage facilities; (vii) with approval of Companies, promote the Companies' brand, ecommerce business, and ongoing retail locations with appropriate customer redirect advertising; (viii) cooperate with Companies to ensure a smooth wind down for the Stores; and (ix) provide such other related services deemed necessary or prudent by Companies and Consultant under the circumstances giving rise to a Sale.</p>
Transfer of inventory between stores	Permitted (as per the Sale Guidelines)
Inventory augmentation	Not permitted
Budget	Tiger has prepared a high-level budget for the Sale, which is in a form acceptable to the Companies.

Fees Payable to the Consultant	<p>\$50,000, payable in five weekly instalments of \$10,000.</p> <p>As a condition to Consultant's obligations hereunder, the Companies shall fund \$20,000 on execution of the Consulting Agreement and a further \$20,000 upon the Court granting the Approval Order (the "Special Purpose Payment") which shall be held by Consultant as security for payment of the Consulting Fee, the reimbursement of Sale Expenses and payment of any other amounts to Consultant hereunder. Without limiting any of Consultant's other rights, Consultant may apply the Special Purpose Payment to any unpaid obligation owing by the Companies to Consultant under this Agreement, on three business days' notice to the Trustee. Any portion of the Special Purpose Payment not used to pay amounts explicitly contemplated by this Agreement shall be returned to the Companies no later than the time of the Final Reconciliation.</p>
Operating expenses	For the account of the Companies, including but not limited to all rent and employee costs.
Title to the Merchandise	Shall remain with the Companies during the Sale Term until such time as it is sold.
FF&E	Consultant shall sell the FF&E in the Stores for a commission equal to 15% of the gross proceeds generated from the sale of such assets (before HST).
Billing	Consultant shall bill the Companies weekly with each bill setting forth (i) Sale Expenses incurred directly by Consultant as set forth in the Budget (ii) the base Consultant's Fee that has been earned from the prior week's sales and (iii) the applicable FF&E Fee that has been earned from the prior week's sales pursuant. Within two business days of the submission of such invoices, such invoices shall be paid in full by the Companies.
Sale Reconciliation	No later than twenty (20) days following the end of the Sale, the parties shall complete a final reconciliation and settlement of all amounts contemplated by this Agreement.
Employees	Employees shall remain employed by Retail. Employees will continue to be paid in accordance with Retail's past practices.

	<p>Consultant shall have no liability to the Store Employees (including any of Retail's former employees) of any kind or nature whatsoever, including without limitation, with respect to severance pay, termination pay, vacation pay, pay in lieu of reasonable notice of termination, or any other expenses or liability arising from Retail's retention of such Store Employees prior to, during and subsequent to the Sale.</p>
<p>Indemnification by the Consultant</p>	<p>Consultant shall reimburse, indemnify, defend and hold the Companies and its officers, directors, agents, and employees, harmless from and against any damage, loss, expense (including reasonable attorneys' fees) or penalty, or any claim or action therefore, by or on behalf of any person, arising out of the performance or failure of performance of this Agreement by Consultant, or due to any acts or omissions by the Consultant or its employees, Supervisors, other agents or temporary Employees, including but not limited to breaches or violations of human rights legislation and the Consultants', Supervisors', and Employees' payroll claims (wage claims, claims for taxes required to be withheld from wages, social security, etc.), unemployment compensation claims, or actions taken by Consultant or its Employees.</p>
<p>Indemnification by the Companies</p>	<p>The Companies shall indemnify and hold Consultant and its agents, employees, principals and Supervisors harmless from and against all liabilities, claims, demands, damages, costs and expenses (including reasonable attorneys' fees) arising from or related to the (i) negligent acts or omissions of the Companies or its agents, employees, in connection with the Sale, or (ii) the material breach by the Companies of any of their obligations under this Agreement.</p>
<p>Representations and warranties</p>	<p>Standard for a transaction of this nature.</p>

Insurance	The Companies shall maintain throughout the Sale Term, liability insurance policies (including, but not limited to, product liability, comprehensive public liability insurance and auto liability insurance) covering injuries to persons and property in or in connection with the Companies' operation of the Stores. The Companies shall be responsible for the payment of all deductibles, self-insurance and other amounts payable in connection with any claim asserted under such policies, except for any claims arising directly from the negligence or willful misconduct of Consultant, or its employees, representatives, agents or Supervisors.
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4.0 Proposal Trustee's Support for the Consulting Agreement

1. For the following reasons, KSV supports the retention of Tiger to assist the Companies to complete the store closing sale and recommends that the Court (i) approve and authorize the Companies entering into the Consulting Agreement, and (ii) approve the Sale Guidelines:

Consulting Agreement

- a) Tiger is a well-known liquidator with deep experience in retail liquidations. It has the expertise to assist the Companies to carry out the liquidation;
- b) Tiger's fee is \$50,000. The contemplated liquidation is a small sale. The professional fees associated with running an extensive process calling for proposals from several liquidators will exceed the benefit given Tiger's fee and the economics of this sale. Tiger's expense budget is reasonable, and its estimated expenses, such as for advertising, are charged without mark-up. The FF&E fee is consistent with market and other retail liquidations in which KSV has been appointed;
- c) The Companies cannot continue to operate in the normal course and there is urgency to commence a sale as quickly as possible since the Companies cannot indefinitely continue to use the intellectual property, albeit Bluestar 1 has consented to its use for the purpose of carrying out this sale. Tiger has been providing KSV with advice concerning the conduct of the sale since early in KSV Advisory's mandate. Tiger is ready to commence the sale immediately;
- d) KSV worked with Tiger on the Chico's liquidation, another retailer with only a few stores in Canada. Tiger efficiently performed that mandate and the results exceeded the expectations. The attributes of the Chico's sale are similar to this sale.

Sale Guidelines

- a) The Sale Guidelines have evolved over time, are based on precedent from other store closing sales and have been approved in several other proceedings;
- b) The Sale Guidelines are acceptable to the Companies, Tiger and counsel for the Cadillac Fairview Corporation Limited (which is the landlord at three of the four Retail locations), which has been consulted in respect of same; and
- c) The Sale Guidelines will further the conduct of an efficient, profit maximizing sale while protecting the rights of each of the affected parties.

5.0 Procedural Consolidation

1. The Companies' application materials seek an order continuing and procedurally consolidating the Companies' NOI proceedings.
2. As the consolidation is for administrative purposes only, the Companies would remain separate for the purpose of a claims process and making distributions to creditors, if any.
3. The Proposal Trustee believes that procedurally consolidating the proceedings is appropriate as:
 - a) it will permit all applications to be brought before one justice, rather than having multiple proceedings. Additionally, the consolidation sought will allow the Companies to advance these proceedings in the most expedient and efficient manner for the benefit of stakeholders;
 - b) it will facilitate the orderly administration of these proceedings;
 - c) creditor rights will not be affected by the procedural consolidation; and
 - d) it will reduce costs, including by filing materials in one proceeding only.

6.0 Stay of Proceedings

1. In order to provide the Companies with the greatest opportunity to successfully complete the store closing sale, and to contemporaneously consider options to continue their businesses, the Companies need to operate without disruption during these proceedings.
2. The orderly operation of the business will be facilitated by incorporating into the requested order the enhanced stay provisions from the model Initial Order issued in a CCAA proceeding as they relate to requiring suppliers and service providers to continue to provide goods and services without disruption, provided they are not required to do so on credit. The stay of proceedings under the Initial Order in a CCAA proceeding is significantly broader than the statutory stay of proceedings in proposal/NOI processes under the BIA.

3. The relief sought is in the spirit of stabilizing the Companies' operations and allowing them the greatest opportunity to preserve normal course operations during the NOI proceedings. Any supply disruptions would impair the Companies' ability to continue to operate in the normal course and, potentially, the prospect of identifying going-concern solutions. Accordingly, the Proposal Trustee believes that expanding the scope of the stay of proceedings is appropriate as the continued operation of the Companies will assist it to achieve its objectives in these proceedings.

7.0 Wage Earner Protection Plan

1. As there is a possibility that there may not be a purchaser or a going-concern outcome for some or all of Retail's stores, Retail may terminate the employment of some or all of its employees (which includes the individuals who provide services to Wholesale) during these proceedings.
2. All employees will be paid their full wages and vacation pay but will not be paid any termination and severance pay on termination. Retail would like to assist the employees to be able to forthwith file claims under WEPPA for any unpaid termination and severance pay.
3. Section 5(1) of the WEPPA provides that an individual is eligible to receive payment under the WEPPA if, among other things, (i) the individual is owed eligible wages by a former employer; (ii) the former employer is subject to proceedings under Division I of Part III of the BIA; and (iii) a court determines under subsection 5(5) that the criteria prescribed by the regulation are met.
4. Section 5(5) of the WEPPA provides that on application by any person in proceedings under Division I of Part III of the BIA, a court may determine that a former employee meets the criteria prescribed by WEPPR. Section 3.2 of the WEPPR provides that "a court may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations".
5. In the Proposal Trustee's view, it is appropriate for the Court to grant this relief as the individuals employed by Retail could be terminated during or after the store closing sale and all of the employees are assisting with the wind-down of the Companies' businesses and operations. Granting this relief will enable terminated employees to access their statutory entitlements with respect to unpaid termination and severance pay.

7.1 Cash Flow

1. Pursuant to the BIA, each of the Companies is required to prepare a cash flow forecast for the stay extension period.
2. The Cash Flow Forecast for each of the Companies for the period May 8 to July 22, 2023 (the "Period"), together with Management's Report on the Cash-Flow Statement as required by subsection 50.4(2)(c) of the BIA, is provided in Appendix "B".

3. The Cash Flow Forecasts were prepared by the Companies with the assistance of the Proposal Trustee. Retail's receipts during the Period are comprised of the sale of its inventory, and its projected disbursements are primarily for payroll, benefits, occupancy costs, sundry operating expenses and professional costs. Wholesale's receipts during the Period are comprised of the sale of its inventory and collections of accounts receivable. Its disbursements are primarily in respect of logistics costs and professional fees.
4. Based on the Proposal Trustee's review of the Cash Flow Forecasts, there are no material assumptions which seem unreasonable. The Proposal Trustee's Report on each of the Companies' Cash Flow Statement as required by subsection 50.4(2)(b) of the BIA is attached as Appendix "C".

8.0 Court Ordered Charges

1. The Company is seeking Court approval of the following charges:
 - a. in respect of each of Retail and Wholesale, a charge in the amount of \$125,000 (the "Administration Charge") for the fees and disbursements of the Administrative Professionals; and
 - b. in respect of Retail, a charge in the amount of \$90,000 and in respect of Wholesale, a charge in the amount of \$70,000 to secure the post-filing indemnity to be provided by the Companies to their directors and officers;

8.1 Administration Charge

1. The Proposal Trustee supports the Administration Charge for the following reasons:
 - a. it is a standard feature of Canadian restructuring proceedings;
 - b. it is required to protect the Administrative Professionals retained in these proceedings given the Companies' limited liquidity at this time;
 - c. the Proposal Trustee and Cassels have each received nominal retainers of \$50,000;
 - d. as noted, subject to the completion of the foreclosure proceedings in the US, there are no secured creditors in these proceedings and accordingly, the recommended Court-ordered charges would not be priming any such parties; and
 - e. the Administrative Professionals in these proceedings require the protections resulting from the Administration Charge.

8.2 Director's Charge

1. The Proposal Trustee understands that the Companies are current on all pre-filing obligations for which directors may be personally liable, including payroll obligations and sales taxes. The Cash Flow Forecast contemplates that all such amounts will continue to be paid in the ordinary course and the Companies are projected to have sufficient liquidity to continue to operate. The proposed Director's Charge provides protection for the directors and officers if the Companies fail to pay certain obligations which may give rise to liability for directors and officers.
2. In these proceedings, the main risk of directors' and officers' exposure is unpaid payroll, accrued vacation pay and sales taxes. Payroll presently totals approximately \$45,000 per pay period (every two weeks), accrued vacation pay presently totals approximately \$12,000 (and increases by approximately \$2,000 per month) and monthly sales tax obligations are estimated to total approximately \$25,000 for Retail and \$70,000 for Wholesale. The Director's Charge is intended to cover these obligations.
3. The directors and officers shall only be entitled to the benefit of the Director's Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, to the extent such coverage is insufficient to pay an indemnified amount as described above, or to the extent that such coverage is denied by the insurance provider.
4. The Director's Charge is proposed to rank in priority to every other claim, lien and security interest against the Company, other than the Administration Charge.
5. The Proposal Trustee is of the view that the Director's Charge is reasonable in the circumstances and that the continued involvement of the directors and officers is beneficial to the Companies, their stakeholders, and these proceedings. The continued involvement of these individuals will assist to reduce professional costs.

8.3 Priority Court Ordered Charges

1. The proposed priority of the Court ordered charges is as follows:
 - a) Administration Charge; and
 - b) Director's Charge.

9.0 Company's Request for an Extension

1. The Companies are seeking an extension of the time required to file a proposal from June 8 to July 22, 2023. The Proposal Trustee supports the extension request for the following reasons:
 - a) the Companies are acting in good faith and with due diligence;
 - b) the extension will enhance the likelihood of the Companies being able to make a viable proposal to its creditors;

- c) the extension should not adversely affect or prejudice any group of creditors as the Companies are projected to have funding to pay post-filing services and supplies in the amounts contemplated by the Cash Flow Forecast; and
- d) it will provide the Companies with the additional time they require to complete the store closing sale (if approved) and to further consider their restructuring options.

10.0 Conclusion and Recommendation

1. Based on the foregoing, the Proposal Trustee respectfully recommends that this Honourable Court make an order granting the relief being sought by the Companies.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE *IN RE* THE PROPOSAL OF
SCOTCH & SODA CANADA INC. AND SCOTCH & SODA RETAIL CANADA INC.
AND NOT IN ITS PERSONAL CAPACITY**

Appendix “A”



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-2941767
Estate No. 31-2941767

In the Matter of the Notice of Intention to make a proposal of:

Scotch & Soda Retail Canada Inc.

Insolvent Person

KSV RESTRUCTURING INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

May 08, 2023

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: May 08, 2023, 13:21

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-2941764
Estate No. 31-2941764

In the Matter of the Notice of Intention to make a proposal of:

Scotch & Soda Canada Inc.

Insolvent Person

KSV RESTRUCTURING INC.

Licensed Insolvency Trustee

Date of the Notice of Intention:

May 08, 2023

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: May 08, 2023, 13:16

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

Appendix “B”

Scotch & Soda Canada Inc.
Projected Statement of Cash Flow
For the period ending July 22, 2023
(Unaudited; \$000s)

Notes	Weeks Ending												Total	
	8-May-23	15-May-23	22-May-23	29-May-23	5-Jun-23	12-Jun-23	19-Jun-23	26-Jun-23	3-Jul-23	10-Jul-23	17-Jul-23	22-Jul-23		
<i>Receipts</i>														
1														
Sales	2	59	59	59	59	59	59	59	59	-	-	-	-	474
AR Collection	3	28	28	92	92	92	64	104	104	104	265	161	211	1,347
		59	59	59	59	59	59	59	59	-	-	-	-	1,820
<i>Disbursements</i>														
Other Operating Costs		7	7	7	7	7	7	7	7	7	7	7	7	84
HST, net of ITCs	4	-	-	-	-	27	-	-	-	11	-	-	(13)	25
<i>Total Operating Disbursements</i>		7	7	7	7	34	7	7	7	18	7	7	(6)	109
<i>Net Cash Flow before the Undermoted</i>		52	52	52	52	25	52	52	52	(18)	(7)	(7)	6	1,711
Professional Fees	5	-	-	-	-	-	125	-	-	-	-	-	125	250
<i>Net Cash Flow</i>		52	52	52	52	25	(73)	52	52	(18)	(7)	(7)	(119)	1,461
Opening Cash Balance		342	394	446	498	550	575	503	555	607	589	582	607	342
Closing Cash Balance		394	446	498	550	575	503	555	607	589	582	575	488	1,803

These financial projections are based on management's assumptions detailed in Appendix "1-1".
The note references correspond to the assumption numbers shown in Appendix "1-1".


SCOTCH & SODA CANADA INC.

Per: 

5-11-23

Date

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL AND NOT
IN ITS PERSONAL CAPACITY


Per: _____

May 11, 2023

Date

Scotch & Soda Retail Canada Inc.
Projected Statement of Cash Flow
For the period ending July 22, 2023
(Unaudited; \$000s)

Notes	Weeks Ending											Total		
	8-May-23	15-May-23	22-May-23	29-May-23	5-Jun-23	12-Jun-23	19-Jun-23	26-Jun-23	3-Jul-23	10-Jul-23	17-Jul-23		22-Jul-23	
<i>Receipts</i>														
1														
Sales	2	68	170	170	170	170	170	170	170	170	-	-	-	1,427
		68	170	170	170	170	170	170	170	170	-	-	-	1,427
<i>Disbursements</i>														
Payroll and Benefits	3	-	45	-	45	-	40	-	35	-	30	-	-	195
Rent	4	87	-	-	-	110	-	-	-	65	-	-	-	262
Other Operating Costs	5	5	5	5	5	5	5	5	5	5	-	-	-	47
HST, net of ITCs	6	-	-	-	-	56	-	-	-	49	-	-	(10)	96
Advertising costs	7	-	15	-	-	-	15	-	-	-	-	-	-	30
Consultant's fees	8	-	-	10	10	10	10	10	-	-	53	-	-	103
Consultant supervisor costs	9	-	-	50	-	-	-	50	-	-	-	-	-	100
Security deposit	10	-	20	20	-	-	-	-	-	-	-	-	-	40
Vacation Pay		-	-	-	-	-	-	-	-	-	-	20	-	20
Contingency		-	20	-	-	-	20	-	-	-	-	20	-	60
<i>Total Operating Disbursements</i>		92	105	85	60	182	90	65	40	119	83	40	(10)	953
<i>Net Cash Flow before the Undermoted</i>		(24)	65	85	110	(12)	80	105	130	50	(83)	(40)	10	474
Professional Fees	11	-	-	-	-	-	125	-	-	-	-	-	125	250
<i>Net Cash Flow</i>		(24)	65	85	110	(12)	(45)	105	130	50	(83)	(40)	(115)	224
Opening Cash Balance		342	318	382	467	576	565	519	624	754	804	721	754	342
Closing Cash Balance		318	382	467	576	565	519	624	754	804	721	681	639	566

These financial projections are based on management's assumptions detailed in Appendix "I-1".
The note references correspond to the assumption numbers shown in Appendix "I-1".

SCOTCH & SODA RETAIL CANADA INC.

Filip Tufvesson
Per: _____

5-11-23
Date

KSV RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE UNDER THE
NOTICE OF INTENTION TO MAKE A PROPOSAL AND NOT
IN ITS PERSONAL CAPACITY


Per: _____

May 11, 2023
Date

**Report on Cash Flow Statement by the Person Making the Proposal
(Paragraphs 50(6)(c) and 50.4(2)(c) of the BIA)**

The management of Scotch & Soda Retail Canada Inc. and Scotch & Soda Canada Inc. (the "Companies") have developed the assumptions and prepared the attached statements of projected cash flows as of the 11th day of May, 2023, for the period May 8, 2023 to July 22, 2023 ("Cash Flow"). All such assumptions are disclosed in the notes to the Cash Flows.

The hypothetical assumptions are suitably supported and consistent with the purpose of the Cash Flows as described in Note 1 to the Cash Flows, and the probable assumptions are suitably supported and consistent with the plans of the Companies and provide a reasonable basis for the Cash Flows.

Since the Cash Flows are based on assumptions regarding future events, actual results will vary from the information presented and the variations may be material.

The Cash Flows have been prepared solely for the purpose outlined in Note 1 using a set of hypothetical and probable assumptions set out therein. Consequently, readers are cautioned that the Cash Flows may not be appropriate for other purposes.

Dated at Toronto, Ontario this 11th day of May, 2023.

**SCOTCH & SODA RETAIL CANADA INC. AND
SCOTCH & SODA CANADA INC.**

Filip Tufvesson
Per: Filip Tufvesson

Appendix “C”

**Trustee's Report on Cash-flow Statement
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)**

The attached statement of projected cash-flows of Scotch & Soda Retail Canada Inc. and Scotch & Soda Canada Inc. (the "Companies") as of the 11th day May, 2023, consisting of weekly projected cash flow statements for the period May 8, 2023 to July 22, 2023 ("Cash Flow") have been prepared by the management of the Companies for the purpose described in Note 1, using hypothetical and probable assumptions set out in the notes to the Cash Flow.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by the management and employees of the Companies. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- a) the hypothetical assumptions are not consistent with the purpose of the Cash Flows;
- b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Companies or do not provide a reasonable basis for the Cash Flows, given the hypothetical assumptions; or
- c) the Cash Flows do not reflect the probable and hypothetical assumptions.

Since the Cash Flows are based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material. Accordingly, we express no assurance as to whether the Cash Flows will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon in preparing this report.

The Cash Flows have been prepared solely for the purpose described in Note 1 and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto this 11th day of May, 2023.

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.
IN ITS CAPACITY AS TRUSTEE *IN RE* THE PROPOSAL OF
SCOTCH & SODA RETAIL CANADA INC. AND
SCOTCH & SODA CANADA INC.
AND NOT IN ITS PERSONAL CAPACITY**