

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) FRIDAY, THE 5th DAY
)
) OF JULY, 2024
JUSTICE OSBORNE



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

IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF THE BODY SHOP CANADA LIMITED,
IN THE CITY OF TORONTO, IN THE PROVINCE OF
ONTARIO (the “**Applicant**”)

**ORDER
(Sale Process)**

THIS APPLICATION, made by the Applicant, pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Jordan Searle sworn June 24, 2024 and the Exhibits thereto (the “**Searle Affidavit**”), and on hearing the submissions of counsel for the Applicant, counsel for Alvarez & Marsal Canada Inc., in its capacity as monitor of the Applicant (the “**Monitor**”) and on reading Fifth Report of the Alvarez & Marsal Canada Inc., in its capacity as proposal trustee and the Report of the proposed Monitor filed, and on reading those parties listed in the participant information form,

DEFINITIONS AND SERVICE

1. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meaning given to them in the sales process procedures (the “**Procedures**”) attached as Schedule "A" hereto.
2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record dated June 24, 2024 is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE SALE PROCESS

3. **THIS COURT ORDERS** that the Procedures are hereby approved, subject to such non-material amendments as may be agreed to by the Applicant and the Monitor.

4. **THIS COURT ORDERS** that the Applicant and the Monitor are hereby authorized and directed to take such steps as they deem necessary or advisable to carry out and perform their respective obligations under the sales process (the "**Sale Process**"), subject to prior approval of this Court being obtained before the completion of any transaction under the Sale Process.

5. **THIS COURT ORDERS** that the Applicant and the Monitor are authorized to continue the Sale Process to solicit interest in the opportunity for a sale of the Applicant, or all or part of the Assets or Business.

6. **THIS COURT ORDERS** that the Applicant and the Monitor, and their respective affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of the Sale Process, except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Applicant or the Monitor, as applicable, in performing its obligations under the Sale Process (as determined by this Court).

REGULATORY COMPLIANCE

7. **THIS COURT ORDERS** that in connection with the Sale Process and pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, as amended, the Applicant and the Monitor may disclose personal information of identifiable individuals to Interested Parties in the Sale Process and to their advisors, including, without limitation, human resources and payroll information in the Applicant's records pertaining to its current and former employees, but only to the extent desirable or required to negotiate and attempt to complete a sale of the Applicant, the Business or the Assets. Each Interested Party to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Applicant or the Business and Assets, and if it does not complete

a purchase thereof, shall return all such information to the Applicant or in the alternative shall destroy all such information and certify such destruction to the Applicant. The Successful Bidder shall maintain and protect the privacy of such information, and upon closing of the transaction contemplated in the Successful Bid, shall be entitled to continue to use the personal information provided to it, and related to such property or assets, in a manner which is in all material respects similar to the prior use of such information by the Applicant and shall return all other personal information to the Applicant, or ensure that all other personal information is destroyed.

8. **THIS COURT ORDERS** that the Applicant, the Monitor and their respective counsel be and are hereby authorized but not obligated, to serve or distribute this Order, any other materials, orders, communication, correspondence or other information as may be necessary or desirable in connection with the Sale Process to any person or Interested Party that the Applicant or the Monitor considers appropriate. For greater certainty, any such distribution, communication or correspondence shall be deemed in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

GENERAL

9. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

10. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and any Order subsequently made in this proceeding, and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order and any Order subsequently made in this proceeding. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer

of this Court, as may be necessary or desirable to give effect to this Order and any Order subsequently made in this proceeding, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order and any Order subsequently made in this proceeding.

12. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

13. **THIS COURT ORDERS** that any interested party that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court to vary or amend this order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

14. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

SCHEDULE "A"

SALE PROCESS

On March 1, 2024, The Body Shop Canada Limited (the "**Company**") filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* (the "**NOI**") and Alvarez & Marsal Canada Inc. was appointed as the proposal trustee (the "**Proposal Trustee**").

On July 5, 2024, the Company continued the NOI proceeding under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceeding**") and Alvarez & Marsal Canada Inc. was appointed as the monitor (the "**Monitor**").

On July 5, 2024, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made an order, which, among other things approved this sale process (the "**Sale Process**").

The purpose of the Sale Process is to identify one or more purchasers of the Company, the Business and/or Assets (each as defined below). Set forth below are the procedures (the "**Procedures**") that shall govern the Sale Process and any transactions consummated as a result thereof.

1. Defined Terms

The following capitalized terms have the following meanings when used in this Sale Process:

"**Assets**" means the assets, undertakings and property of the Company;

"**Bid**" has the meaning given to it in Section 6;

"**Bid Deadline**" has the meaning given to it in Section 6;

"**Bid Requirements**" has the meaning given to it in Section 7;

"**Business Day**" means any day, other than a Saturday, Sunday or statutory holiday in the Province of Ontario, on which commercial banks in Toronto, Ontario are open for business;

"**Business**" means the skincare, haircare, bath and body products retail business carried on by the Company;

"**CCAA**" has the meaning given to it in the introduction;

"**CCAA Proceeding**" has the meaning given to it in the introduction;

"**Company**" has the meaning given to it in the introduction;

"**Confidentiality Agreement**" means the confidentiality agreement entered into between the Company and an Interested Party;

"**Court**" has the meaning given to it in the introduction;

"**Data Room**" means an electronic data room containing confidential information in respect of the Company, the Business and the Assets;

"**Deposit**" has the meaning given to it in Section 8(i);

"**dollars**" or "**\$**" means Canadian dollars;

"**Interested Party**" means potential bidders and includes (a) parties that have approached the Company, the Proposal Trustee, the Monitor, the UK Parent or the UK Administrators indicating an interest in the opportunity, and (b) strategic parties whom the Company or the Monitor believe may be interested in purchasing the

Company or all or part of the Business and Assets (each, an “**Interested Party**” and together “**Interested Parties**”);

“**Outside Date**” means the date that is set out in the Process Letter by which a transaction contemplated by a Bid must close;

“**Procedures**” has the meaning given to it in the introduction;

“**Process Letter**” has the meaning given to it in Section 2;

“**Proposal Trustee**” has the meaning given to it in the introduction;

“**Purchase Price**” has the meaning given to it in Section 8(b);

“**Qualified Bid**” has the meaning given to it in Section 8;

“**Qualified Bidder**” has the meaning given to it in Section 8;

“**Sale Approval Motion**” has the meaning given to it in Section 10;

“**Sale Process**” has the meaning given to it in the introduction;

“**Successful Bid**” has the meaning given to it in Section 9;

“**Successful Bidder**” has the meaning given to it in Section 9;

“**UK Administrators**” means collectively, Geoff Rowley and Alastair Massey of FRP Advisory, as joint administrators of the UK Parent;

“**UK Parent**” means The Body Shop International Limited;

“**UK Purchaser(s)**” means the purchaser or purchasers of “The Body Shop” brand and related intellectual property from the UK Parent; and

“**UK Sale Process**” means the sale process underway in respect of the UK Parent and its assets.

2. **Timeline**

The Monitor shall, no later than five Business Days after a purchaser has been identified in the UK Sale Process, for some or all of the assets of the UK Parent or its business, (a) send a process letter to the service list for the CCAA proceeding and each Interested Party (the “**Process Letter**”), which advise of the commencement of certain key milestones under these Procedures, and (b) post the Process Letter on the Monitor’s website. The following table sets out the key milestones for the Sale Process:

Milestone	Deadline
Commencement of Sale Process	Ongoing
Solicitation of interest and distribution of Confidentiality Agreement	Ongoing
Distribution of the Process Letter to Interested Parties	Five Business Days after the UK Purchaser(s) has been identified in the UK Sale Process for some or all of the assets of the UK Parent, or such other date as the Company and the Monitor determine
Bid Deadline (5:00pm EST)	The date that is set out in the Process Letter , or such other later date or time as may be agreed by the Company, in consultation with the Monitor (the “ Bid Deadline ”)
Selection of Successful Bid	No later than five Business Days after the Bid Deadline, or such other date as the Company and the Monitor determine

Milestone	Deadline
Sale Approval Motion	As soon as practicable after the selection of the Successful Bid
Outside Date	The date that is set out in the Process Letter

3. The Procedures

These Procedures set out the manner in which a party becomes a Qualified Bidder and a Bid becomes a Qualified Bid, the receipt, evaluation and negotiation of Qualified Bids received, and the ultimate selection of Successful Bid and the Court's approval thereof. The Company shall supervise the Procedures and will generally consult with the Monitor in respect of all matters arising out of these Procedures. In the event that there is disagreement as to the interpretation or application of these Procedures, the Court will have the jurisdiction to hear and resolve such dispute.

4. "As Is, Where Is"

The sale of the Company, the Business or any part of the Assets will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature or description by the Company, the Monitor or any of their agents or advisors, except to the extent set forth in the relevant sale or investment agreement with a Successful Bidder. By participating in this process, each Interested Party is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Business, the Assets or the Company prior to making its Bid, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or regarding the Business, the Assets or the Company in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Business, the Assets or the Company or the completeness of any information provided in connection therewith, except as expressly stated in the terms of any definitive transaction documents.

5. Solicitation of Interest and Due Diligence

The Proposal Trustee or the Monitor, as applicable, with the assistance of the Company will send to all Interested Parties (a) a written description of the opportunity, outlining the Procedures and inviting Interested Parties to express their interest pursuant to the Sale Process, and (b) a Confidentiality Agreement, in each case, in form and substance satisfactory to the Company.

The Data Room will be made available to any Interested Party who has executed and delivered a Confidentiality Agreement to the Company prior to the Bid Deadline. An Interested Party's right to access the Data Room or receive any non-public information about the Company shall terminate immediately upon the Bid Deadline.

6. Bid Deadline

An Interested Party that wishes to make a bid to acquire the Business, the Company or all, substantially all or any part of the Assets, must deliver an executed copy of a bid (the "**Bid**") to the Monitor by email to the following address:

Alvarez & Marsal Canada Inc.
Royal Bank Plaza, South Tower
200 Bay Street, Suite 2900
P.O. Box 22
Toronto, ON M5J 2J1 Canada

Attention: Josh Nevsky/Mitchell Binder
Email: jnevsky@alvarezandmarsal.com
binder@alvarezandmarsal.com

so as to be received by it not later than 5:00 p.m. (Eastern Time) on the Bid Deadline.

7. The UK Purchaser(s)

The transaction contemplated by a Qualified Bid shall be conditional on the UK Purchaser(s) entering into a license arrangement, franchise agreement or similar arrangement with Qualified Bidder.

The Company and the Monitor may share Qualified Bids with the UK Purchaser(s), including for the purpose of facilitating discussions and advancing license or other arrangements with the UK Purchaser(s) in respect of the use of "The Body Shop" brand by Qualified Bidders.

8. Bid Requirements

A Bid will be deemed to be a "**Qualified Bid**" if it is determined by the Company, in consultation with the Monitor, to satisfy the following conditions (the "**Bid Requirements**") and each Interested Party that submits a Qualified Bid will be deemed to be a "**Qualified Bidder**":

- (a) Irrevocable Bid: It includes a letter stating that the Bid is irrevocable until Court approval of the Successful Bid;
- (b) Purchase Agreement. It includes a sealed duly authorized and executed definitive purchase agreement together with all completed schedules thereto containing the detailed terms and conditions of the proposed transaction, including identification of the assets proposed to be acquired, the obligations to be assumed, the purchase price (the "**Purchase Price**"), the detailed structure and financing of the proposed transaction;
- (c) License or other Arrangement. It describes any license arrangement, franchise agreement, or similar arrangement, with the UK Purchaser in respect of the right of such Qualified Bidder to use "The Body Shop" brand;
- (d) Proof of Financial Ability to Perform. It includes written evidence upon which the Company, in consultation with the Monitor, may reasonably conclude that the Interested Party has the necessary financial ability to close the contemplated transaction on or before the Outside Date and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
 - (i) evidence of the Interested Party's internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction;
 - (ii) contact names and phone numbers for verification of financing sources; and
 - (iii) any such other form of financial disclosure or credit-quality support information or enhancement requested by and reasonably acceptable to the Company demonstrating that such Interested Party has the ability to close the contemplated transaction;

- (e) Unconditional Bid. It is not conditioned on (i) the outcome of unperformed due diligence and/or (ii) obtaining financing;
- (f) Parties. It fully discloses the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the Bid, including whether any prior or current member of the Company's board, management, any employee or consultant to the Company or any creditor) or shareholder of the Company is involved in any way with the Bid or assisted with the Bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the Bid;
- (g) Acknowledgement. It includes an acknowledgement and representation that the Interested Party: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents regarding the Business and/or the Assets to be acquired, liabilities to be assumed or the Company in making its Bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties conditions or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Business, Assets to be acquired, liabilities to be assumed, the Company or the completeness of any information provided in connection therewith, except as expressly provided in any definitive transaction documents;
- (h) Authorization. It includes evidence, in form and substance reasonably satisfactory to the Monitor, of authorization and approval from the Interested Party's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the Bid, and identifies any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (i) Deposit. It is accompanied by a cash deposit (the "**Deposit**") in an amount equal to 10% of the Purchase Price that shall be paid to the Monitor in trust, which Deposit shall be held and dealt with in accordance with these Procedures;
- (j) Employees. If applicable, it contains full details of the proposed number of employees of the Company who will become employees of the Qualified Bidder and the proposed terms and conditions of employment to be offered to those employees;
- (k) Other. It contains such other information as may reasonably be requested by the Company or the Monitor; and
- (l) Bid Deadline. It is received by the Monitor, at the address specified in Section 6 (including by email) on or before the Bid Deadline.

The Company, in consultation with the Monitor, may waive any one or more minor and non-material violations of the requirements specified for Qualified Bids and deem such non-compliant Bids to be Qualified Bids.

9. Evaluation of Qualified Bids and Subsequent Actions

The Company, in consultation with the Monitor, shall evaluate Qualified Bids on various grounds including, but not limited to, the Purchase Price or imputed or projected value, the treatment of creditors and related implied recovery for creditors (in each case, as applicable), the assumed liabilities, the certainty of closing the transactions contemplated by the Qualified Bid on or before the Outside Date and any delay or other risks (including closing risks) in connection with the Qualified Bids.

Following such evaluation, the Company may accept, subject to Court approval, one of the Qualified Bids (each a "**Successful Bid**" and the offeror(s) making such Successful Sale Bid being a "**Successful Bidder**") and take such steps as may be necessary to

finalize definitive transaction documents for the Successful Bid with the Successful Bidder.

No later than five Business Days after the Bid Deadline, or such other date as the Company and the Monitor determine, the Company shall advise the Qualified Bidders if a Successful Bid has been accepted, or conditionally accepted, as the case may be.

10. Sale Approval Motion and Acceptance of Qualified Bids

The Company shall use reasonable efforts to make a motion to the Court (the “**Sale Approval Motion**”) to approve the Successful Bid as soon as practicable following the determination by it of the Successful Bidder. The Company will be deemed to have accepted the Successful Bid only when it has been approved by the Court. All Qualified Bids (other than the Successful Bid) shall be deemed rejected by the Company on and as of the date of approval of the Successful Bid by the Court.

11. Deposits

All Deposits shall be held by the Monitor in a single interest bearing account designated solely for such purpose. A Deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits, and any interest earned thereon, paid by Qualified Bidders not selected as a Successful Bidder shall be returned to such Qualified Bidders within three Business Days of Court approval of the Successful Bid.

12. Modifications and Termination

The Company or the Monitor shall have the right to adopt such other rules for the Procedures (including rules that may depart from those set forth herein) that will better promote the sale of the Company, the Business or all or any part of the Assets under these Procedures. The Company or the Monitor shall apply to the Court if they wish to materially modify or terminate the process set out in these Procedures. For certainty, any amendments to the Bid Deadline or other dates set out in these Procedures shall not constitute a material modification.

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

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Court File No.: CV-24-00723586-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER
(Sale Process Approval)**

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