

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

THE HONOURABLE MR.
JUSTICE MCEWEN

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WEDNESDAY, THE 10th
DAY OF MARCH, 2021

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF PAYLESS SHOESOURCE CANADA INC.,
PAYLESS SHOESOURCE CANADA GP INC., AND
PAYLESS SHOESOURCE CANADA LP**

DISCHARGE AND DISTRIBUTION ORDER

THIS MOTION made by FTI Consulting Canada Inc. ("**FTI**"), in its capacity as court-appointed receiver (in such capacity, the "**Receiver**") without security of certain limited property (the "**Receivership Property**", as specified in the Receivership Order dated October 29, 2019, the "**Receivership Order**") of Payless ShoeSource Canada Inc., Payless ShoeSource Canada GP Inc., and Payless ShoeSource Canada LP (the "**Receivership**"), was heard this day by Zoom videoconference as a result of the COVID-19 pandemic.

ON READING the Notice of Motion of the Receiver, the First Report of the Receiver dated March 3, 2021 (the "**First Report**"), and on hearing the submissions of counsel for the Receiver, and no one else appearing although duly served as appears from the affidavit of service of Aiden Nelms, filed.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the First Report.

APPROVAL OF RECEIPTS AND DISBURSEMENTS AND ACTIVITIES

3. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements for the period from March 20, 2020 to February 19, 2021 shall be and is hereby approved.

4. **THIS COURT ORDERS** that all fees, conduct and actions of the Receiver and its counsel arising from and in connection with the Receivership and the Receivership Property shall be and are hereby approved.

5. **THIS COURT ORDERS** that the Receiver is authorized to pay outstanding post-filing invoices, including professional fees and other expenses incurred, pertaining to the Receivership without further Court order or stakeholder approvals.

APPROVAL OF DISTRIBUTION

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to pay the Receivership Property remaining after payment of outstanding post-filing invoices (the "**Distribution**") to Service Canada as subrogee of Claims paid in respect of eligible wages pursuant to the *Wage Earner Protection Program Act* (Canada).

DISCHARGE AND RELEASE

7. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraphs 4, 5 and 6 herein, and the filing of a certificate by the Receiver in the form attached as **Schedule "A"** hereto (the "**Discharge Certificate**") confirming the completion of all remaining activities necessary to finalize administration of the Receivership (the "**Remaining Activities**", and as outlined in the First Report), the Receiver shall be discharged as Receiver of the Receivership

Property, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of its mandate; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of FTI in its capacity as Receiver.

8. **THIS COURT ORDERS AND DECLARES** that, upon the Receiver filing the Discharge Certificate, FTI and its counsel are hereby released and discharged from any and all liability they may now have or may hereafter have by reason of, or in any way arising out of, the acts or omissions of FTI acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the their part. Without limiting the generality of the foregoing, FTI and its counsel are hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Receivership, save and except for any gross negligence or wilful misconduct on their part.

GENERAL

9. **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 to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that the Receiver 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 Receiver 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.



**SCHEDULE "A"
DISCHARGE CERTIFICATE**

***ONTARIO*
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DISCHARGE CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made October 29, 2019 (the "**Receivership Order**"), FTI Consulting Canada Inc. ("**FTI**") was appointed as receiver (in such capacity, the "**Receiver**") without security of the Receivership Property (as defined in the Receivership Order) (the "**Receivership**").

(B) Pursuant to an Order of the Court made March 10, 2021 (the "**Distribution and Discharge Order**"), FTI was discharged as the Receiver of the Receivership Property to be effective upon the filing by the Receiver with the Court of a certificate confirming that Remaining Activities (as defined in the Distribution and Discharge Order), including the Distribution (as defined in the Distribution and Discharge Order) were completed, provided however that notwithstanding its discharge: (a) the Receiver will remain the Receiver for the performance of such incidental duties as may be required to complete the administration of the Receivership; and (b) the Receiver will continue to have the benefit of the provisions of all Orders made in these proceedings including all approvals, protections, and stays of proceedings in favour of FTI in its capacity as the Receiver.

THE RECEIVER CERTIFIES the following:

1. The Receiver has completed the Remaining Activities including the Distribution.
2. This Certificate was filed by the Receiver with the Court on the _____ day of _____, 2021.

**FTI CONSULTING CANADA INC.,
SOLELY IN ITS CAPACITY AS COURT-APPOINTED
RECEIVER IN THE ABOVE-MENTIONED PROCEEDINGS,
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY**

Per: _____

Name:

Title:

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10 March 21

Order to go, as per the draft filed and signed.

It is unopposed.

I have reviewed the materials. Service Canada has been involved in process and does not object to the order sought.

The fees/disbursements/activities are approved and the Receiver shall be released as per the terms of the order.



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

DISCHARGE AND DISTRIBUTION ORDER

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Lawyers for FTI Consulting Inc. solely in its capacity as Court-appointed Receiver