

Court No. 31-2464088
Estate No. 31-2464088

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE DIVISION I PROPOSAL OF
GYMBOREE, INC.

APPLICATION UNDER THE *BANKRUPTCY*
***AND INSOLVENCY ACT*, RSC 1985, C B-3**

FIRST REPORT OF KPMG INC. in its capacity as
PROPOSAL TRUSTEE OF GYMBOREE, INC.

JANUARY 22, 2019

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I. INTRODUCTION

1. On January 17, 2019, Gymboree, Inc. (“**Gymboree Canada**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”).
2. KPMG Inc. acts as proposal trustee (in such capacity, the “**Proposal Trustee**”) of Gymboree Canada. Attached as Appendix “A” hereto is the Certificate of Filing of a Notice of Intention to Make a Proposal dated January 17, 2019 issued by the Office of the Superintendent of Bankruptcy Canada.
3. The principal purpose of these NOI proceedings is to conduct an orderly wind-down of Gymboree Canada’s operations through a court-supervised process. The proposed wind-down process in Canada includes a liquidation of inventory and certain other assets in all store locations (the “**Sale**”) pursuant to an agency agreement (the “**Agency Agreement**”) entered into on January 17, 2019 with a contractual joint venture comprised of GA Retail, Inc., Tiger Capital Group, LLC, Gordon Brothers Retail Partners, LLC, and Hilco Merchant Resources, LLC (collectively with their respective Canadian affiliate assignees, the “**Agent**”).
4. This first report of the Proposal Trustee (the “**First Report**”) is being delivered in connection with the Company’s motion seeking an Order from the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), among other things:
 - a. approving the Agency Agreement;
 - b. authorizing Gymboree Canada, with the assistance of the Agent, to conduct the Sale;
 - c. authorizing and approving the Post-Filing Intercompany Arrangements (as defined below);
 - d. granting an Administration Charge, a D&O Charge, an Intercompany Charge, and the Agent’s Charge and Security Interest (as such terms are defined below); and
 - e. granting certain ancillary relief with a goal of facilitating the present proceedings.
5. This First Report should be read in conjunction with (a) the affidavit of Jon W. Kimmins, the Chief Financial Officer of Gymboree Canada, sworn January 21, 2019 (the “**Kimmins**”).

Affidavit”) and filed in support of the Company’s motion, and (b) the declaration of Stephen Coulombe, Chief Restructuring Officer of Gymboree Group, Inc., dated January 17, 2019 and delivered in connection with the Chapter 11 Proceedings (as defined below) (the “**First Day Declaration**”), which is attached as Exhibit “A” to the Kimmins Affidavit.

II. PURPOSE OF THIS FIRST REPORT AND LIMITATIONS

6. The purpose of this First Report is to provide the Court with information regarding:
 - a. the Company and the circumstances surrounding the commencement of these NOI proceedings;
 - b. the marketing efforts undertaken by the Gymboree Group (as defined below);
 - c. the Agency Agreement;
 - d. the Company’s cash flow forecast, the Post-Filing Intercompany Arrangements (as defined below), and cash management;
 - e. the Court-ordered charges being sought by the Company; and
 - f. the activities of the Proposal Trustee.
7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.
8. In preparing this First Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, unaudited financial information, books and records, and financial and other information of Gymboree Canada and the other members of the Gymboree Group (as defined below) and information from other third-party public sources (“**Information**”). The accuracy and completeness of the Information contained herein has not been audited or otherwise verified by the Proposal Trustee, and the Proposal Trustee does not express any opinion or provide any other form of assurance with respect to the Information presented herein or relied upon by the Proposal Trustee in preparing this First Report.
9. Some of the Information referred to or reported in this First Report consists of future oriented information and is based on estimates and assumptions regarding future events. Actual results may vary from forecast and such variations may be material. An

examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.

III. BACKGROUND

10. The Company is a corporation formed in 2005 under the *Business Corporations Act* (New Brunswick), SNB 1981, c. B-9.
11. Gymboree Canada is the Canadian operating entity of the Gymboree group of companies (the “**Gymboree Group**”), of which Gymboree Holding Corporation is the ultimate parent entity. The Gymboree Group operates a chain of specialty retail stores for children’s apparel headquartered in San Francisco, California and has operations across the United States and Canada. A corporate chart for the Gymboree Group is attached hereto as Appendix “B”.
12. The Gymboree Group owns a portfolio of three children’s clothing and accessories brands, Gymboree®, Janie and Jack® and Crazy 8®, each offering a different product line with a distinct brand identity and targeted product offering. Gymboree Canada’s operations are limited to Gymboree® branded stores.
13. Gymboree Canada operates the Canadian retail business of the Gymboree Group from a total of 49 retail stores in Alberta, British Columbia, Manitoba, Ontario and Nova Scotia (the “**Stores**”) as well as online through the following website: www.gymboree.com. The Stores represent approximately 5.2% of the total number of the Gymboree Group’s retail locations in Canada and the U.S. and account for approximately 4.5% of the Gymboree Group’s overall sales.
14. A table setting out Gymboree Canada’s retail locations by province is below:

Province	Number of Stores
Alberta	7
British Columbia	9
Manitoba	2
Nova Scotia	2
Ontario	29
Total	49

15. All of Gymboree Canada’s retail operations are conducted in leased facilities.

16. On January 16, 2019, eleven non-Canadian members of the Gymboree Group filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (“**Chapter 11**”) in the United States Bankruptcy Court for the Eastern District of Virginia (Richmond Division) (the “**Chapter 11 Proceedings**”).
17. The First Day Declaration filed in support of the relief sought in the Chapter 11 Proceedings provides additional context regarding the financial situation of the Gymboree Group as a whole, including the need to commence the Chapter 11 Proceedings, its corporate history and ownership structure, operations, financial affairs and restructuring initiatives of the Gymboree Group, and details regarding its 2017 Chapter 11 insolvency filing.
18. Gymboree Canada commenced these NOI proceedings concurrent with the Chapter 11 Proceedings for the purpose of completing an orderly wind-down of Gymboree Canada’s business.
19. Like other Canadian retail businesses, Gymboree Canada has faced financial challenges and declining product sales in the past few years resulting in operating losses. As Gymboree Canada is financially entirely dependent on the other entities in the Gymboree Group, all of these losses have been absorbed by Gymboree Canada’s affiliates. As such, Gymboree Canada’s affiliates account for approximately 95% of its aggregate liabilities.

IV. MARKETING EFFORTS

20. The Proposal Trustee understands that the Gymboree Group, including on behalf and in respect of Gymboree Canada, engaged in significant efforts in recent months to pursue a restructuring, refinancing or sale outside of a formal insolvency proceeding and conducted a comprehensive strategic review of its retail operations and store profile. To assist with this review, in October 2018, the Gymboree Group retained (a) Berkeley Research Group (“**BRG**”) as financial advisor and Chief Restructuring Officer, and (b) Stifel, Nicolaus & Co., Inc. (together with its affiliate Miller Buckfire & Co., LLC) as investment banker. These efforts included attempting to raise new financing and offering all of the Gymboree Group’s assets for sale, either individually or en bloc as a going concern. As a result of this review, in early December 2018, the Gymboree Group announced its intention to close all

Crazy 8® store locations and to reduce the overall Gymboree® footprint. The marketing process is described in greater detail in the First Day Declaration and the declaration of James Doak dated January 17, 2019 filed in the Chapter 11 Proceedings (the “**Doak Declaration**”). The Doak Declaration is attached hereto as Appendix “C”.

21. The financial circumstances facing the Gymboree Group, including its debt load and operating losses, continued to place significant pressure on the Gymboree Group to address its liquidity issues. Despite its out-of-court restructuring efforts, the Gymboree Group, including on behalf and in respect of Gymboree Canada, in consultation with BRG, reached the conclusion that no viable going concern transaction was available in respect of the Gymboree® branded stores, including Gymboree Canada’s stores, and that the best alternative was to engage in an orderly liquidation of all Gymboree® retail stores.

V. AGENCY AGREEMENT

22. On January 17, 2019, Gymboree Group, Inc. and Gymboree Canada entered into the Agency Agreement for the liquidation of the inventory and furniture, fixtures and equipment (“**FF&E**”) located in all the Gymboree Group’s retail stores and distribution centres.
23. Liquidation sales pursuant to the Agency Agreement commenced in the U.S. on January 18, 2019 (the “**Sale Commencement Date**”) following court approval in the Chapter 11 Proceedings. In Canada, solely for computation purposes under the Agency Agreement, the Sale will also be considered to have started on January 18, 2019. However, the Proposal Trustee understands that until an Order of the Court approving the Agency Agreement and authorizing the Sale is granted (the “**Approval Order**”), store operations in Canada remain consistent with pre-filing operations.
24. As set out in the First Day Declaration, the Agency Agreement is the result of a competitive process in which Gymboree Group and its advisors conducted an extensive solicitation process for selecting an agent to serve as the Gymboree Group’s exclusive independent liquidation service provider.
25. The Proposal Trustee understands that the Gymboree Group delivered formal requests for proposals to potential liquidators. The results of that process demonstrated that there were

very few liquidators with the experience, expertise, and availability necessary to execute liquidation sales within the short timeframe required by the Gymboree Group. Only two proposals were received by the Gymboree Group, including the Agent's bid. Following an evaluation of the Agent's bid, and considering available alternatives, the Gymboree Group, in consultation with its advisors, determined that such bid was the best and most competitive proposal. As such, the Gymboree Group and its advisors proceeded to negotiate the Agency Agreement with the Agent.

26. The Agency Agreement has been negotiated and structured to provide the Gymboree Group a guaranteed realization on the inventory and FF&E at its stores. The net minimum guarantee provides for a minimum recovery of 89% (the "**Merchandise Guarantee Percentage**") of the cost value of the inventory included in the liquidation sale ("**Merchandise**"), subject to certain customary downward adjustments and the J&J Option (as defined and described in the table below). The terms of the Agency Agreement provide that the net guaranteed minimum recovery (the "**Guaranteed Amount**") shall be paid by the Agent as follows:
- a. 90% of the estimated Guaranteed Amount attributable to U.S. Merchandise to be paid on the first business day following U.S. court approval of the Agency Agreement;
 - b. 80% of the estimated Guaranteed Amount attributable to Canadian Merchandise (the "**Initial Canadian Guaranty Payment**") to be paid to Gymboree Canada on the first business day following the granting of an Approval Order. For purposes of calculating the Initial Canadian Guaranty Payment, the aggregate cost value of the inventory in the Stores has been assumed to be US\$4,000,000; and
 - c. the balance of the Guaranteed Amount to be paid on the earlier of (i) thirty days after the Sale Commencement Date, and (ii) the second business day following a final inventory report (the portion of such payment payable to Gymboree Canada, the "**Second Canadian Guaranty Payment**").

27. A summary of certain additional key terms of the Agency Agreement is set out below:¹

Locations	All stores operated by the Gymboree Group, including all 49 of Gymboree Canada's Stores
Sale Termination Date	No later than April 30, 2019, unless otherwise agreed by the parties (" Sale Termination Date ")
Merchandise and Other Assets Included in the Sale	<ul style="list-style-type: none">• Merchandise located in Stores (as defined in the Agency Agreement), as well as certain in-transit inventory delivered to the Stores on or before March 22, 2019• Supplemental merchandise procured by the Agent that is of like kind, and no lesser quality to the Merchandise located in the Stores ("Additional Agent Merchandise")• Goods not otherwise included as "Merchandise", if elected by the Merchant ("Merchant's Designated Goods")
FF&E	<ul style="list-style-type: none">• As set out in the Kimmins Affidavit, the Proposal Trustee understands that the sale of the FF&E of Gymboree Canada (if included in the Sale) will be effected on a fee basis to be agreed upon between the parties to the Agency Agreement
Excluded Items	<ul style="list-style-type: none">• Goods that belong to third parties, such as licensees and concessionaires, and goods held by Gymboree Group as bailee• Certain defective merchandise• Merchandise not received at the Stores (as defined in the Agency Agreement) by March 22, 2019 (unless otherwise agreed)

¹ Capitalized terms used in this section and not otherwise defined have the meanings given to them in the Agency Agreement. A copy of the Agency Agreement is attached as Exhibit "D" to the Kimmins Affidavit.

Sale Terms	Merchandise and FF&E (if any) will be sold free and clear of encumbrances
Returns and Credits	<ul style="list-style-type: none">• Agent will accept returns of goods sold prior to the Sale Commencement Date for the first fourteen days of the Sale• Agent shall accept gift certificates, gift cards, and return credits (“Gift Certificates”) during the first thirty days of the Sale. Agent shall not sell any Gift Certificates and shall not accept Gymboree Rewards, Gym Bucks, and similar merchandise credits unless Agent agrees to cover such items as an Expense
Expenses	<ul style="list-style-type: none">• Store level operating expenses and other amounts listed in the Agency Agreement as “Expenses” will be paid (or reimbursed, as applicable) out of Sale proceeds, subject to the limitations on quantum set out in the Agency Agreement. To the extent that such proceeds are insufficient to pay these Expenses, they are to be paid by the Agent• The Agent shall fund six weeks of Canadian store-level occupancy expenses at the commencement of the Sale (calculated to be US\$912,000)
Compensation to Agent; Sharing Threshold	<p>After payment of the Guaranteed Amount and all Expenses, all remaining Proceeds are to be paid as follows:</p> <ul style="list-style-type: none">(1) first, to the Agent, a fee of 9% of the aggregate Cost Value of the Merchandise; and(2) second, (a) to the Merchant, 50% of all remaining Proceeds (the “Merchant Sharing Amounts”), and (b) to the Agent, 50% of all remaining Proceeds

Additional Agent Merchandise Fee	Fee of 5% of the aggregate gross proceeds of the sale of Additional Agent Merchandise payable by the Agent to the Merchant, subject to a guaranteed minimum payment of US\$2,000,000 payable to the Merchant
Merchant's Designated Goods	The Agent shall retain 20% of the receipts (net of Sales Taxes) for all sales of Merchant's Designated Goods, and Merchant shall receive 80% of the receipts (net of Sales Taxes) in respect of such sales
Assignment to Affiliates	Each entity comprising the Agent may assign the Agency Agreement to its respective Canadian affiliate for purposes of conducting the Sale in Canada
Intellectual Property	The Agent shall have the right to use all logos, trademarks, brand names and other intellectual property utilized by the Gymboree Group in connection with the business
J&J Option	Merchant has an option (the " J&J Option "), exercisable within 28 days after the date of the Agency Agreement to exclude the Janie and Jack® stores from the Sale. In the event that the J&J Option is exercised, the Agent is entitled to, among other things, (i) a reduction in the Guarantee Percentage from 89% to 80%, and (ii) a cancellation fee of US\$1,000,000. The Gymboree Group may extend the 28-day J&J Option to 35 days, in which case the applicable guarantee is decreased by an additional 1% to 79%

28. The Proposal Trustee notes the following with respect to the Agency Agreement:
- a. the Agency Agreement governs the terms of a liquidation to be conducted in both Canada and the U.S. The Proposal Trustee believes that the structure of the Agency Agreement is reasonable in the circumstances as the Gymboree Group is winding-down

or restructuring the whole of its global operations and its Canadian operations represent only a small proportion of all retail locations. Further, in light of the operational dependence of Gymboree Canada on the U.S. members of the Gymboree Group, negotiating and implementing a second, Canadian specific liquidation agreement would have resulted in additional costs, expenses, and delays;

- b. the Agency Agreement incorporates sale guidelines that describe the process for conducting the Sale at the Stores (the “**Sale Guidelines**”). The Sale Guidelines were developed by the Company in consultation with the Proposal Trustee and are materially consistent with the sale guidelines used in other recent retail store liquidation processes approved by the Court. The inclusion of Additional Agent Merchandise is discussed below;
- c. the Agency Agreement permits the Agent to procure merchandise that is of like kind, and no lesser quality, to the Merchandise located in the Stores and to sell such goods in the Sale. While the inclusion of Additional Agent Merchandise in Canadian retail liquidation sales has been less common than its exclusion, the Proposal Trustee notes that such sales were permitted in the *Companies Creditors’ Arrangement Act* proceedings of Ben Moss Jewellers Western Canada Ltd. (2016) and the NOI proceedings of Danier Leather Inc. (2016). The language included in the Sale Guidelines with respect to Additional Agent Merchandise is substantially similar to those approved by the Court in these cases, and the Proposal Trustee understands that the level of permitted augmentation is negotiated on a case by case basis;
- d. the exercise of the J&J Option would decrease the Merchandise Guarantee Percentage by up to 10% and result in certain additional payments by the Gymboree Group. While there are no Janie and Jack® stores in Canada, as a result of the exercise of the J&J Option, Gymboree Canada would be required to reimburse its proportionate share of the Guaranteed Amount and be responsible for its proportionate share of any additional payments. The Proposal Trustee notes that while the benefits of a going concern sale of the Janie and Jack® business would primarily accrue to the U.S. members of the Gymboree Group, the economics of the Agency Agreement, in the view of the Proposal

Trustee based on the information available to it, represent the best alternative for Gymboree Canada;

- e. individual Stores may be subject to earlier Sale completion dates than the outside Sale Termination Date, provided that the Agent gives the Gymboree Group not less than seven days' notice of such earlier completion. Notably, the BIA requires a debtor to provide a landlord with 30 days' notice to disclaim a lease. The Proposal Trustee notes that the Canadian liquidation will likely end earlier than the U.S. liquidation given the relative number of stores and inventory levels between Canada and the U.S. The Proposal Trustee intends to commence an immediate dialogue with the Company and the Agent to develop a procedure to attempt to minimize or eliminate rent charges between the applicable Sale Termination Date for individual Stores and the effective date of a disclaimer notice, where possible;
- f. the Agent is entitled to a base fee of 9% of the cost value of Merchandise (the "**Agent's Base Fee**") after payment of the Guaranteed Amount and expenses payable under the Agency Agreement. The Agent's Base Fee is slightly higher than that seen in other recent retail liquidations. The Proposal Trustee understands that this percentage of the Agent's Base Fee was part of the negotiations resulting in the overall economic package embodied in the Agency Agreement, which includes a high percentage of guaranteed recovery and a fifty-fifty profit sharing above the specified threshold;
- g. the Agency Agreement requires that the Agent be granted a first ranking charge (the "**Agent's Charge and Security Interest**") on the inventory, FF&E, and other assets subject to the Sale and all proceeds thereof (the "**Agent Collateral**"). The granting of such a charge has become common in the context of other recent Court-approved retail store liquidation sales; and
- h. the members of the contractual joint venture comprising the Agent have extensive experience conducting retail liquidations. The members of the contractual joint venture, individually or together, have conducted nearly all major retail liquidations in Canada, including Sears Canada Inc., Target Canada Co., BCBG Max Azria, Ben Moss Western Jewellers Ltd., Linens N Things, and Mexx.

29. The Proposal Trustee understands that unanticipated issues may arise in circumstances where a single Agency Agreement is governing cross-border liquidations. To the extent that any Canadian specific issues relating to the Agency Agreement and the conduct of the Sale arise, the Proposal Trustee will work with the Company and the Agent to resolve such issues.

Approval of Agency Agreement

30. The Proposal Trustee was provided with a copy of the Agency Agreement for review and comment prior to its execution and has considered the process leading to the Sale and the consideration to be received under the Agency Agreement in light of the requirements of subsection 65.13(4) of the BIA. Though the Proposal Trustee was not involved in the liquidation agent solicitation process and had limited indirect involvement in the negotiations leading to the execution of the Agency Agreement, the Proposal Trustee has reviewed the process and is of the view that it was reasonable in the circumstances, particularly given the Proposal Trustee understands that (a) there were no going concern transaction offers in respect of Gymboree Canada, (b) there was limited interest received by the Gymboree Group from alternative liquidation bidders, (c) there was a limited timeframe to enter into a transaction given the ongoing cash burn of the Gymboree Group, which is further outlined in the First Day Declaration, and (d) Gymboree Canada is financially and operationally reliant on the other members of the Gymboree Group and could not conduct a stand-alone liquidation.
31. The Proposal Trustee is also of the view that the Agency Agreement provides the best guaranteed realization on the inventory and FF&E (if included in the Sale) at the Stores operated by Gymboree Canada and the transactions contemplated by the Agency Agreement are more beneficial to the creditors than a sale or disposition under a bankruptcy. The Agency Agreement contemplates a Sale that would be conducted in an efficient and effective manner by a group of liquidators with extensive experience. A bankruptcy would result in the vesting of all of Gymboree Canada's inventory, FF&E, and other property in the Proposal Trustee (as trustee-in-bankruptcy), which would likely result in additional delays and expenses.

VI. CASH FLOW FORECAST, POST-FILING INTERCOMPANY ARRANGEMENTS, AND CASH MANAGEMENT

Cash Flow Forecast

32. Gymboree Canada's cash flow forecast (the "**Cash Flow Forecast**") for the period from January 13, 2019 to February 16, 2019 (the "**Cash Flow Period**") that is being filed with the official receiver as required by subsection 50.4(2) of the BIA reflects that the Company has sufficient cash to fund its projected operating costs for at least the first 30 days of these NOI proceedings. The Cash Flow Forecast and explanatory notes are attached hereto as Appendix "D".
33. It is intended that the NOI proceedings will be funded through amounts payable to Gymboree Canada by the Agent pursuant to the Agency Agreement and cash on hand at the date of the NOI filing. As discussed below, to the extent required, U.S. members of the Gymboree Group will also grant credit to Gymboree Canada with respect to its proportionate share of certain shared expenses.
34. The Cash Flow Forecast shows receipts of approximately \$5.6 million and disbursements of approximately \$5.2 million, resulting in net cash flow of approximately \$0.4 million during the Cash Flow Period. In addition, during the Cash Flow Period, it is anticipated that the U.S. members of the Gymboree Group will cover certain expenses in the amount of approximately \$0.6 million on behalf of Gymboree Canada that will not be reimbursed during the Cash Flow Period.

Gymboree Canada
Cash Flow Forecast Summary
(CAD \$ in 000's)

For the week ending	02/16 Forecast
Collections	
Stores and E-Commerce	152
Inventory Liquidation Proceeds	3,753
FF&E Proceeds	28
Agent Expense Funding	1,713
Total Collections	5,647
Direct Expenses	
Store Payroll and Benefits	(847)
Store Rent	(878)
Other Store Occupancy Costs	(62)
Sales Taxes	(286)
Canadian Professional Fees	(511)
Total Direct Expenses	(2,584)
Allocated Expenses	
Corporate Payroll	(342)
Corporate Employee FTO	(93)
Corporate Rent	(37)
Utility Deposits	(25)
Corporate Expenses	(381)
U.S. Professional Fees	(281)
Cash Collateral for LCs	(2,029)
DIP Fees & Interest	(42)
Total Allocated Expenses	(3,230)
Total Expenses	(5,815)
Expense Treatment	
Direct Expenses Paid by Gymboree Canada	(2,584)
Paid to US for Allocated Expenses	(2,680)
Subtotal: Expenses Paid by Gymboree Canada	(5,264)
US Credit Provided (Paid Down)	550
Beginning Cash Balance	475
Net Cash Flow	383
Ending Cash Balance	857

35. The Proposal Trustee notes the following with respect to the Cash Flow Forecast:
- a. Collections: The forecast collections during the Cash Flow Period of approximately \$5.6 million are comprised of: (i) collections from in-store and e-commerce sales relating to the period prior to the Sale Commencement Date; (ii) the Initial Canadian Guaranty Payment; (iii) an allocation of the Additional Guaranteed Amount payable to the Merchant (as such terms are defined in the Agency Agreement) in respect of certain

FF&E; and (iv) reimbursements by the Agent for direct expenses, such as store payroll and occupancy costs, related to the Sale.²

- b. Expenses: The Cash Flow Forecast reflects both direct expenses incurred by Gymboree Canada and allocations of certain shared overhead, administrative and financial expenses incurred by the other members of the Gymboree Group on behalf of Gymboree Canada.
- i. Direct expenses: The direct expenses during the Cash Flow Period total approximately \$2.6 million and are comprised of: (1) Store payroll and benefits, including accrued amounts relating to the period prior to the Sale Commencement Date, (2) rent for the Company's retail locations, (3) other store occupancy costs, including utilities, (4) sales taxes that were collected by Gymboree Canada prior to the Sale Commencement Date and become due during the Cash Flow Period, and (5) estimated professional fees of the Company's counsel, the Proposal Trustee and the Proposal Trustee's counsel. Pursuant to the Agency Agreement, the Agent will reimburse Gymboree Canada for Store payroll and benefits incurred in respect of the Sale and has prefunded six weeks of occupancy costs up to the cap set out in the Agency Agreement. These reimbursements will offset certain of the direct expenses incurred by Gymboree Canada.
- ii. Allocated expenses: Gymboree Canada is financially and operationally dependent on other entities in the Gymboree Group. Accordingly, the Cash Flow Forecast includes certain allocated expenses in respect of shared overhead, administrative and financial costs incurred by U.S. members of the Gymboree Group on behalf of Gymboree Canada in the amount of approximately \$3.2 million, including for (1) corporate payroll (2) corporate rent and utilities, (3) corporate expenses, (4) U.S. professional fees, (5) cash collateralization of certain letters of credit, and (6) fees and interest relating to the debtor-in-possession financing approved in the Chapter 11 Proceedings.

² The Proposal Trustee notes that additional payments to Gymboree Canada under the Agency Agreement are expected to be received in the period subsequent to the Cash Flow Period.

36. The Gymboree Group and the Proposal Trustee believe that Gymboree Canada should bear its reasonable and proportional share of overhead costs incurred in the post-filing period and should be obligated to reimburse the other members of the Gymboree Group for providing management, finance, human resources and other services in support of Gymboree Canada. Following numerous discussions and consultations with the Proposal Trustee, the Gymboree Group, with the assistance of BRG, considered allocating shared overhead costs of the Gymboree Group to Gymboree Canada based upon a number of factors including: Gymboree Canada's share of the global sales of the Gymboree Group, Gymboree Canada's share of the aggregate number of stores of the Gymboree Group, and Gymboree Canada's share of the aggregate cost value of inventory of the Gymboree Group during the expected duration of the liquidation process in Canada. Gymboree Group, with the assistance of BRG and in consultation with the Proposal Trustee, prepared various scenarios reflecting different allocation percentages applicable to various shared expenses based on these factors. Of these scenarios, Gymboree Canada's share of the Gymboree Group's global sales resulted in the lowest percentage, being 4.5%, and this scenario was determined to be the most appropriate in the circumstances. In addition, the Proposal Trustee worked with the Gymboree Group and BRG to reduce or eliminate the applicability of the allocation percentage to specific expense line items.
37. While the Company and the Proposal Trustee agree that Gymboree Canada should bear its reasonable and proportional share of costs incurred by the U.S. members of the Gymboree Group on its behalf, the Proposal Trustee also believes that it is imperative for Gymboree Canada to maintain a minimum cash balance during these NOI proceedings. As such, the reimbursement of any amounts to the U.S. members of the Gymboree Group must take this factor into account.
38. Accordingly, Gymboree Canada will reimburse the U.S. members of the Gymboree Group periodically for these allocated shared costs in accordance with the Cash Flow Forecast. The Cash Flow Forecast contemplates that during the Cash Flow Period, the Gymboree Group will provide Gymboree Canada with credit in the amount of \$550,000, secured by the Intercompany Charge (as described below), in order to ensure that Gymboree Canada has sufficient liquidity during the Cash Flow Period. The credit provided of \$550,000

effectively reduces the cash burden of the allocated expenses from approximately \$3.2 million to \$2.7 million over the Cash Flow Period.

Post-Filing Intercompany Arrangements

39. The Proposal Trustee was involved in the Company's determination of intercompany arrangements during the conduct of these NOI proceedings (the "**Post-Filing Intercompany Arrangements**"). As set out above, the Company, in consultation with the Proposal Trustee, has agreed to maintain an appropriate minimum threshold cash balance during these NOI proceedings.
40. In addition, Gymboree Group, with the assistance of BRG, has agreed to provide the Proposal Trustee with weekly reporting regarding expenses incurred directly or on behalf of Gymboree Canada. The Gymboree Group, with the assistance of BRG and in consultation with the Proposal Trustee, have also agreed that, with respect to Gymboree Canada, (a) the payment of non-ordinary course payments, (b) the payment of any amounts to its U.S. affiliates (including the allocation of shared costs), and (c) the exercise of any set-off rights against the Company by its affiliates, in each case, will only be permitted following the prior review and confirmation of the Proposal Trustee with respect to such matters.

Cash Management

41. As is further described in the Kimmins Affidavit, each of the Stores has an account where, on a daily basis, all Store-level cash sale proceeds are deposited. Such accounts are, on a daily basis, swept or transferred into a store depository account. Cash from that account, as well as credit card collections at the Stores, are transferred to a main concentration account in Canada, which are then transferred to an account domiciled in the U.S.
42. The Agency Agreement provides for the continued use of the existing cash management system for the conduct of the Sale. In light of the safeguards implemented with respect to the Post-Filing Intercompany Arrangements discussed above, the Proposal Trustee supports the continuation of the existing cash management system to facilitate a seamless liquidation.

VII. COURT-ORDERED CHARGES

43. The proposed Order sought by the Company provides for the creation of three charges over the Company's property in addition to the Agent's Charge and Security Interest referenced above.

Administration Charge

44. The proposed Order provides for a Court-ordered charge up to a maximum amount of \$750,000 in favour of the Proposal Trustee, its counsel, and counsel to Gymboree Canada on all of the present and future assets, property and undertaking of Gymboree Canada, including the Guaranteed Amount and any Merchant Sharing Amounts payable by the Agent under the Agency Agreement and any cash on hand at the day of the NOI filing, as security for their respective fees and disbursements relating to services rendered in respect of Gymboree Canada (the "**Administration Charge**"). The creation of an administration charge is typical in proceedings of this nature. The amount of the Administration Charge was estimated by the Company and its advisors in consultation with the Proposal Trustee, and the Proposal Trustee believes that it is fair and reasonable in the circumstances.

D&O Charge

45. The proposed Order provides for a Court-ordered charge up to a maximum amount of \$1,130,000 over the assets of the Company in favour of the directors and officers of the Company to secure an indemnity provided to them in respect of certain liabilities that they may incur after the NOI filing date (the "**D&O Charge**"), which may include payroll obligations, vacation pay obligations, employee source deduction obligations and sales tax obligations that may arise during these proceedings.
46. The Proposal Trustee understands from the Kimmins Affidavit that the director and officer insurance policy applicable to Gymboree Canada also provides coverage to the directors and officers of the U.S. members of the Gymboree Group. Further, all of Gymboree Canada's directors and officers are directors or officers of other members of the Gymboree Group.
47. The amount of the D&O Charge was estimated by the Company and its advisors in consultation with the Proposal Trustee. In addition, the proposed Order provides that

recourse to the D&O Charge shall only be available for liabilities not covered by any applicable insurance policy. Accordingly, the Proposal Trustee believes that the D&O Charge is fair and reasonable in the circumstances.

Intercompany Charge

48. The proposed Order provides for a Court-ordered charge in favour of the Gymboree Affiliates (as defined in the Kimmins Affidavit) to secure the obligation of Gymboree Canada to satisfy its share of the overhead, administrative and financial costs incurred by other members of the Gymboree Group on its behalf during the post-filing period and its reimbursement obligations for the post-filing period (the “**Intercompany Charge**” and together with the D&O Charge and the Administration Charge, the “**Charges**”).
49. The Proposal Trustee agrees with the Company that Gymboree Canada should bear its reasonable and proportionate share of overhead costs incurred during the post-filing period and should reimburse the other members of the Gymboree Group for such amounts. Given its financial and operational dependence on the other members of the Gymboree Group, Gymboree Canada would not be able to operate independently during the wind-down process or conduct a stand-alone liquidation sale in a cost-effective manner. In these circumstances, the Proposal Trustee believes that the granting of the Intercompany Charge limited to the post-filing period is fair and reasonable.

Priority of Charges

50. The Company proposes that the Charges, as among them, rank in the following priority:
 - a. first, the Administration Charge;
 - b. second, the D&O Charge; and
 - c. third, the Intercompany Charge.
51. The Company proposes that the priorities of the Charges and the Agent’s Charge and Security Interest, on the Agent Collateral, as among them, rank in the following priority:
 - a. first, the Agent’s Charge and Security Interest;

- b. second, the Administration Charge;
- c. third, the D&O Charge; and
- d. fourth, the Intercompany Charge.

52. The Proposal Trustee notes that the priority of the Charges in respect of the Agent Collateral sought by the Company are typical in agency agreement approval orders.

VIII. ACTIVITIES OF THE PROPOSAL TRUSTEE

53. The Proposal Trustee's activities in connection with these proceedings have included:

- a. preparing the necessary forms for the filing of the NOI in consultation with Company management and filing same;
- b. mailing of notices to the Company's creditors;
- c. reviewing the Company's unaudited financial statements and related financial information;
- d. engaging with BRG and the Company regarding budget and cash flow issues, including allocation matters;
- e. engaging with BRG and the Company regarding intercompany transaction considerations;
- f. reviewing drafts of the communications materials prepared by the Gymboree Group, including, among other materials, press releases, frequently asked questions, letters to employees, and communications with vendors and customers;
- g. reviewing materials filed in the Chapter 11 Proceedings and monitoring the dockets posted to the U.S. claims agent's website;
- h. engaging with certain of the Company's stakeholders since the filing of the NOI;
- i. reviewing and commenting on the Agency Agreement, proposed Order, and Sale Guidelines;
- j. drafting this First Report and reviewing all Court materials filed in connection with this motion;

- k. establishing the Proposal Trustee's website, email address and telephone hotline in respect of these NOI proceedings;
- l. assisting the Company with the preparation and filing of the Cash Flow Forecast; and
- m. corresponding with the Company and its Canadian and U.S. counsel and advisors regarding the foregoing.

IX. CONCLUSION

54. The Proposal Trustee submits this First Report to the Court in support of the Company's motion for the relief as set out in its Motion Record and recommends that the Court grant the relief contained in the proposed Order.

All of which is respectfully submitted at Toronto, Ontario this 22nd day of January, 2019.

**KPMG Inc., in its capacity as Proposal Trustee of
Gymboree, Inc.**

Per:



Anamika Gadia
Senior Vice President

Appendix “A”

Certificate of Filing of a Notice of Intention to Make a Proposal



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. 31-2464088
Estate No. 31-2464088

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

Gymboree, Inc.
Insolvent Person

KPMG INC.
Licensed Insolvency Trustee

Date of the Notice of Intention: January 17, 2019

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: January 17, 2019, 10:12

E-File/Dépôt Electronique

Official Receiver

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

Canada

Appendix “B”

Gymboree Group Corporate Chart

Gymboree Holding Corporation

Gymboree Intermediate Corporation

Gymboree Group, Inc.



Gymboree Retail Stores, LLC

Gymboree Australia Pty. Ltd (Australia)

Gymboree Manufacturing, Inc.

Gymboree Distribution, Inc.

Gymboree Operations, Inc.

Gymboree Island, LLC (Puerto Rico)

Gym-Mark, Inc.

Gymboree, Inc. (Canada)

Gymboree Wholesale Inc.

Gym-Card LLC

50%
Gym-IPCO, LLC

Appendix “C”

Doak Declaration

Dennis F. Dunne, Esq. (*pro hac vice* pending)
Evan R. Fleck, Esq. (*pro hac vice* pending)
Michael W. Price, Esq. (*pro hac vice* pending)
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Richmond, Virginia 23219-4071
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Proposed Co-Counsel for Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)
) Chapter 11
)
GYMBOREE GROUP, INC., *et al.*,¹)
) Case No. 19-30258 (KLP)]
)
Debtors.) (Joint Administration Requested)
)

**DECLARATION OF JAMES DOAK IN SUPPORT OF THE DEBTORS’ (I) MOTION
FOR ENTRY OF INTERIM AND FINAL ORDERS AUTHORIZING THEM TO
OBTAIN POSTPETITION FINANCING AND (II) MOTION FOR ENTRY OF ORDERS
APPROVING BIDDING PROCEDURES**

I, James Doak, make this declaration pursuant to 28 U.S.C. § 1746:

1. I am a Managing Director at Miller Buckfire & Co., LLC (“Miller Buckfire”), a financial advisory and investment banking firm which, together with its Stifel Financial Corp. affiliate, Stifel, Nicolaus & Co., Inc. (“Stifel Nicolaus” and, together with Miller Buckfire, “Stifel”), is the proposed financial advisor and investment banker to the above-captioned

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Gymboree Group, Inc. (6587); Gymboree Intermediate Corporation (1473); Gymboree Holding Corporation (0315); Gymboree Wholesale, Inc. (6588); Gym-Mark, Inc. (6459); Gymboree Operations, Inc. (6463); Gymboree Distribution, Inc. (8669); Gymboree Manufacturing, Inc. (6464); Gymboree Retail Stores, LLC (6461); Gym-Card, LLC (5720); and Gymboree Island, LLC (1215). The Debtors’ service address is 71 Stevenson Street, Suite 2200, San Francisco, California 94105.

debtors in possession (collectively, the “Debtors”). I am familiar with the day-to-day operations and corporate structure of the Debtors.

2. Since joining Miller Buckfire’s predecessor entities in 2000, I have advised both debtors and creditors in financial restructuring and distressed mergers and acquisitions, raised capital for troubled companies, and represented debtors and creditor constituencies in bankruptcy proceedings. I have also raised capital in many in-court and out-of-court financings, and have extensive experience in procuring, structuring, and negotiating debtor-in-position financing.

3. Before joining Miller Buckfire, I was a member of the financial restructuring group of Dresdner Kleinwort Wasserstein and Wasserstein Perella & Co., which I joined in 2000. Prior to joining Wasserstein Perella & Co., I was an investment banker at Goldman, Sachs & Co. I have an M.B.A (with high distinction) from Harvard Business School, where I was a Baker Scholar, a J.D. (cum laude) from Harvard Law School, and an A.B. (magna cum laude) from Harvard University.

4. I submit this declaration (this “Declaration”) in support of the Debtors’ motion for debtor-in-possession financing (the “DIP Motion”)² and motion to approve Bidding Procedures (“Bidding Procedures Motion”)³. Through the DIP Motion, the Debtors seek the authority to enter into the proposed DIP facility (“DIP Facility”), which consists of \$30 million in

² The Motion is styled as *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing them to Obtain Postpetition Financing, (II) Authorizing the Use of Cash Collateral, (III) Granting Liens and Superpriority Administrative Expense Claims, (IV) Granting Adequate Protection to the Prepetition Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief.*

³ The Motion is styled as *Debtors’ Motion for Entry of Orders (I)(A) Approving Bidding Procedures, (B) Approving J&J Stalking Horse Purchase Agreement, (C) Scheduling an Auction and Approving Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and (E) Scheduling the Sale Hearing; (II) Approving (A) the Sale(s), Free and Clear of Encumbrances and (B) Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* Capitalized terms used but not defined herein shall have the meanings set forth in the DIP Motion and Bidding Procedures Motion.

new money loans and a “roll up” of all of Debtors’ obligations under the prepetition Term Loan Credit Agreement, in an amount not less than \$89 million. In particular, I submit this Declaration as evidence supporting my opinions that the DIP Facility is (a) the product of arm’s length negotiations, (b) the best available debtor-in-possession financing option for the Debtors, and (c) in the best interests of the Debtors and their estates.

5. Through the Bidding Procedures Motion, among other relief, the Debtors seek (i) approval of their proposed Bidding Procedures (as defined below) related to the sale of the Debtors’ assets; and (ii) approval to enter into the J&J Stalking Horse Purchase Agreement (as defined below) for the Janie and Jack® business and Gymboree® intellectual property and e-commerce platforms. I believe that the Bidding Procedures are reasonable and appropriate under the circumstances in order to ensure a fair, expeditious, and competitive sale process of the Debtors’ assets. I further believe that the J&J Stalking Horse Purchase Agreement is fair and reasonable, negotiated at arm’s length, and in the best interest of the Debtors. The J&J Stalking Horse Purchase Agreement contains no bid protections and permits the Debtors to solicit additional bids.

6. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge of the Debtors’ operations and finances, my experience, my review of relevant documents, information provided to me by Stifel employees working with me or under my supervision, or information provided to me by members of the Debtors’ management or their other advisors. I am over the age of 18 and authorized to submit this declaration on behalf of the Debtors. If called upon to testify, I could and would testify competently to the facts set forth herein.

The Debtors' Capital Structure

7. The Debtors' prepetition capital structure is set forth in detail in the Declaration of Stephen Coulombe, Chief Restructuring Officer of Gymboree Group, Inc., in Support of Chapter 11 Petitions and First Day Motions (the "First Day Declaration"). The Debtors have approximately \$212 million funded indebtedness and related obligations, consisting of a prepetition secured asset-based revolving loan facility ("ABL Facility"), with approximately \$79.1 million in borrowings and \$44.5 million in outstanding letters of credit, and a prepetition secured term loan facility ("Term Loan," and together with the ABL Facility, the "Prepetition Indebtedness") with outstanding obligations in an amount not less than \$89 million. The Debtors' obligations under the ABL Facility and Term Loan are collateralized by "criss-cross" first- and second-priority liens on substantially all of the Debtors' assets: (a) the ABL Facility has a first-priority lien on all ABL Priority Collateral and a second-priority lien on all Term Loan Priority Collateral and (b) the Term Loan has a first-priority lien on all Term Loan Priority Collateral and a second-priority lien on all ABL Priority Collateral, as explained and defined in the First Day Declaration.

8. In mid-October 2018, Stifel was engaged by the Debtors to assist the Debtors in evaluating and executing on strategic alternatives with regard to the Debtors' family of brands: Gymboree®, Janie and Jack®, and Crazy 8® (collectively, the "Brands"). The Debtors revised Stifel's engagement to include services offered by Miller Buckfire when it became clear that the Debtors' financial underperformance, as a result of strong industry headwinds, would create Term Loan covenant compliance problems by December 2018, and subsequent liquidity concerns by January 2019. The Debtors expanded Stifel's mandate from leading the sale and marketing process of Debtors' Brands to incorporate leading the solicitation of proposals for debt financing and debtor-in-possession financing, and providing general restructuring advice.

Brand Marketing Process

9. In October 2018, Stifel began a comprehensive review of strategic options for the Debtors' Brands, including an extensive marketing process to explore any and all forms of investment and transactions in the Debtors and each of their Brands. Beginning mid-November 2018, Stifel contacted potential buyers and investors for Janie and Jack® and Gymboree®. Stifel selected the potential strategic buyers and investors based on their business model, historical acquisition activity and financial capabilities, amongst other factors. Stifel selected the potential financial buyers and investors based on their historical interest in retail, consumer and branding opportunities, existing and past investments and financial capabilities, amongst other factors.

10. For Janie and Jack®, Stifel contacted a total of sixty potential buyers and investors, consisting of thirty-one financial buyers and twenty-nine strategic buyers. Of the sixty initial parties, forty-five parties received introductory materials and non-disclosure agreements ("NDAs"), and thirty-three parties executed NDAs and received a Confidential Information Memorandum for Janie and Jack® containing business and brand overviews, product positioning, management team information, channel overviews, customer demographics, strategic plans, growth opportunities and historical and projected financial information.

11. For Gymboree®, Stifel contacted seventeen potential buyers and investors, including seven financial buyers and ten strategic buyers. Some of these parties overlapped with those contacted to explore the Janie & Jack® opportunity. However, the size, timing and complexity of the Gymboree opportunity served to limit the number of parties capable of participating in a transaction and appropriate to contact. In contrast, Janie & Jack® would be appealing to a larger strategic and financial investor base as a smaller, profitable and high growth

business. All seventeen potential Gymboree® investors received introductory materials, executed NDAs, and received a Confidential Information Memorandum on the Gymboree® business.

12. On December 4, 2018, the Debtors disclosed that they had performed a comprehensive review of strategic options. As part of this announcement, the Debtors announced that they planned to close all Crazy 8® stores. Following the announcement, the Debtors, with the assistance of Stifel and other advisors, continued to pursue various restructuring and strategic options.

13. After the Debtors announced their decision to close Crazy 8® stores, Stifel contacted forty potential buyers and investors for Crazy 8®'s intellectual property, including eleven financial buyers and twenty-nine strategic buyers. Of the forty initial parties, fifteen parties received introductory materials and NDAs. Fourteen parties subsequently executed the NDAs and received a Confidential Information Memorandum on the Gymboree® and Crazy 8® businesses.

14. To date, no party has submitted an indication of interest for the Gymboree® business or the Crazy 8® intellectual property. The Debtors faced several challenges in the marketing process. First, the recent poor performance of Gymboree® and Crazy 8® limited the interest of potential investors. Second, the Brands' common ownership structure and shared corporate services further hampered the marketing process because they render the development and cost of a spinout strategy for each individual Brand more complex and expensive. Finally, industrywide, investor interest is limited because the retail industry has been declining, and the fourth quarter is the most difficult time for retail transactions and investments because operations are busy during the holiday season. Further, for Crazy 8®, the non-distinct brand proposition and non-core nature of the brand have further limited interest from potential buyers.

15. For Janie and Jack®, the Debtors received a single non-binding indication of interest during this initial sale process from a private equity investment fund with \$20 billion under management (“Potential Buyer”) on December 21, 2018. To encourage the Potential Buyer to continue efforts toward an actionable, value-maximizing offer for Janie and Jack®, the Debtors entered into a work fee letter for a potential stalking horse purchase agreement. On January 13, 2019, the Potential Buyer failed to meet a critical requirement under the work fee letter to provide confirmation that its target price had not decreased, terminating the agreement. Nevertheless, the Debtors continue to be in dialogue with the Potential Buyer and believe that the Potential Buyer will participate in the post-filing marketing and bidding process for Janie and Jack® assets.

16. Ultimately, the Debtors did not find a buyer for the Janie and Jack® brand—or achieve another value-maximizing transaction—outside of the chapter 11 process. Several potential bidders have expressed interest in pursuing a transaction in bankruptcy to facilitate the purchase of certain of the Debtors’ assets. In particular, I believe the historical four-wall profitability and growth of Janie and Jack®, as well as Janie & Jack®’s historical profitability on a centralized-cost allocated basis, will attract interest in a post-filing marketing process. Additionally, the Debtors have received several indications of interest from liquidation agents with whom the Debtors could partner in chapter 11 to maximize the value of their existing inventory and related assets in the face of strong competition from other retailers.

Proposed Bidding Procedures

17. During these chapter 11 cases, the Debtors seek to minimize the time and expense in chapter 11, move these cases toward a rapid Auction of the Sale Assets (as defined in the Bidding Procedures Motion) including Janie and Jack®, and wind down the Gymboree® and Crazy 8® store locations without any delays. Based on discussions with potential buyers, the

Debtors believe that the sale of certain of the Debtors’ assets (the “Asset Sales”) through an expedient chapter 11 process will preserve the most value for their stakeholders. Accordingly, the sale and/or liquidation of all or substantially all of the Debtors’ assets is expected to be the primary outcome of this chapter 11 process.

18. By the Bidding Procedures Motion filed on the date hereof, the Debtors seek, among other things: (a) approval of proposed bidding procedures (the “Bidding Procedures”) related to the Asset Sales (b) authority to enter into a “stalking horse” agreement (the “J&J Stalking Horse Agreement”) with Special Situations Group, Inc. (“SSIG,” and together with any permitted assigns, the “J&J Stalking Horse Bidder”) for the sale of the SSIG Assets; (c) authority to enter into one or more additional “stalking horse” agreements for any subset of the Debtors’ assets other than the SSIG Assets; and (d) scheduling the Auction and a final hearing for approval of the Sale(s) (the “Sale Hearing”).

19. The below chart summarizes the expedited timeline on which the Debtors propose to conduct the Asset Sale(s) (all terms used and not defined below are ascribed the same meanings as in the Bidding Procedures Motion):

<u>Date</u>	<u>Event(s)</u>
No later than five business days after entry of the Bidding Procedures Order	Deadline for Debtors to file and serve the Potential Assumption and Assignment Notice
the date that is 14 days after filing of the Potential Assumption and Assignment Notice	Deadline to file Cure Objections
January 25, 2019	Proposal Deadline
February 11, 2019	Final Bid Deadline
February 15, 2019	Deadline for objections to the Asset Sale(s) other than Cure Objections and Adequate Assurance Objections
February 25, 2019	Auction
February 28, 2019	Deadline to file Adequate Assurance Objections

March 2, 2019	Deadline to file the replies in connection with the applicable Asset Sale(s)
March 4, 2019	Proposed hearing to approve the Asset Sale(s)

20. The proposed Bidding Procedures are designed to provide a method by which the Debtors will be able to maximize the value of their assets. With the assistance of their advisors, the Debtors' have structured the Bidding Procedures to encourage competitive bidding, while giving the Debtors the opportunity to review and analyze all competitive bids only from Qualified Bidders (as defined in the Bidding Procedures), who will have been vetted prior to the Auction. The Bidding Procedures were designed to yield the highest or otherwise best value for the Debtors' assets, which will inure to the benefit of all parties in interest in these cases.

21. The Bidding Procedures are intended to ensure a fair, expeditious, and competitive sale process, and the Debtors believe that the Bidding Procedures proposed in the Bidding Procedures Motion are reasonable and appropriate under the circumstances.

22. The J&J Stalking Horse Agreement provides for a "credit bid" under section 363(k) of the Bankruptcy Code for all of the SSIG Assets (subject to the J&J Stalking Horse Bidder's option to elect, at any time prior to the conclusion of the Auction, to purchase solely the intellectual property used in the Janie and Jack® business and to direct the Debtors to dispose of the other SSIG Assets currently subject to the J&J Stalking Horse Agreement in a "going out of business" sale on the terms set forth in the Store Closing Motion).

23. The Debtors have the right, with the consent of the J&J Stalking Horse Bidder, to replace the J&J Stalking Horse Bidder with another Qualified Bidder (as defined in the Bidding Procedures) that agrees to serve as the stalking horse bidder with respect to some or all of the SSIG Assets (the "Replacement J&J Stalking Horse Bid"). In addition to the Replacement J&J Stalking Horse Bid, the Debtors may accept one or more other Stalking Horse Bid(s) for any of

their assets and execute one or more Stalking Horse Agreement(s), which may include bid protections (as may the Stalking Horse Agreement with the replacement J&J Stalking Horse Bidder). In such eventuality, the Debtors will file a motion (each, a “Stalking Horse Motion”) seeking approval, on an expedited basis, of each such Stalking Horse Agreement.

The DIP Marketing Process

24. In order to bridge the Debtors and their estates to an Asset Sale and going out-of-business sales of the Debtors’ inventory (the “GOB Sales”), as well as fund the costs associated with an orderly bankruptcy case, Stifel advised the Debtors to begin the process to obtain the best debtor-in-possession financing available.

25. It is imperative that the Debtors make a seamless transition into chapter 11 to minimize disruptions from the supply chain and landlords, ensure continuous service from employees, and otherwise preserve the value of their estates. Sales and operations must continue in the ordinary course of business to maximize the proceeds from the Asset Sale and the GOB Sales. The proposed DIP Facility provides the necessary liquidity to support these needs.

26. In my role as the Debtors’ investment banker, I was actively involved in the solicitation and review of the proposals to procure DIP financing, as well as in the negotiation process, which I led on behalf of the Debtors. Based on my experience and involvement in the marketing and negotiation of the various DIP financing options available to the Debtors, including engaging in good faith and arm’s length negotiations with the potential lenders, I believe that the DIP Motion should be approved. I believe the proposed DIP Facility is fair, reasonable, in the best interests of the Debtors’ estates, and will provide the Debtors with the financing required for these chapter 11 cases on the best terms available in the market.

27. On December 11, 2018, Stifel began the DIP financing search on behalf of the Debtors to (a) provide the liquidity runway necessary to facilitate the Debtors’ pursuit of the

Asset Sale and GOB Sales, and (b) fund an orderly chapter 11 case. Stifel has contacted forty potential investors, including two existing lenders, twelve existing shareholders and twenty-six third party institutions (“Third Party Lenders”) experienced in distressed lending and DIP financings. Stifel assembled the list of Third Party Lenders based on a list of likely DIP financing providers contacted in previous transactions, their awareness of the parties actively involved in lending in the restructuring and retail spaces, and input from the Debtors’ other professionals.

28. Thirty-seven parties received introductory materials and NDAs. Thirty-one parties executed NDAs. Twenty-nine parties received a confidential request for proposal (“RFP”), information materials, and access to a due diligence data site.

29. The RFP anticipated that the DIP financing would refinance both of the Debtor’s prepetition lenders. However, the RFP made clear that the Debtors would accept alternative proposals and structures. One non-binding term sheet was received from a group of two existing shareholders, one existing lender and one third party. Subsequently, this group has declined to continue discussions.

30. Several issues have led to the withdrawal of potential lenders, including (a) parties were unwilling or unable to provide the full DIP financing requirement in the RFP; (b) the required borrowings would exceed traditional collateral and borrowing base metrics for senior lenders; (c) lack of conviction on the valuation of the Company’s Janie and Jack® brand; (d) aversion to retail; (e) general lack of conviction on a credit which many had analyzed in the prior restructuring processes; (f) complexity of the situation; (g) timing of the process; (h) aversion to priming existing secured lenders; and (i) other factors.

31. Within the last week, the Debtors have requested and received two financing proposals from their existing lenders. After receiving these proposals, the Debtors and

their advisors engaged in intense parallel-track negotiations with its existing lenders to obtain the best financing terms each was willing to offer. These negotiations were arm's length at all times and may be characterized as hard bargaining by all interested parties. The Debtors, together with their advisors, scrutinized in detail each submitted bid, and worked diligently to analyze the details of the competitive proposals, and the strengths and weaknesses of each.

32. On January 9, 2018, following several discussions between the Debtors' advisors, on the one hand, and the advisors to the Prepetition Term Lenders, on the other, the Debtors received a term sheet (the "Initial GS Offer") from the Prepetition Term Lenders. The Initial GS Offer provided for a seven-month facility of \$20 million of new money loans and a roll-up of the Prepetition Term Lenders' aggregate claim.

33. After receiving the Initial GS Offer, the Debtors and their advisors engaged in numerous discussions with the Prepetition Term Lenders and their counsel regarding the feasibility of the Initial GS Offer. Of primary concern to the Debtors was the limited funds provided by the Initial GS Offer. Following multiple rounds of discussions, the Debtors concluded, with the advice of Stifel, Stephen Coulombe, the Debtors' Chief Restructuring Officer, and other advisors, that the Initial GS Offer did not provide sufficient liquidity to afford the Debtors sufficient runway to effectuate the Asset Sale and GOB Sales.

34. On January 10, 2019, the Debtors responded to the Initial GS Offer (the "Counteroffer") requesting \$35 million in new money loans and a nine-month maturity. The Debtors arrived at these requests after extensive review of the needs of the chapter 11 cases and the liquidity required to run the value-maximizing transactions described herein.

35. The Counteroffer was initially met with limited acceptance from the Prepetition Term Lenders. The Lenders were unwilling to increase the size of the DIP Facility and

suggested that the increase in commitment proposed by the Debtors in the Counteroffer was an insurmountable obstacle to funding the chapter 11 cases. Nonetheless, knowing that \$35 million facility was already restrictive, the Debtors suggested the Prepetition Term Lenders work out an alternative solution to the fill the liquidity gap.

36. The Prepetition Term Lenders then reached out to the Prepetition ABL Lenders, who were initially hesitant to provide any DIP financing. As a result, the Prepetition Term Lenders refocused their efforts on determining whether a larger new money contribution was feasible. To conduct an analysis of the Debtors' financial health and prospects, the Prepetition Term Lenders hired Alix Partners to conduct due diligence.

37. The Debtors and their advisors, meanwhile, re-engaged in discussions with the Prepetition ABL Lenders. Following numerous conversations and negotiation sessions, the Prepetition ABL Lenders offered to provide a source of liquidity in the form of \$10 million of non-cash collateralized letters of credit. This would have allowed the Debtors to continue to receive certain goods and services that the Debtors require, without the need for collateralizing the letters of credit used to support the agreements that underlie the contracts pursuant to which these critical goods and services are provided. Ultimately, the Prepetition ABL Lenders did not participate in the DIP Facility because they could not agree on terms with the Debtors.

38. Following discussions, the final proposed DIP Financing negotiated provides for a DIP term loan credit facility consisting of \$30 million in new money term loans on substantially similar terms to those under the Term Loan (the "New Money DIP Loans") and of a "roll up" of all of Debtors' obligations under the prepetition Term Loan Credit Agreement, in an amount not less than \$89 million. On the Closing Date, as defined in the DIP Motion, the Term Loan Lenders will roll-up their respective Prepetition Term Loan on a dollar-for-dollar basis for

New Money DIP Loans funded on the Closing Date. Upon entry of, and subject to, the Final Order, the remaining Term Loans (together with any interest, fees, and other amounts due and payable thereunder, including, without limitation, the yield maintenance premium and any prepayment premium thereunder) will be rolled up under the DIP Facility.

39. Loans under the DIP Facility will be divided in two tranches: Tranche A will bear interest at LIBOR plus 8.25%, with a 2.0% LIBOR floor, and Tranche B will bear interest at LIBOR plus 11.25%, with a 2.0% LIBOR floor. Based on my experience, I believe these economics are fair and reasonable given the Debtors' current circumstances and the comprehensive marketing process undertaken. The proceeds of the DIP Facility will be used to fund the chapter 11 cases and the ongoing cash needs of the Debtors in accordance with the Approved Budget (attached as Exhibit C to the DIP Motion). I believe the DIP Facility will allow the Debtors sufficient runway to achieve the Asset Sale and the GOB Sales.

40. The DIP Facility will be secured by substantially all assets of the Debtors, which is substantially similar to the collateral securing the Prepetition Indebtedness, which additionally includes a share pledge over Gymboree Intermediate Corporation's equity granted by Gymboree Holding Corporation. The lenders to the DIP Facility ("DIP Lenders") required these terms in order to extend the DIP Facility, and without such collateral, the Debtors would be forced to summarily and haphazardly liquidate.

41. The DIP Facility contains customary covenants for a DIP financing, including, but not limited to, limitations on: indebtedness, liens, dispositions, affiliate transactions, restricted payments and specific covenants related to the chapter 11 cases. In addition, the DIP Facility contains customary affirmative covenants for a DIP financing, including, but not limited

to: reporting requirements, information sharing, compliance with laws and specific update requirements related to the chapter 11 cases and the Budget.

42. The DIP Lenders will also have consent rights over certain documentation related to the chapter 11 cases, including, but not limited to, the J&J Stalking Horse Agreement, Agency Agreement and certain other order and motions to be filed with the Bankruptcy Court.

The DIP Facility Should Be Approved

43. Stifel made a number of formal presentations to the Debtors' Board of Directors that analyzed the details of the competitive proposals, answered numerous questions posed by the members of the Board of Directors, and made various observations and recommendations concerning the strengths and weaknesses of each proposal. Based upon the proposals presented, the Debtors, with the assistance of their advisors, concluded that the DIP Lenders' proposal offered the most favorable terms. In particular, as related to the size of the facility, the DIP Lenders' proposal offered the only terms within which the Debtors could realistically achieve their reorganization objectives.

44. I believe that the DIP Facility to be provided by the DIP Lenders is the Debtors' best available financing option for a variety of reasons. Based on my experience in general and my specific involvement in the marketing and negotiation of the DIP Facility in this matter, I believe that the process was full and fair, was comprehensive, and produced the best available financing option under the circumstances. The negotiations with the lenders were conducted at arm's length and were productive, as the Debtors were able to improve upon the initial proposal.

45. I also believe that the DIP Facility is fairly priced, superior to the offers made through the other proposals and a better fit for the Debtors at this time. The terms governing

the Debtors' use of the DIP Facility are consistent with the terms generally provided in other similar chapter 11 cases.

46. In my view, it was an achievement to obtain a facility that satisfied the liquidity needs of the Debtors to provide the runway necessary for the Debtors to pursue the Asset Sale and GOB Sales. To pursue these strategies in an orderly manner (to maximize value) hinges directly on the Debtors' ability to (a) pay rent and employees to run the GOB Sales, and (b) continue to pay vendors to maintain the brand value of Janie and Jack®. The DIP Facility will, among other things, reduce the Debtors' exposure to trade contraction and send a strong signal to employees, customers, and other parties that the Debtors have sufficient liquidity to successfully implement their restructuring proposals. Accordingly, if approved, the DIP Facility will preserve the value of the Debtors' businesses and, as such, is in the best interest of the Debtors' estates.

47. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: January 17, 2019
Richmond, Virginia

/s/ James Doak
James Doak

Appendix “D”

Cash Flow Forecast (with explanatory notes)

Gymboree Canada
Cash Flow Forecast Summary
(CAD \$ in 000's)

For the week ending		01/19	01/26	02/02	02/09	02/16	Forecast
		Notes	Fcst	Fcst	Fcst	Fcst	
Collections							
Stores and E-Commerce	1	36	58	58	-	-	152
Inventory Liquidation Proceeds	2	3,783	(16)	(13)	-	-	3,753
FF&E Proceeds	3	28	-	-	-	-	28
Agent Expense Funding	4	1,214	146	3	347	3	1,713
Total Collections		5,061	188	48	347	3	5,647
Direct Expenses							
Store Payroll and Benefits	5	-	(502)	-	(344)	-	(847)
Store Rent	6	-	-	(439)	-	(439)	(878)
Other Store Occupancy Costs	7	-	(32)	(14)	(8)	(8)	(62)
Sales Taxes	8	-	(286)	-	-	-	(286)
Canadian Professional Fees	9	(102)	(102)	(102)	(102)	(102)	(511)
Total Direct Expenses		(102)	(922)	(555)	(455)	(550)	(2,584)
Allocated Expenses							
Corporate Payroll	10	(57)	(120)	(21)	(79)	(65)	(342)
Corporate Employee FTO	11	(74)	-	-	-	(19)	(93)
Corporate Rent	12	-	-	(37)	-	-	(37)
Utility Deposits	13	(25)	-	-	-	-	(25)
Corporate Expenses	14	(42)	(133)	(93)	(60)	(54)	(381)
U.S. Professional Fees	15	(102)	(57)	(54)	(37)	(31)	(281)
Cash Collateral for LCs	16	(2,029)	-	-	-	-	(2,029)
DIP Fees & Interest	17	(42)	-	-	-	-	(42)
Total Allocated Expenses		(2,371)	(309)	(205)	(176)	(169)	(3,230)
Total Expenses		(2,473)	(1,232)	(760)	(631)	(719)	(5,815)
Expense Treatment							
Direct Expenses Paid by Gymboree Canada		(102)	(922)	(555)	(455)	(550)	(2,584)
Paid to US for Allocated Expenses	18	(2,371)	(309)	-	-	-	(2,680)
Subtotal: Expenses Paid by Gymboree Canada		(2,473)	(1,232)	(555)	(455)	(550)	(5,264)
US Credit Provided (Paid Down)	18	-	-	205	176	169	550
Beginning Cash Balance		475	3,063	2,019	1,512	1,404	475
Net Cash Flow		2,588	(1,044)	(507)	(108)	(547)	383
Ending Cash Balance		3,063	2,019	1,512	1,404	857	857

Gymboree Canada

Notes to the Cash Flow Forecast

The Cash Flow Forecast covers the period from January 13, 2019 to February 16, 2019 (the “**Cash Flow Period**”). The notes to the Cash Flow Forecast should be read in conjunction with paragraphs 32 to 38 of the report of KPMG Inc., in its capacity as proposal trustee of Gymboree, Inc., dated January 22, 2019 (the “**First Report**”). Defined terms not otherwise defined herein have the meaning ascribed to them in the First Report.

The Cash Flow Forecast is presented in thousands of Canadian dollars. U.S. dollar amounts have been converted using the Bank of Canada exchange rate on January 17, 2019 of \$1.3294.

1. ‘Stores and E-Commerce’ represents an estimate of credit card and website collections relating to the period prior to the Sale Commencement Date.
2. ‘Inventory Liquidation Proceeds’ represents the Initial Canadian Guaranty Payment pursuant to the Agency Agreement towards the Guaranteed Amount attributable to Canadian Merchandise, net of an estimate for Gift Certificate redemptions at the Stores during the Sale. The proceeds to be received by Gymboree Canada during the Cash Flow Period are 80% of the estimated Guaranteed Amount attributable to the Canadian Merchandise, with the Guaranteed Amount being calculated using a Merchandise Guarantee Percentage of 89% of the cost value of inventory included in the Sale. For purposes of calculating the Initial Canadian Guaranty Payment, the aggregate cost value of the inventory in the Stores has been assumed to be USD\$4,000,000 (CAD\$5,317,600).
3. ‘FF&E Proceeds’ represents an allocation to Gymboree Canada of 4.5% of the USD\$1,000,000 guaranteed amount payable by the Agent pursuant to the Agency Agreement in respect of the Gymboree Group’s owned furniture, fixtures, and equipment (“**FF&E**”) located in its retail stores.
4. Pursuant to the Agency Agreement, the Agent is responsible for certain expenses incurred during the Sale period including, (i) payroll and benefits for Store employees; (ii) rent and occupancy expenses for the Stores; and (iii) central administrative services expenses. ‘Agent Expense Funding’ during the Cash Flow Period includes the following:
 - a. Reimbursement for all payroll and benefits for Store employees incurred during Cash Flow Period, except for any payroll and benefits related to the period prior to the Sale Commencement Date;
 - b. Reimbursement for six weeks of Store occupancy expenses, calculated to be USD\$912,000 (CAD\$1,212,413). The reimbursement covers the rent for the period from the Sale Commencement Date and accordingly, Gymboree Canada will be receiving partial reimbursement for January rent that was paid prior to the Cash Flow Period; and
 - c. Reimbursement equivalent to 4.5% of the central services reimbursement.
5. This represents the payroll and benefits for Store employees, including accrued payroll and benefits relating to the period prior to the Sale Commencement Date, which is not covered by the Agent.
6. This represents the rent payable in respect of the 49 Stores. Rent is reflected as being paid on the 1st and the 15th of each month during the Cash Flow Period. Pursuant to the Agency Agreement, the majority of the occupancy expenses incurred during the Cash Flow Period are being reimbursed by the Agent via an upfront payment of USD\$912,000 (CAD \$1,212,413).

7. 'Other Store Occupancy Costs' represents an estimate of utility costs that are not reimbursable by the Agent pursuant to the Agency Agreement.
8. 'Sales Taxes' relates to sales tax that has been collected by Gymboree Canada prior to the Sale Commencement Date but that has not been remitted to Canada Revenue Agency and becomes due during the Cash Flow Period.
9. This represents the estimated professional fees of the Proposal Trustee, the Proposal Trustee's counsel and counsel to Gymboree Canada.
10. 'Corporate Payroll' represents an allocation of 4.5% of payroll and benefits related to Gymboree Group's corporate and administrative functions.
11. This represents an allocation of 4.5% of the accrued vacation and flexible time off pay owed to corporate employees of the Gymboree Group that are expected to be terminated during the Cash Flow Period.
12. 'Corporate Rent' represents an allocation of 4.5% of the rent associated with the Gymboree Group's corporate offices.
13. This represents an estimate of the utility deposits that may be required at certain Store locations as well as an estimate of Gymboree Canada's allocation of any utility deposit required at the Gymboree Group's corporate offices.
14. This represents an allocation of 4.5% of various expenses incurred by the U.S. members of the Gymboree Group in relation to providing corporate and administrative functions.
15. This represents an allocation of a portion of the professional fees of Gymboree Group's financial and legal advisors, BRG and Milbank, Tweed, Hadley & McCloy LLP, which is meant to cover the work performed by those professionals in respect of Gymboree Canada.
16. Gymboree Group is required to cash collateralize certain letters of credit posted in favour of customs brokers and distribution agents pursuant to its lending arrangement in the U.S. Gymboree Canada will cover 4.5% of the associated cash collateral requirement.
17. This represents an allocation of 4.5% of the fees and interest related to the initial draw under the debtor-in-possession financing that was obtained by the Gymboree Group in the Chapter 11 Proceedings to fund the wind-down of its business.
18. Subject to available liquidity and maintaining an appropriate cash reserve in Canada, it is contemplated that Gymboree Canada will reimburse the U.S. members of the Gymboree Group for direct and shared costs incurred by the U.S. members of the Gymboree Group on behalf of Gymboree Canada. If there is not sufficient cash available in Canada, the U.S. members of the Gymboree Group will extend credit to Gymboree Canada for these costs which will be covered by the Intercompany Charge, as is described further in the First Report.