Court File No. CV-21-00656398-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	MONDAY, THE 11TH DAY
	)	
JUSTICE CAVANAGH	)	OF DECEMBER, 2023

IN THE MATTER OF SECTION 243(1) OF *THE BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF *THE COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

B E T W E E N:

COSA NOVA FASHIONS LTD., B & M HANDELMAN, INVESTMENTS LIMITED, COMFORT CAPITAL INC., 693651 ONTARIO LTD., E. MANSON INVESTMENTS LIMITED, NATME HOLDINGS LTD., FRANCIE STORM, BARSKY INVESTMENTS LTD., STEPHEN HANDELMAN, ROSEWILL INVESTMENT CORPORATION, THOMAS BOCK, THE BANK OF NOVA SCOTIA TRUST COMPANY AND CANADA INVESTMENT CORPORATION

Applicants

- and –

THE MIDAS INVESTMENT CORPORATION

Respondent

ORDER
(Re: Distribution of Funds in Hands of Receiver)

THIS MOTION, by John Kavanagh ("**Kavanagh**"), shareholder of The Midas Investment Corporation ("**Midas**" or the "**Company**"), for an order authorizing and directing Rosen Goldberg Inc. in its capacity as court-appointed receiver (the "**Receiver**") of the Company to distribute all Surplus Funds (as defined below) and other funds held by the Receiver to Kavanagh, and this **CROSS-MOTION** by Thomas Farrell ("**Farrell**") authorizing

and requiring the Receiver to pay all Surplus Funds to Farrell, was heard this day via Zoom videoconference at Toronto, Ontario.

ON READING the affidavits of John Kavanagh sworn October 13, 2023 and November 22, 2023, the affidavits of Thomas Farrell, sworn November 13, 2023 and December 2, 2023, and the Ninth Report and Tenth Report of the Receiver, dated July 20, 2023 and November 30, 2023, respectively, and upon being advised by counsel for Kavanagh and Farrell that the Motion and the Cross-Motion have been resolved on consent on the following terms:

1. **THIS COURT ORDERS AND DIRECTS** that the Receiver shall immediately distribute the "Cash on Hand" (the "**Surplus Funds**") as stated in the Receiver's Statement of Receipts and Disbursements dated November 22, 2023 (attached as Appendix B to the Tenth Report), subject to the Receiver's tax reserve in the amount of $950,000 (the "**Tax Reserve**") and withholding tax, if any, as follows:

   (a) the sum of $200,000 shall be paid to Miller Thomson LLP, in trust, on behalf of John Kavanagh; and

   (b) the remainder of $88,382 shall be paid to Gowling WLG (Canada) LLP, in trust, on behalf of Thomas Farrell.

2. **THIS COURT FURTHER ORDERS AND DIRECTS** that, upon the earlier of January 9, 2025 or upon receiving confirmation from Canada Revenue Agency that no further amounts are owing, the Receiver shall distribute all amounts remaining from the Tax Reserve, subject to any taxes that may be payable by Midas and subject to withholding tax, if any, as follows:

   (a) the first $125,000 shall be payable to Miller Thomson LLP, in trust, on behalf of John Kavanagh; and

   (b) the remainder from the Tax Reserve shall be paid to Gowling WLG (Canada) LLP, in trust, on behalf of Thomas Farrell.

3. **THIS COURT FURTHER ORDERS AND DIRECTS** that the Receiver shall distribute all further recoveries, interest and all other amounts received by the Receiver on an equal basis (50%/50%) to John Kavanagh and Thomas Farrell, subject to a reasonable reserve in the amount of $100,000 for the continuing costs of the administration of the receivership and subject to withholding tax, if any.

4. **THIS COURT ORDERS** that the Parties shall bear their own legal costs in respect to the Motion and the Cross-Motion.



Digitally signed by Mr. Justice Cavanagh

COSA NOVA FASHIONS LTD., et al.
Applicants

and

THE MIDAS INVESTMENT CORPORATION
Respondent

Court File No.: CV-21-00656999-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER RE DISTRIBUTION OF SURPLUS FUNDS
(DATED DECEMBER 11, 2023)

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