

**Court File Nos. 31 – 2436097 / 31 – 2436108 / 31 – 2436109**

**FLUID BRANDS INC.  
11041037 CANADA INC. (BOMBAY)  
11041045 CANADA INC. (BOWRING)**

**SUPPLEMENTARY SECOND REPORT OF RICHTER ADVISORY GROUP INC.  
IN ITS CAPACITY AS TRUSTEE UNDER THE  
NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
FLUID BRANDS INC., 11041037 CANADA INC. (BOMBAY) AND  
11041045 CANADA INC. (BOWRING)**

**DECEMBER 17, 2018**

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

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
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**I. INTRODUCTION**

1. This report (the **“Supplementary Second Report”**) is filed by Richter Advisory Group Inc. (**“Richter”**) in its capacity as proposal trustee (the **“Proposal Trustee”**) in connection with the Notices of Intention to Make a Proposal (**“NOIs”**) filed by each of Fluid Brands Inc. (**“Fluid”**), 11041037 Canada Inc. (**“Bombay”**) and 11041045 Canada Inc. (**“Bowring”**), and together with Fluid and Bombay, the **“Fluid Entities”**).
2. On October 25, 2018 (the **“Filing Date”**), the Fluid Entities each filed a NOI pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.-3, as amended (the **“BIA”**) and Richter was appointed as Proposal Trustee under each NOI (the **“NOI Proceedings”**).
3. On November 2, 2018, the Ontario Superior Court of Justice (Commercial List) (the **“Court”**) issued an order (the **“Administration Order”**) which, among other things:
  - (i) approved the administrative consolidation of the NOI Proceedings;
  - (ii) approved the key employee incentive payments (the **“KEIP”**);
  - (iii) authorized and empowered the Fluid Entities to obtain and borrow interim financing, including the terms of the debtor-in-possession (**“DIP”**) facility;
  - (iv) approved certain charges sought by the Fluid Entities; and

- (v) granted an extension of the time within which the Fluid Entities are required to file a proposal (the “**Proposal Period**”) to December 20, 2018.
4. On November 2, 2018, the Court also issued an order (the “**Liquidation Process Order**”) which, among other things:
    - (i) approved the consulting agreement (the “**Consulting Agreement**”) between the Fluid Entities and Merchant Retail Solutions, ULC and Gordon Brothers Canada, ULC, an affiliate of Gordon Brothers Retail Partners, LLC (collectively, the “**Consultant**”), pursuant to which the Consultant is to assist with the liquidation of all owned inventory, and owned furniture, fixtures and equipment (“**FF&E**”) at the Bombay / Bowring retail locations and warehouse (the “**Liquidation Sale**”) in accordance with the sale guidelines (the “**Sale Guidelines**”) appended to the Liquidation Process Order; and
    - (ii) authorized and directed the Fluid Entities, with the assistance of the Consultant, to conduct the Liquidation Sale and to take all actions necessary to implement the Consulting Agreement and the transactions contemplated therein.
  5. The Proposal Trustee filed its first report dated November 1, 2018 (the “**First Report**”) with the Court in support of the Administration Order and the Liquidation Process Order.
  6. The Proposal Trustee filed its second report dated December 12, 2018 (the “**Second Report**”) in connection with the Fluid Entities’ motion returnable December 18, 2018 seeking an order, *inter alia*, approving the extension of the Proposal Period to January 31, 2019, and, if necessary, authorizing, *nunc pro tunc*, the December 5, 2018 sale by the Fluid Entities of the furniture, fixtures and equipment (“**FF&E**”) located at 23 of the Bombay / Bowring retail locations as well as the Fluid Entities’ head office and distribution centre (retail activities also take place at these locations), to 2668602 Ontario Inc. (“**266**”).
  7. The purpose of this Supplementary Second Report is to provide the Court with an update on certain developments in respect of the Fluid Entities’ NOI Proceedings subsequent to the issuance of the Second Report.

## II. TERMS OF REFERENCE

8. Unless otherwise noted, all monetary amounts contained in this Supplementary Second Report are expressed in Canadian dollars.
9. In preparing this Supplementary Second Report, the Proposal Trustee has relied upon certain unaudited, draft, and / or internal financial information prepared by representatives of the Fluid Entities, the Fluid Entities’ books and records, and discussions with representatives of the Fluid Entities and the Fluid Entities’ legal counsel (collectively, the “**Information**”).

10. Except as otherwise described in this Supplementary Second Report, the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards (“GAAS”) pursuant to the Chartered Professional Accountant of Canada Handbook (the “CPA Handbook”) and, as such, the Proposal Trustee expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
11. Future oriented financial information relied upon in this Supplementary Second Report is based on the Fluid Entities’ representatives’ assumptions regarding future events; actual results achieved may vary from the information presented even if the hypothetical assumptions occur and these variations may be material. Accordingly, the Proposal Trustee expresses no assurance as to whether projections will be achieved.

### III. THE FLUID ENTITIES’ CREDITORS

12. As noted in the First Report, as at the Filing Date, the Fluid Entities’ primary secured creditor was the Canadian Imperial Bank of Commerce (“CIBC”) which was owed approximately \$23.5 million pursuant to a credit agreement dated January 19, 2015 (as amended, supplemented, restated or replaced from time to time) between CIBC (as agent for the lender) and Fluid (as borrower) and Bombay / Bowring (as guarantors) (the “Credit Agreement”).
13. In addition to CIBC, the Proposal Trustee understands that two (2) corporations related to the Fluid Entities, Isaac Bennett Sales Agencies, Inc. (“IBSA”) and F.B.I. Inc. (“FBI”), are secured creditors of the Fluid Entities which collectively, are owed approximately \$24.3 million (IBSA approximately \$14.7 million and FBI approximately \$9.6 million). Pursuant to various inter-creditor agreements between CIBC, IBSA and FBI, all amounts advanced by IBSA and FBI are subordinate to the amounts owed by the Fluid Entities to CIBC.

### IV. THE LIQUIDATION SALE

14. As noted in the Second Report, the Liquidation Sale is to be completed no later than December 31, 2018. Towards this end, as at the date of the Second Report, the Fluid Entities had disclaimed 86 retail store leases effective December 31, 2018.
15. As also noted in the Second Report, the Fluid Entities delayed the disclaimer of its remaining 18 (6 Bombay / 12 Bowring) retail locations (the “Remaining Leases”) at the request of IBSA, which the Trustee understood may have an interest in acquiring the Bombay / Bowring businesses at these specific locations. As the Fluid Entities would incur additional costs associated with the Remaining Leases, on November 30, 2018, IBSA provided the Proposal Trustee with \$250,000 to cover the incremental lease / occupancy costs associated with delaying the disclaimer of the Remaining Leases for no longer than a two-week period (the “Lease Option Period”).

16. Prior to the expiration of the Lease Option Period, IBSA provided the Proposal Trustee with an amended list of 15 (12 Bowring and 3 Bombay) retail locations for which IBSA wished to further delay the issuance of disclaimer notices. IBSA also provided the Proposal Trustee with a further \$95,000 to cover the incremental lease / occupancy costs associated with delaying the disclaimer of the leases for the 15 locations specified by IBSA for no longer than a further one-week period.
17. The Proposal Trustee understands the Fluid Entities have issued disclaimer notices for the 3 Bombay retail store leases no longer being considered by IBSA as well as the lease for the distribution centre effective January 15, 2019.

## **V. FUNDING OF THE FLUID ENTITIES' NOI PROCEEDINGS**

18. As also noted in the First Report, due to the Fluid Entities' historical and continuing losses, the Fluid Entities' required interim financing ("**DIP Financing**") to complete the Liquidation Sale and implement their restructuring initiatives. The Administration Order authorized the Fluid Entities to obtain and borrow DIP Financing and approved the terms of a forbearance agreement (the "**DIP Forbearance Agreement**"), pursuant to which CIBC agreed to (i) forbear, subject to certain terms and conditions, from taking steps to proceed with enforcement of its security held in support of its loans to the Fluid Entities, (ii) continue to permit the Fluid Entities access to its existing credit facilities in accordance with the existing Credit Agreement, and (iii) provide the Fluid Entities with revolving post-petition DIP Financing up to the maximum amount of the facility.
19. The DIP Financing provided by CIBC ensured that the Fluid Entities had the necessary liquidity to complete the Liquidation Sale and further consider their restructuring plan.

## **VI. ACQUISITION OF THE CIBC DEBT AND SECURITY**

20. On December 13, 2018, the Proposal Trustee was informed that 2668602 Ontario Inc. ("**266**") had acquired and taken assignment of all indebtedness owing to CIBC by the Fluid Entities together with the Credit Agreement and all security related thereto (the "**CIBC Debt and Security**").
21. After becoming aware of the of the assignment of the CIBC Debt and Security to 266, IBSA advised the Fluid Entities, pursuant to the provisions of a Subordination and Postponement Agreement dated January 19, 2015 entered into between CIBC and IBSA (the "**Subordination Agreement**"), that it was exercising its right to require CIBC (and by extension 266) to sell, transfer and assign the CIBC Debt and Security to IBSA. A copy of the Subordination Agreement is attached as Exhibit "C" to the Supplementary Affidavit of Fred Benitah sworn December 16, 2018 in connection with the Fluid Entities' motion returnable December 18, 2018.
22. Following 266's acquisition of the CIBC Debt and Security, the DIP Financing provided by CIBC for the Fluid Entities to complete the Liquidation Sale is no longer available.

23. The Fluid Entities' revised cash flow forecast for the period from December 9, 2018 to February 2, 2019, a copy of which was appended to the Second Report in support of the Fluid Entities' request for an extension of the Proposal Period to January 31, 2019 (the "Extension"), was prepared based on the assumption that any necessary funding to support the Fluid Entities' request for an extension of the Proposal Period would be provided by the CIBC DIP Financing.
24. Considering 266's acquisition of the CIBC Debt and Security, the Fluid Entities, in consultation with the Proposal Trustee, prepared a revised forecast of the Fluid Entities' consolidated receipts and disbursements for the period December 9, 2018 to February 2, 2019 (the "Revised Cash Flow Forecast"), excluding the CIBC DIP Financing, which is detailed below:

<b>Fluid Brands Inc., 11041037 Canada Inc. (Bombay), 11041045 Canada Inc. (Bowring)</b>									
<b>Consolidated Cash Flow Forecast for Period from December 9, 2018 - February 2, 2019</b>									
<b>(\$'000's)</b>									
	<b>Dec 15</b>	<b>Dec 22</b>	<b>Dec 29</b>	<b>Jan 05</b>	<b>Jan 12</b>	<b>Jan 19</b>	<b>Jan 26</b>	<b>Feb 02</b>	<b>Total</b>
<b>Receipts</b>									
Retail sales <sup>1</sup>	\$ 7,883	\$ 6,050	\$ 5,415	\$ 1,568	\$ -	\$ -	\$ -	\$ -	\$ 20,916
Fixture proceeds	-	100	100	-	-	-	-	-	200
IBSA proceeds (Rent 18 stores)	-	-	-	250	-	95	-	-	345
	<b>7,883</b>	<b>6,150</b>	<b>5,515</b>	<b>1,818</b>	<b>-</b>	<b>95</b>	<b>-</b>	<b>-</b>	<b>21,461</b>
<b>Disbursements</b>									
Payroll	525	463	663	917	249	10	10	10	2,848
Rent	-	-	-	371	-	95	-	-	466
Liquidation fees & expenses	-	1,278	505	506	179	19	-	-	2,488
General expenses and other	212	152	202	152	52	36	35	33	874
Merchant credit card fees	-	-	-	420	-	-	-	-	420
GST/HST paid into escrow	-	1,600	2,339	-	-	-	-	-	3,939
Interest	23	-	-	14	-	-	-	5	42
KERP	-	-	-	240	-	-	40	-	280
	<b>760</b>	<b>3,493</b>	<b>3,710</b>	<b>2,621</b>	<b>480</b>	<b>160</b>	<b>85</b>	<b>48</b>	<b>11,356</b>
<b>Other disbursements</b>									
Restructuring Professional Fees	129	1,124	62	40	34	28	28	26	1,471
<b>Net Cash Flow</b>	<b>\$ 6,995</b>	<b>\$ 1,532</b>	<b>\$ 1,744</b>	<b>\$ (843)</b>	<b>\$ (514)</b>	<b>\$ (93)</b>	<b>\$ (113)</b>	<b>\$ (74)</b>	<b>\$ 8,634</b>
<b>CIBC Revolver</b>									
Opening Revolver	\$ 10,356	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,356
Net Cash Flow (Dec 9 - 13)	(6,488)	-	-	-	-	-	-	-	(6,488)
Payment from 2668602 Ontario Inc.	(3,868)	-	-	-	-	-	-	-	(3,868)
<b>Ending Revolver</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>2668602 Ontario Inc. Loan</b>									
Opening Loan	\$ -	\$ 3,868	\$ 3,868	\$ 3,868	\$ 3,868	\$ 3,868	\$ 3,868	\$ 3,868	\$ -
Assignment of CIBC debt	3,868	-	-	-	-	-	-	-	3,868
<b>Ending Loan</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>	<b>\$ 3,868</b>
<b>Cash</b>									
Opening Balance	\$ 124	\$ 631	\$ 2,164	\$ 3,907	\$ 3,064	\$ 2,550	\$ 2,457	\$ 2,344	\$ 124
Net Cash Flow (Dec 14 - Feb 2)	507	1,532	1,744	(843)	(514)	(93)	(113)	(74)	2,426
<b>Ending Cash Balance</b>	<b>\$ 631</b>	<b>\$ 2,164</b>	<b>\$ 3,907</b>	<b>\$ 3,064</b>	<b>\$ 2,550</b>	<b>\$ 2,457</b>	<b>\$ 2,344</b>	<b>\$ 2,270</b>	<b>\$ 2,550</b>

<sup>1</sup> Retail receipts exclude \$1.2 million heldback by credit card processors.

<sup>2</sup> Excludes ~\$160K of LCs which are not anticipated to be funded. Until they are formally cancelled/expired, CIBC is holding 105% of cash collateral from 2668602 Ontario Inc.

25. The Revised Cash Flow Forecast indicates that, although the net proceeds realized from the Liquidation Sale and wind-down of the Fluid Entities' business / operations may be insufficient to repay, in full, the CIBC debt assigned to 266, the Fluid Entities should have sufficient liquidity to fund both operating costs and the costs of these NOI Proceedings for the period of the Extension, if granted, as 266 has confirmed to the Proposal Trustee that all proceeds realized by the Fluid Entities from the Liquidation Sale will be made available to the Fluid Entities to fund the necessary operating and other costs associated with the NOI Proceedings.

All of which is respectfully submitted this 17<sup>th</sup> day of December, 2018.

**Richter Advisory Group Inc.**  
**in its capacity as Proposal Trustee of**  
**Fluid Brands Inc., 11041037 Canada Inc. and 11041045 Canada Inc.**

Per:

A handwritten signature in black ink, appearing to read 'Adam Sherman', written over a horizontal line.

**Adam Sherman, MBA, CIRP, LIT**