

RICHTER

Court File No. CV-20-634980-00CL

SFP CANADA LTD.

**THIRD REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF
SFP CANADA LTD.**

MARCH 27, 2020

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SFP CANADA LTD.

**THIRD REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF SFP CANADA LTD.**

MARCH 27, 2020

I. INTRODUCTION

1. On January 23, 2020 (the “**Filing Date**”), the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”) granting SFP Canada Ltd. (“**SFP Canada**” or the “**Company**”) protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to the Initial Order, Richter Advisory Group Inc. (“**Richter**”) was appointed as the Company’s Monitor (the “**Monitor**”).
2. The Initial Order, *inter alia*,
 - (a) granted a stay of proceedings in favour of the Company until January 31, 2020 (the “**Stay Period**”);
 - (b) approved the engagement of Mackinac Partners, LLC (“**Mackinac**”) to provide the services of Michael Nowlan and Craig M. Boucher to act as co-chief restructuring officers (the “**CROs**” and each a “**CRO**”) of SFP Canada;
 - (c) ordered that, except as specifically permitted in the Initial Order and until further Order of the Court, the Company shall make no payments, transfers or disbursements to, or on account of, any related parties; and
 - (d) granted certain charges sought by SFP Canada.

A copy of the Initial Order is attached hereto as **Appendix “A”**. The proceedings commenced by SFP Canada under the CCAA are herein referred to as the “**CCAA Proceedings**”.

3. On the Filing Date, SFP Canada’s U.S. parent company, Schurman Fine Papers (“**SFP US**”, and together with its subsidiaries, including SFP Canada, the “**Schurman Group**”) commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) under Chapter 11 of the United States Bankruptcy Code in order to, among other things, pursue an orderly liquidation of the Schurman Group’s retail stores in the United States.
4. As noted in the Monitor’s first report dated January 24, 2020 (the “**First Report**”), the Chapter 11 Proceedings and the CCAA Proceedings were preceded by the termination of commercial licensing, supply, marketing and other critical operating agreements that the Schurman Group had with American Greetings Corporation (“**American Greetings**”). Without the continued use of these agreements, including the trademarks required to operate the Schurman Group’s retail businesses, the Schurman Group concluded that it could no longer operate as a going concern and commenced the Chapter 11 Proceedings and the CCAA Proceedings to, among other things, pursue an orderly wind-down / liquidation of their retail stores in both the United States and Canada.

5. On January 24, 2020, the Court issued an order (the “**Liquidation Sale Approval Order**”) which, among other things:
- (a) approved the consulting agreement (the “**Consulting Agreement**”) dated January 17, 2020 between SFP Canada and Schurman Retail Group, LLC, and a contractual joint venture comprised of Gordon Brothers Retail Partners, LLC and Hilco Merchant Resources, LLC (collectively, the “**Original Consultant**”), pursuant to which the Company engaged the Original Consultant to act as liquidation consultant to assist in liquidating the Company’s inventory (“**Merchandise**”), certain owned furniture, fixtures and equipment (“**FF&E**”) and certain other goods at the Schurman Group’s retail locations (the “**Liquidation Sale**”) in accordance with the sale guidelines (the “**Sale Guidelines**”) appended to the Liquidation Sale Approval Order; and
 - (b) authorized SFP Canada, with the assistance of the Original Consultant, to conduct the Liquidation Sale.

A copy of the Liquidation Sale Approval Order is attached hereto as **Appendix “B”**.

6. Also on January 24, 2020, the Original Consultant provided notice to the Schurman Group that it had assigned its rights, benefits and obligations under the Consulting Agreement relating to the Liquidation Sale in Canada to its Canadian affiliates, namely Gordon Brothers Canada ULC and Merchant Retail Solutions, ULC (collectively, the “**Canadian Consultant**”, and with the Original Consultant, the “**Consultant**”) effective as of January 17, 2020.
7. On January 31, 2020, the Court issued an order (the “**Amended and Restated Initial Order**”) which, among other things, extended the Stay Period to March 31, 2020. A copy of the Amended and Restated Initial Order is attached hereto as **Appendix “C”**.
8. This report is the Monitor’s third report (the “**Third Report**”) to this Court. The Monitor’s First Report was filed with the Court, *inter alia*, in support of the Liquidation Sale Approval Order. The Monitor’s second report dated January 30, 2020 (the “**Second Report**”) was filed with the Court to, among other things, provide an update on the activities of SFP Canada and the Monitor since the issuance of the Initial Order and support the Company’s request for certain amendments to the Initial Order, including the extension of the Stay Period to March 31, 2020. Copies of the First Report and the Second Report, excluding appendices, are attached hereto as **Appendix “D”** and **Appendix “E”**, respectively.

II. PURPOSE OF REPORT

9. The purpose of this Third Report is to provide information to the Court in respect of the following:
- (a) the activities of SFP Canada and the Monitor since the date of the Second Report;
 - (b) the status of the Liquidation Sale;
 - (c) the status of the Chapter 11 Proceedings;
 - (d) SFP Canada's reported receipts and disbursements for the period from January 18, 2020 to March 20, 2020, including a comparison of reported to forecast results;
 - (e) SFP Canada's request for an extension of the Stay Period to June 30, 2020, including the Company's extended cash flow forecast for the period March 21, 2020 to July 3, 2020 (the "**Extended Cash Flow Forecast**"); and
 - (f) the Monitor's recommendation that this Court make an order, as requested by SFP Canada, extending the Stay Period to June 30, 2020.

III. TERMS OF REFERENCE

10. In preparing this Third Report, the Monitor has relied solely on information and documents provided by SFP Canada and its advisors, including unaudited financial information, and discussions with representatives of Mackinac, the CROs, and the Company's legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Third Report, Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
11. Future oriented financial information reported on or relied upon in preparing this Third Report is based on SFP Canada's 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 Monitor expresses no assurances as to whether the projections will be achieved.

12. Capitalized terms not otherwise defined herein are as defined in the Company's motion materials, including the affidavit of Craig M. Boucher, sworn March 26, 2020 (the "**March 26 Boucher Affidavit**"). This Third Report should be read in conjunction with the March 26 Boucher Affidavit, as certain information contained in the March 26 Boucher Affidavit has not been included herein in order to avoid unnecessary duplication.
13. Unless otherwise noted, all monetary amounts contained in this Third Report are expressed in Canadian dollars.

IV. THE ACTIVITIES OF SFP CANADA

14. The activities of SFP Canada since the commencement of the CCAA Proceedings to January 30, 2020 are detailed in the Monitor's Second Report. Since the filing of the Monitor's Second Report, the activities of SFP Canada have included:
 - (a) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
 - (b) making payments to suppliers for goods and services received following the issuance of the Initial Order;
 - (c) reporting receipts and disbursements;
 - (d) communicating with the Consultant, the Monitor and counsel for certain landlords regarding the Liquidation Sale;
 - (e) consulting with the Monitor regarding SFP Canada's proposed disclaimer of certain retail leases effective at or around the conclusion of the Liquidation Sale (discussed further below);
 - (f) consulting with the Monitor in connection with the preparation of the Extended Cash Flow Forecast;
 - (g) consulting with the Monitor in connection with SFP Canada's proportionate sharing of certain retention payments for certain key Schurman Group employees, as approved and provided for in the Chapter 11 Proceedings (the "**KERP**");
 - (h) corresponding and communicating with the Monitor in connection with SFP Canada's transfer of USD\$3 million (the "**Funds Transfer**") to SFP US on January 17, 2020; and
 - (i) consulting with the Monitor and its counsel on various matters in connection with the CCAA Proceedings.

V. THE ACTIVITIES OF THE MONITOR

15. The activities of the Monitor from the commencement of the CCAA Proceedings to January 30, 2020 are detailed in the Monitor's Second Report. Since the filing of the Monitor's Second Report, the Monitor's activities have included:
- (a) monitoring SFP Canada's cash flows, including the reporting of variances to SFP Canada's cash flow forecast;
 - (b) reviewing daily status reports prepared by the Consultant, comprising sales, inventory and other information in connection with the Liquidation Sale;
 - (c) corresponding with SFP Canada, Mackinac and the Company's legal counsel on cash management and various other matters in connection with the CCAA Proceedings;
 - (d) consulting with SFP Canada and the CROs regarding the KERP (discussed further below);
 - (e) corresponding with counsel for certain landlords regarding the Consulting Agreement, the Sale Guidelines and the Liquidation Sale;
 - (f) consulting with SFP Canada and its advisors with respect to the disclaimer of certain retail leases;
 - (g) corresponding with Stikeman Elliott LLP ("**Stikeman**"), the Monitor's independent legal counsel, in connection with its review of the security granted by SFP Canada in favour of American Greetings and other matters pertaining to the CCAA Proceedings;
 - (h) corresponding and communicating with the CROs in connection with the Funds Transfer (discussed further below);
 - (i) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
 - (j) maintaining the Monitor's website at <http://www.richter.ca/insolvencycase/sfp-canada-ltd/> where copies of the orders granted and other relevant documents in respect of SFP Canada's CCAA Proceedings have been made available;
 - (k) preparing this Third Report; and
 - (l) other matters pertaining to the administration of SFP Canada's CCAA Proceedings.

The KERP

16. Given the condensed timetable to complete the Liquidation Sale, the Schurman Group considered it critical to retain certain key employees (the “**KERP Employees**” and each, a “**KERP Employee**”) to assist with the orderly wind-down of the Schurman Group’s operations in both the United States and Canada. The Schurman Group further believed that additional incentives were required to ensure the KERP Employees continued their employment during the Chapter 11 Proceedings and CCAA Proceedings generally.
17. To ensure retention of the KERP Employees through the completion of the Schurman Group’s Chapter 11 Proceedings (and the CCAA Proceedings), SFP US developed, and sought the US Court’s approval of, the KERP. The KERP provides for twenty-eight (28) highly qualified and skilled personnel essential to the Schurman Group’s operations and wind-down / liquidation activities to receive retention payments totaling approximately USD\$284,000, with the value of payments ranging from USD\$1,920.00 to USD\$24,230.77 per KERP Employee.
18. The KERP provides for retention payments to be paid to each of the KERP Employees at specific dates (depending on the nature of the specific KERP Employee’s role and tasks). In order to receive payments pursuant to the KERP, among other things, the KERP Employees must remain employed by the US Debtors (as defined below) on the date their KERP entitlement becomes payable.
19. On February 14, 2020, the US Court approved the KERP (the “**KERP Approval Order**”). A copy of the KERP Approval Order as well as the motion materials filed in support thereof are attached hereto as **Appendix “F”**.
20. As noted in the Monitor’s First Report, the Schurman Group is a highly integrated business managed out of the United States where the Schurman Group maintained its head office and where all material decisions regarding business related matters were made. In addition, all of SFP Canada’s back office functions, including finance / accounting, human resources, information technology and logistics, among others, are performed or managed by Schurman Group employees based out of the United States.
21. In consideration of the foregoing, the Company is seeking an order from this Court to allocate 30% of the KERP to SFP Canada based on the historical sales mix between the United States and Canada and the results of the Liquidation Sale. The Monitor is supportive of the allocation of the KERP to SFP Canada on the basis that the employees included in the KERP comprise individuals involved in back-office functions such as finance / accounting, human resources, information technology, etc., that performed critical functions in support of both SFP Canada and SFP US (such as processing payroll, payment of payables, IT support for stores, etc.) throughout the Liquidation Sale. In the event this Court approves the allocation of the KERP to Canada, the Monitor understands that the Company will seek an order for SFP Canada to distribute its portion of the KERP at a later date.

The Funds Transfer

22. As reported in the Monitor's First Report, on January 17, 2020, SFP Canada executed the Funds Transfer to SFP US. According to the CROs, the Funds Transfer was made on account of (a) repayment for certain costs previously paid by SFP US for the benefit of SFP Canada, and (b) prepayment of certain costs to be paid by SFP US for the benefit of SFP Canada during the CCAA Proceedings.
23. After becoming aware of the Funds Transfer, the Monitor contacted the CROs to request that information and documentation supporting the Funds Transfer be provided to the Monitor. In addition, as noted in the Monitor's Second Report, counsel for certain creditors of SFP Canada have contacted the Monitor and its counsel to, among other things, request additional information in connection with the Funds Transfer, including the views of both the Monitor and SFP Canada as to the bona fides of the Funds Transfer.
24. The Monitor notes that the Amended and Restated Initial Order provides that, except as expressly permitted therein, SFP Canada shall not make any further payments to, or on account of, any related party until further Order of the Court. As of the date of this Third Report, the Monitor is not aware of any payments made by SFP Canada to any related party since the Filing Date.
25. The Monitor has reviewed various documents and other information (the "**Documents**") provided by the CROs in support of the Funds Transfer and communicated extensively with the CROs and SFP Canada's legal counsel, Osler Hoskin & Harcourt LLP ("**Osler**"), in connection with both the Documents and the Funds Transfer.
26. Based on its review of the Documents and its discussions with the CROs and Osler, the Monitor understands that SFP Canada has historically paid funds to SFP US in consideration of, among other things, certain shared services provided by SFP US personnel for the benefit of SFP Canada. A schedule summarizing the historical payments from SFP Canada to SFP US during the period from November to February (the "**Period**") for the fiscal years 2018, 2019 and 2020 (the Company's fiscal year is from February to January) is set out below (please note that the amounts are reported in Canadian dollars):

(in 000s; \$CAN)			
Month	FY 2018	FY 2019	FY 2020
November	-	1,750	-
December	6,000	4,500	2,000
January	-	-	3,959
February	1,500	3,000	-
Total	7,500	9,250	5,959

27. As set out in the above schedule, SFP Canada paid approximately CAN\$7.5 million and CAN\$9.3 million to SFP US during the Period for fiscal 2018 and fiscal 2019, respectively. Including the Funds Transfer, the amount paid by SFP Canada to SFP US during the Period in fiscal 2020 was approximately CAN\$6.0 million.
28. In response to the Monitor's request for information / documentation to support the Funds Transfer, the CROs prepared a schedule detailing the expense categories that the Funds Transfer was meant to address, which is summarized below (please note that the amounts set forth below are in US dollars and represent the expense amounts allocated to SFP Canada):

(in 000s; \$USD)	
Expense Category	Amount
Pre-Filing Professional Fees Paid for the Benefit of SFP Canada	530
Shared Service Costs Historically Charged to SFP Canada (for the period December 2019 - March 2020)	600
Consultant Expense Escrow	225
Inventory / Inventory Related Costs	947
Pre-Filing Shared Service Costs not Historically Charged to SFP Canada	1,123
Total	3,425

29. Based on its communications with SFP Canada and the CROs, the Monitor notes the following in connection with the Documents provided in support of the Funds Transfer:

(a) *Pre-filing Fees Paid for the Benefit of SFP Canada:*

The amount noted (USD\$530,000) represents pre-filing professional fees paid by SFP US on behalf of SFP Canada to Mackinac, Osler, Proskauer Rose LLP (SFP Canada's US counsel ("**Proskauer**")), the Monitor and Stikeman.

The pre-filing fees paid by SFP US on behalf of SFP Canada in respect of Osler, the Monitor and Stikeman have been allocated 100% to SFP Canada. The pre-filing fees paid to Mackinac and Proskauer have been allocated 40% to SFP Canada. The Monitor has been advised that these fees relate to activities undertaken in support of the Schurman Group's pursuit of a third party interested in acquiring the Schurman Group's business in both the US and Canada. The CRO advised the Monitor that the Mackinac and Proskauer pre-filing fees paid for the benefit of SFP Canada related to a global transaction for the entire Schurman Group. While time was not tracked specifically to each entity, both SFP Canada and SFP US would have benefited equally had a deal been consummated.

(b) *Shared Service Costs Historically Charged to SFP Canada (for the period December 2019 – March 2020):*

The amount noted (USD\$600,000) represents an allocation of the costs for the internal corporate services performed by SFP US personnel for the benefit of SFP Canada, including activities related to the finance, executive, human resources, real estate and information technology functions (the “**Corporate Shared Services**”) for the period December 2019 to March 2020.

The Monitor has been advised that the amount allocated covers the months of December 2019, January 2020, February 2020 and March 2020. The Monitor further understands that the amount allocated for both December 2019 and January 2020 (USD\$180,000/month) is based on the average monthly amount recorded in the Schurman Group’s financial statements for corporate shared services for the ten-month period ending November 30, 2019. The amount allocated for both February 2020 and March 2020 (USD\$120,000/month) took into consideration that SFP Canada’s need for the Corporate Shared Services would be reduced and ultimately eliminated as the Company completed the Liquidation Sale and the wind-down of its business activities.

SFP Canada’s financial statements for the fiscal 2019 year report an average monthly expense for the Corporate Shared Services comparable with above estimates.

(c) *Consultant Expense Escrow:*

Pursuant to the terms of the Consulting Agreement, SFP US paid the Consultant USD\$500,000 (the “**Special Purpose Payment**”) to be held by the Consultant, as security for the obligations of the Schurman Group under the Consultant Agreement until the final settlement of the Consultant’s fees and reimbursable costs has been completed.

The Monitor has been advised by the CROs that, following discussions between the Schurman Group and the Consultant, an additional US\$250,000 was paid by SFP US to the Consultant, as a supplement to the Special Purpose Payment, to account for, among other things, higher than anticipated legal fees in Canada.

The amount noted (USD\$225,000) represents a 30% allocation of the aggregate Special Purpose Payment to SFP Canada. The Monitor understands that the 30% allocation is based on SFP Canada’s portion of total Schurman Group sales for the 10-month period ending November 30, 2019.

(d) *Inventory and Inventory Related Costs:*

The amount noted (USD\$947,000) represents (i) approximately US\$710,000 of inventory (at cost) transferred from SFP US to SFP Canada subsequent to the Filing Date for inclusion in the Liquidation Sale, and (ii) approximately USD\$237,000 in freight costs associated with the inventory transfers.

(e) *Pre-Filing Shared Service Costs not Historically Charged to SFP Canada:*

The amount noted (USD\$1,123,000) represents a 30% allocation of the costs for certain shared services performed by SFP US personnel for the benefit of SFP Canada, including marketing, customer service, merchandising, and logistics (collectively, the **“Other Shared Services”**).

The Monitor understands that, historically, the Schurman Group has not charged SFP Canada for the Other Shared Services.

30. Based on its review of the Documents provided and its discussions with the CROs and Osler, the Monitor is satisfied that the allocation of expenses to SFP Canada in respect of the: (a) Pre-Filing Professional Fees Paid for the Benefit of SFP Canada; (b) Shared Service Costs Historically Charged to SFP Canada (for the period December 2019 to March 2020); (c) Consultant Expense Escrow; and (d) Inventory and related costs, summarized above, is not unreasonable. Based on its review of the Documents provided and its discussions with the CROs and Osler to date, the Monitor is not satisfied that the allocation of the Other Shared Services to SFP Canada is appropriate, as SFP Canada was not historically charged for these services.
31. The Funds Transfer was USD\$3.0 million. The aggregate of the allocated costs, other than in respect of the Other Shared Services, is USD\$2.3 million. In light of the result of the security review discussed below, which could result in a significant portion of the proceeds of the Liquidation Sale being paid to American Greetings, whether or not the allocation of the Other Shared Services to SFP Canada can be justified may be a moot point.

The Security Review

32. As noted in the Monitor’s First Report, as at November 30, 2020 (the most recent date for which financial information is available), SFP Canada had liabilities totaling approximately USD\$11.8 million, including approximately USD\$9.1 million owing to American Greetings.
33. As also noted in the Monitor’s First Report, on June 25, 2019, SFP Canada (along with certain related US entities, collectively, the **“AG Borrowers”**) and American Greetings entered into a security agreement (the **“American Greetings Security”**), pursuant to which American Greetings was granted a continuing lien and security interest over the AG Borrowers’ present and after-acquired property to secure, among other things, the payment and performance of the Schurman Group’s obligations pursuant to various agreements between the Schurman Group and American Greetings (including with respect to purchase orders).
34. The Monitor understands that prior to entering into the American Greetings Security, American Greetings supplied goods and services to the Schurman Group on an unsecured basis.

35. As noted in the Monitor's First Report, the Monitor instructed Stikeman to review the American Greetings Security in the jurisdictions in which SFP Canada had retail operations. Stikeman has provided the Monitor with legal opinions in respect of the Provinces of Ontario, British Columbia and Alberta, and agent opinions from Ohio counsel (the American Greetings Security is governed by Ohio law) and local counsel in Saskatchewan, Manitoba, Nova Scotia and Newfoundland and Labrador, which conclude, subject to standard qualifications and limitations, that the American Greetings Security is valid in all provinces in which SFP Canada had retail operations, except Quebec, and enforceable under Ohio law.

VI. THE LIQUIDATION SALE

36. The Liquidation Sale commenced on January 16, 2020 in each of SFP Canada's 76 retail stores and concluded on February 29, 2020, in accordance with the Consulting Agreement (the "**Liquidation Termination Date**").
37. SFP Canada, with the approval of the Monitor, sent disclaimer notices to its landlords disclaiming all its retail store leases effective February 29, 2020. The Monitor understands that the leases of certain retail stores may have expired, according to their terms, prior to the Liquidation Termination Date.
38. The Monitor understands that at the start of the Liquidation Sale, the Company had Merchandise with a cost value of approximately \$5.2 million (retail value of approximately \$27.9 million). The Monitor further understands, based on information provided by the Consultant, that the net realizations from the Company's Merchandise during the Liquidation Sale totalled approximately \$8.1 million (excluding an applicable sales taxes). In accordance with the Consulting Agreement, the Consultant also assisted SFP Canada in selling certain owned FF&E located at the Closing Stores for a fee of 15% of gross proceeds realized therefrom. The Monitor understands that approximately \$144,000 (excluding any applicable sales tax) was realized from the sale of SFP Canada's FF&E.
39. The terms of the Consulting Agreement provided that SFP Canada was responsible for all costs and expenses in connection with the Liquidation Sale, including certain Consultant-controlled costs for, primarily, advertising and supervision, which were subject to an agreed-upon budget.
40. Since the commencement of the Liquidation Sale, the Consultant has been paid its fees and reimbursable costs on a near-weekly basis. In aggregate, as of the date of this Third Report, the Company has paid to the Consultant approximately \$465,000 in connection with its fees and reimbursable expenses in accordance with the Consulting Agreement. As at the date of this Third Report and as noted in the March 26 Boucher Affidavit, the final settlement of the Consultant's fees and reimbursable costs is in the process of being completed.

VII. THE CHAPTER 11 PROCEEDINGS

41. As noted above, on January 23, 2020, SFP US and SFP Franchise Corporation (collectively, the “**US Debtors**”) commenced the Chapter 11 Proceedings to pursue an orderly wind-down / liquidation of their retail stores in the United States.
42. As noted in the March 26 Boucher Affidavit, the significant developments in the Chapter 11 Proceedings since the filing of the Monitor’s Second Report, include the following:
 - (a) on February 14, 2020, the US Court granted final orders in respect of the US Debtors “first day” motions (and / including the KERP Approval Order);
 - (b) on February 27, 2020, the US Court approved the sale of certain US retail leases and FF&E to Paper Source, Inc., which sale did not include any Canadian leases or assets; and
 - (c) on March 13, 2020, the US Court approved the sublease of the US Debtors’ headquarters and distribution centre to Fidelitone Order Fulfillment, LLC.
43. As also noted in the March 26 Boucher Affidavit, the US Debtors have filed various motions that they expect will be heard by the US Court during the extension of the Stay Period, if granted, including (a) a motion to set deadlines and procedures for filing proofs of claim that will be heard on March 30, 2020, and (b) a motion seeking approval of the sale of certain intellectual property assets that will be heard on April 30, 2020.
44. The Monitor understands that no relief is being sought in the Chapter 11 Proceedings with respect to SFP Canada and, similarly, no relief is being sought in the CCAA Proceedings with respect to SFP US, save and except for the provisions in the Initial Order restricting transfers to related parties by SFP Canada and providing for SFP Canada’s continued use of trademarks.

VIII. CASH RECEIPTS AND DISBURSEMENTS FROM JANUARY 18, 2020 TO MARCH 20, 2020

45. As noted in the Monitor’s First Report, SFP Canada, with the assistance of the Monitor, prepared a statement of its projected cash flows for the period January 18, 2020 to April 17, 2020 (the “**Initial Cash Flow Forecast**”) which was filed with the Court in support of the Company’s application for the Initial Order and the Liquidation Sale Approval Order.
46. The Company has provided the Monitor with its cooperation and access to its books and records. The Monitor has implemented procedures for monitoring the Company’s receipts and disbursements on a weekly basis. The Monitor has also worked with the CROs to prepare a report comparing SFP Canada’s actual results to its prior projections, as detailed in the Initial Cash Flow Forecast.

47. A comparison of SFP Canada's actual cash receipts and disbursements, as compared to the Initial Cash Flow Forecast, for the period ending March 20, 2020 is summarized as follows:

SFP Canada Ltd. Cash Flow Variances For the period January 18, 2020 to March 20, 2020 (in \$CAD 000's)			
	Budget	Actual	Variance
<u>Receipts</u>			
Canada Retail Receipts	9,875	9,133	(742)
Total Receipts	9,875	9,133	(742)
<u>Total Disbursements</u>			
Freight	(236)	(165)	71
Rent & Utilities	(1,247)	(1,263)	(16)
Store Expenses and Other	(277)	(84)	193
Payroll & Benefits	(1,548)	(1,406)	142
Liquidation Fee & Expenses	(465)	(513)	(47)
Sales Tax Remittances	(1,155)	(1,168)	(12)
Professional Fees	(1,835)	(604)	1,231
Miscellaneous / Other	0	0	0
Total Disbursements	(6,764)	(5,202)	1,562
Net Cash Flow	3,111	3,931	820
Beginning Cash Balance	4,144	4,250	106
Net Cash Flow	3,111	3,931	820
Over/(Under) Funding	0	(61)	(61)
Ending Cash Balance	7,255	8,120	865

48. As reflected in the summary table above, SFP Canada reported positive net cash flow of approximately \$3.9 million for the nine-week period ending March 20, 2020 and had a cash balance of approximately \$8.1 million, as at March 20, 2020. The actual cash balance is approximately \$865,000 higher than forecast.
49. The principal reasons for the favourable cash flow variance of approximately \$865,000 include:
- favourable variances due to lower than projected operating costs associated with the Liquidation Sale, including lower freight, store operating and other and payroll and benefits which was partially offset by lower than projected sales during the Liquidation Sale; and
 - timing differences associated with lower than projected disbursements for professional fees. The Monitor understands that this favourable variance will reverse during the remainder of the CCAA Proceedings, as set out in the Extended Cash Flow Forecast.

50. to the Amended and Restated Initial Order, SFP Canada was authorized, with the consent of the Monitor, to make payments up to a maximum aggregate amount of \$100,000 for critical expenses incurred prior to the Filing Date. As at March 20, 2020, SFP Canada has made, in consultation with the Monitor, approximately \$7,000 in payments relating to critical expenses incurred prior to the Filing Date, excluding pre-filing sales taxes paid in accordance with the Amended and Restated Initial Order.

IX. SFP CANADA'S REQUEST TO EXTEND THE STAY PERIOD TO JUNE 30, 2020

51. The current Stay Period expires on March 31, 2020. SFP Canada is seeking an extension of the Stay Period to June 30, 2020.
52. As the Initial Cash Flow Forecast only runs until April 17, 2020, SFP Canada, with the assistance of the Monitor, has prepared the Extended Cash Flow Forecast, a copy of which is attached hereto as **Appendix "G"** and is summarized below:

SFP Canada LTD. Extended Cash Flow Forecast For the period March 21, 2020 to July 3, 2020 (in \$CAD 000's)	
	15-Week Total
<u>Receipts</u>	
Canadian Retail Receipts	0
Total Receipts	0
<u>Operating Disbursements</u>	
Freight	(71)
Store Expenses and Other	(194)
Sales Tax Remittances	(899)
Professional Fees	(1,745)
Miscellaneous / Other	(200)
Total Operating Disbursements	(3,109)
Net Cash Flow	(3,109)
Opening Cash Balance	8,120
Net Cash Flow	(3,109)
Ending Cash Balance	5,011

53. As the Liquidation Sale has been completed and SFP Canada has already vacated all of their retail stores and terminated all but a few key employees essential to concluding the orderly wind down of SFP Canada's operations, the Extended Cash Flow Forecast assumes there are no remaining funds to be collected and limited payment of those costs necessary to complete the wind down of SFP Canada's operations.


54. The Extended Cash Flow Forecast indicates that SFP Canada will have sufficient liquidity to fund both operating costs and the costs of the CCAA Proceedings during the extension of the Stay Period, if granted.
55. The Monitor is of the view that the extension of the Stay Period is appropriate in the circumstances and supports SFP Canada's request for an extension of the Stay Period to June 30, 2020 for the following reasons:
- (a) SFP Canada has acted and continues to act in good faith and with due diligence to advance the responsible, controlled and orderly wind-down of its business;
 - (b) the extension will provide the time necessary for SFP Canada to complete the orderly wind down of its operations, including completing the final reconciliation under the Consulting Agreement and finalizing its affairs under the supervision of the Monitor; and
 - (c) the extension should not prejudice any group of creditors, as SFP Canada is projected to have sufficient funds to pay post-filing services and supplies, as contemplated by the Extended Cash Flow Forecast.

X. MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

56. For the reasons set out in this Third Report, the Monitor is of the view that the relief requested by SFP Canada is both appropriate and reasonable and the Monitor therefore recommends that this Court approve (a) the allocation of 30% of the KERP to SFP Canada, and (b) the extension of the Stay Period to June 30, 2020.

All of which is respectfully submitted on this 27th day of March, 2020.

Richter Advisory Group Inc.
in its capacity as Monitor of
SFP Canada Ltd.
and not in its personal capacity



Adam Sherman, MBA, CIRP, LIT



Pritesh Patel, MBA, CFA, CIRP, LIT

Appendix “A”

Cv-20-634980
- 00CL
Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.

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THURSDAY, THE 23RD

JUSTICE HAINEY

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DAY OF JANUARY, 2020

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SFP CANADA LTD. (the "**Applicant**")



INITIAL ORDER

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

ON READING the affidavit of Craig M. Boucher sworn January 23, 2020 and the Exhibits thereto (the "**Boucher Affidavit**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and Richter Advisory Group Inc. ("**Richter**"), in its capacity as proposed monitor of the Applicant, and on reading the consent of Richter to act as the monitor (the "**Monitor**"),

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of the value of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to use the central cash management system currently in place as described in the Boucher Affidavit or, with the prior consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as

provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement filed under the CCAA with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicant prior to the date of this Order by third party suppliers or service providers up to a maximum aggregate amount of \$100,000, if in the opinion of the Applicant the supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course during the Orderly Wind-down after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to make no payments, transfers or disbursements to, or on account of, any related party to the Applicant, including Schurman Fine Papers and SFP Franchise Corporation; (c) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of its Property; and (d) to not grant credit or incur liabilities except in the ordinary course of the Business.

ORDERLY WIND-DOWN

9. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to terminate the employment of such of its employees or temporarily lay off such of its employees as the Applicant deems appropriate and proceed with an orderly wind-down of the Business (the “**Orderly Wind-down**”).

REAL PROPERTY LEASES

10. **THIS COURT ORDERS** that, until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicant or the making of this Order) or as otherwise may be negotiated between the Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant’s claim to the fixtures in dispute.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

12. **THIS COURT ORDERS** that until and including January 31, 2020, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant, or its employees or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

13. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicant or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

14. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

15. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all trademark license and other intellectual property, computer software, communication and other data services, centralized banking services, payroll and benefit services, insurance, freight services, transportation services, customs clearing, warehouse and logistics services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply or license of such goods, services, trademarks or other intellectual property as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of the trademarks and other intellectual property currently licensed to, used or owned by the Applicant (including *Papyrus* and *Carlton Cards / Cartes Carlton*) and of its premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

16. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

17. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any

obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

18. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

19. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for the indemnity provided in paragraph 18 of this Order. The Directors' Charge shall have the priority set out in paragraphs 30 and 32 hereof.

20. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 18 of this Order.

APPOINTMENT OF MONITOR

21. **THIS COURT ORDERS** that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

22. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor and review the Applicant's receipts and disbursements;
- (b) monitor the Orderly Wind-down of the Business and operations of the Applicant, including any liquidation that may be approved;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

23. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

24. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is

confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

25. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

26. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicant on a weekly basis or on such terms as such parties may agree and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

27. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicant and the CROs (as hereinafter defined), shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$400,000 as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of this Order, and the CROs. The Administration Charge shall have the priority set out in paragraphs 30 and 32 hereof.

APPOINTMENT OF CO-CHIEF RESTRUCTURING OFFICERS**29. THIS COURT ORDERS that:**

- (a) the engagement letter in the form attached as Exhibit “K” to the Boucher Affidavit (the “**CRO Engagement Letter**”), pursuant to which Mackinac Partners, LLC shall provide the services of Michael Nowlan and Craig M. Boucher to act as co-chief restructuring officers of the Applicant (collectively, the “**CROs**” and each a “**CRO**”), the execution of CRO Engagement Letter by the Applicant, *nunc pro tunc*, and the appointment of the CROs as co-chief restructuring officers of the Applicant pursuant to the terms thereof, are hereby approved, including, without limitation, with respect to the payment of the fees and expenses contemplated thereby and incurred by the CROs in providing services to the Applicant;
- (b) the CROs shall be responsible for performing the functions and obligations set out in the CRO Engagement Letter for the benefit of the Applicant and shall provide timely updates to the Monitor in respect of such functions and obligations;
- (c) the CROs shall not be deemed to be a director, *de facto* director or employee of the Applicant;
- (d) nothing in this Order shall be construed as resulting in either CRO being an employer, successor employer, a responsible person, operator or person with apparent authority within the meaning of any statute, regulation or rule of law, or equity for any purpose whatsoever;
- (e) the CROs shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on the part of the CROs; and
- (f) no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of either of the CROs and all rights and remedies of any Person against or in respect of each of the CROs are hereby stayed and suspended, except with the written consent of the

applicable CRO or with leave of this Court on notice to the Applicant, the Monitor and the applicable CRO. Notice of any such motion seeking leave of this Court shall be served upon the Applicant, the Monitor and the applicable CRO at least seven (7) days prior to the return date of any such motion for leave.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

30. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors' Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$400,000); and

Second – Directors' Charge (to the maximum amount of \$1,000,000).

31. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the Directors' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

32. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

33. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges, or further Order of this Court.

34. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

35. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA, and (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

36. **THIS COURT ORDERS** that any employee of the Applicant who is sent a notice of termination of employment shall be deemed to have received such notice by no later than 8:00 a.m. Eastern Standard/Daylight Time on the fourth day following the date any such notice is sent, if such notice is sent by ordinary mail, expedited parcel or registered mail to the individual's address as reflected in the Applicant's books and records; provided, however, that (a) any notice of termination of employment that is provided to an employee of the Applicant in person at one of the Applicant's stores shall be deemed to have been received on the date of such delivery notwithstanding the mailing of any notices of termination of employment, and (b) any notice of termination of employment that is sent to an employee of the Applicant by electronic message to the individual's email address as last shown in the Applicant's books and records shall be deemed to have been received 24 hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment.

37. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca//scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court

further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.richter.ca/insolvencycase/sfp-canada-ltd/>.

38. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

39. **THIS COURT ORDERS** that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

SEALING

40. **THIS COURT ORDERS** that Confidential Appendix "A" to the Boucher Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record.

GENERAL

41. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.

42. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

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

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

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



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 23 2020

PER / PAR: JP

Cv-20-634980
-00CL

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

Court File No:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SFP CANADA LTD.

Applicant

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

INITIAL ORDER

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Lawyers for the Applicant

Matter No: 1207156

Appendix “B”



Court File No. CV-20-634980-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.

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FRIDAY, THE 24TH

JUSTICE HAINEY

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DAY OF JANUARY, 2020

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SFP CANADA LTD.

Applicant

LIQUIDATION SALE APPROVAL ORDER

THIS MOTION, made by SFP Canada Ltd. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, among other things, approving the transactions contemplated under a consulting agreement between a contractual joint venture comprised of Gordon Brothers Retail Partners, LLC and Hilco Merchant Resources, LLC (collectively, the "**Original Consultant**"), and the assignees of their respective rights, benefits and obligations as they relate to the conduct of the Sale in Canada and the Canadian Stores, Gordon Brothers Canada ULC and Merchant Retail Solutions, ULC (collectively and together with the Original Consultant, the "**Consultant**"), Schurman Retail Group, LLC and the Applicant (d/b/a Papyrus and American Greetings) dated as of January 17, 2020 (the "**Consulting Agreement**") and certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicant, the Affidavit of Craig M. Boucher sworn January 23, 2020 including the exhibits thereto (the "**First Boucher Affidavit**"), the First Report of Richter Advisory Group Inc., in its capacity as Monitor (the "**Monitor**") filed, and on hearing the submissions of respective counsel for the Applicant, the Monitor, the

Consultant, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Waleed Malik affirmed January 23, 2020, filed:

SERVICE AND DEFINITIONS

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

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Consulting Agreement (attached as Exhibit “M” to the First Boucher Affidavit).

THE CONSULTING AGREEMENT

3. **THIS COURT ORDERS** that the Consulting Agreement, the sale guidelines attached as Schedule “A” to this Order (the “**Sale Guidelines**”), and the transactions contemplated thereunder are hereby approved, authorized and ratified and that the execution of the Consulting Agreement by the Applicant is hereby approved, authorized, and ratified, *nunc pro tunc*, with such minor amendments as the Applicant (with the consent of the Monitor) and the Consultant may agree to in writing. Subject to the provisions of this Order and the Initial Order in these proceedings dated January 23, 2020 (as amended and restated from time to time, the “**Initial Order**”), the Applicant is hereby authorized and directed to take any and all actions as may be necessary or desirable to implement the Consulting Agreement and each of the transactions contemplated therein. Without limiting the foregoing, the Applicant is authorized to execute any other agreement, contract, deed or any other document, or take any other action, which could be required or be useful to give full and complete effect to the Consulting Agreement.

THE SALE

4. **THIS COURT ORDERS** that the Applicant, with the assistance of the Consultant, is authorized to conduct the Sale in accordance with this Order, the Consulting Agreement and the Sale Guidelines and to advertise and promote the Sale within the Canadian Stores in accordance with the Sale Guidelines. If there is a conflict between this Order, the Consulting Agreement and the Sale Guidelines, the order of priority of documents to resolve such conflicts is as follows:

(1) this Order; (2) the Sale Guidelines; and (3) the Consulting Agreement. If there is a conflict between this Order and any order of the Bankruptcy Court relating to the conduct of the Sale in, or otherwise relating to, the Canadian Stores, this Order shall govern.

5. **THIS COURT ORDERS** that, subject to paragraph 11 of the Initial Order, the Applicant, with the assistance of the Consultant, is authorized to market and sell the Merchandise, Non-Merchandise Goods, Additional Consultant Goods (subject to further Order of this Court at the comeback hearing in these CCAA proceedings on or before January 31, 2020, or the agreement of the applicable landlord), and Offered FF&E in accordance with the Sale Guidelines, free and clear of all liens, claims, encumbrances, security interests, mortgages, hypothecs, charges, trusts, deemed trusts, executions, levies, financial, monetary or other claims, whether or not such claims have attached or been perfected, registered or filed and whether secured, unsecured, quantified or unquantified, contingent or otherwise, whensoever and howsoever arising, and whether such claims arose or came into existence prior to the date of this Order or arise or come into existence following the date of this Order, (in each case, whether contractual, statutory, arising by operation of law, in equity or otherwise) (all of the foregoing, collectively "**Claims**"), including, without limitation the Administration Charge and the Directors' Charge (as such terms are defined in the Initial Order) and any other charges granted at any time by this Court in these proceedings (collectively, the "**CCAA Charges**"), and all Claims, charges, security interests or liens evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), or any other personal or movable property registration system (all of such Claims, charges (including the CCAA Charges), security interests and liens collectively referred to herein as "**Encumbrances**"), which Encumbrances will attach instead to the proceeds of the Sale (other than amounts specified in paragraph 15 of this Order) in the same order and priority as they existed immediately prior to such Sale.

6. **THIS COURT ORDERS** that subject to the terms of this Order, the Initial Order and the Sale Guidelines, or any greater restrictions in the Consulting Agreement or the Sale Guidelines, the Consultant shall have the right to enter and use the Canadian Stores and all related store services and all facilities (including distribution centers, corporate offices and printing facilities) and all furniture, trade fixtures and equipment, including the Offered FF&E and Retained FF&E, and other assets of the Applicant as designated under the Consulting Agreement, for the purpose of conducting the Sale and for such purposes, the Consultant shall be entitled to the benefit of the

Applicant's stay of proceedings provided under the Initial Order, as such stay of proceedings may be extended by further Order of the Court.

7. **THIS COURT ORDERS** that until the Sale Termination Date for each Store (which in all cases shall in no event be later than March 31, 2020) or such earlier date as a lease is disclaimed or resiliated in accordance with the CCAA, the Consultant shall have access to the Canadian Stores in accordance with the applicable Leases (as such term is defined in the Sale Guidelines) and the Sale Guidelines on the basis that the Consultant is assisting the Applicant and the Applicant has granted the right of access to the Store to the Consultant. To the extent that the terms of the applicable Leases are in conflict with any term of this Order or the Sale Guidelines, the terms of this Order and the Sale Guidelines shall govern.

8. **THIS COURT ORDERS** that nothing in this Order shall amend or vary, or be deemed to amend or vary the terms of the Leases. Nothing contained in this Order or the Sale Guidelines shall be construed to create or impose upon the Applicant or the Consultant any additional restrictions not contained in the applicable Lease or other occupancy agreement.

9. **THIS COURT ORDERS** that, subject to and in accordance with the Consulting Agreement, the Sale Guidelines and this Order, the Consultant is authorized to advertise and promote the Sale, without further consent of any Person (as defined in the Initial Order) other than the Applicant and the Monitor as provided under the Consulting Agreement or a Landlord (as defined in the Sale Guidelines) as provided under the Sale Guidelines.

10. **THIS COURT ORDERS** that until the Sale Termination Date, the Consultant shall have the right to use, without interference by any intellectual property licensor, any of the Applicant's trade names, trademarks and logos relating to and used in connection with the operation of the Stores, as well as all licenses and rights granted to the Applicant to use the trade names, trademarks, and logos of third parties, solely for the purpose of advertising and conducting the Sale in accordance with the terms of the Consulting Agreement, the Sale Guidelines, and this Order.

CONSULTANT LIABILITY

11. **THIS COURT ORDERS** that the Consultant shall act solely as an independent consultant to the Applicant and that it shall not be liable for any claims against the Applicant

other than as expressly provided in the Consulting Agreement (including the Consultant's indemnity obligations thereunder) or the Sale Guidelines and, for greater certainty:

- (a) the Consultant shall not be deemed to be an owner or in possession, care, control or management of the Stores, of the assets located therein or associated therewith or of the Applicant's employees located at the Stores or any other property of the Applicant;
- (b) the Consultant shall not be deemed to be an employer, or a joint or successor employer or a related or common employer or payor within the meaning of any legislation governing employment or labour standards or pension benefits or health and safety or other statute, regulation or rule of law or equity for any purpose whatsoever, and shall not incur any successorship liabilities whatsoever; and
- (c) the Applicant shall bear all responsibility for any liability whatsoever (including without limitation losses, costs, damages, fines, or awards) relating to claims of customers, employees and any other persons arising from events occurring at the Stores during and after the term of the Sale, or otherwise in connection with the Sale, except to the extent that such claims are the result of events or circumstances caused or contributed to by the gross negligence or wilful misconduct of the Consultant, its employees, agents or other representatives, or otherwise in accordance with the Consulting Agreement.

12. **THIS COURT ORDERS** that, to the extent any Landlord may have a claim against the Applicant arising solely out of the conduct of the Consultant in conducting the Sale for which the Applicant has claims against the Consultant under the Consulting Agreement, the Applicant shall be deemed to have assigned such claims free and clear to the applicable Landlord (the "**Assigned Landlord Rights**"); provided that each such Landlord shall only be permitted to advance each such claims against the Consultant if written notice, including the reasonable details of such claims, is provided by such Landlord to the Consultant, the Applicant and the Monitor during the period from the Sale Commencement Date to the date that is thirty (30) days following the Sale Termination Date, provided however that the Landlords shall be provided with access to the

Canadian Stores to inspect the Canadian Stores within fifteen (15) days following the Sale Termination Date.

CONSULTANT AN UNAFFECTED CREDITOR

13. **THIS COURT ORDERS** that (i) the Consulting Agreement (including any agreements, contracts or arrangements entered into with the Consultants in relation thereto) shall not be repudiated, resiliated or disclaimed by the Applicant, (ii) the Consultant shall not be affected by the stay of proceedings in the Initial Order and shall be entitled to exercise its rights and remedies under the Consulting Agreement including in respect of claims of the Consultant pursuant to the Consulting Agreement (collectively, the “**Consultant's Claims**”), and (iii) the Consultant’s Claims shall not be compromised or arranged pursuant to any plan of arrangement or compromise among the Applicant and its creditors (a “**Plan**”) and, for greater certainty, the Consultant shall be treated as an unaffected creditor in these proceedings and any other insolvency proceedings that may be initiated by or in respect of the Applicant, and under any Plan.

14. **THIS COURT ORDERS** that the Applicant is hereby authorized and directed, in accordance with the Consulting Agreement, to remit all amounts that become due to the Consultant thereunder.

15. **THIS COURT ORDERS** that no Encumbrances shall attach to any amounts payable or to be credited or reimbursed to, or retained by, the Consultant pursuant to the Consulting Agreement, including, without limitation, any amounts to be reimbursed by the Applicant to the Consultant pursuant to the Consulting Agreement, and at all times the Consultant will retain such amounts, free and clear of all Encumbrances, notwithstanding any enforcement or other process or Claims, all in accordance with the Consulting Agreement.

16. **THIS COURT ORDERS** that the Applicant shall not grant any Encumbrances in or against the Special Purpose Payment.

17. **THIS COURT ORDERS** that the Applicant is authorized, *nunc pro tunc*, to pay the Special Purpose Payment to the Consultant in accordance with the Consulting Agreement, and, without limiting the generality of paragraphs 15 and 16 hereof, that the Special Purpose Payment shall be free of all Encumbrances and the Consultant shall be entitled to retain and apply the

Special Purpose Payment in accordance with the terms of the Consulting Agreement without claim or interference by any creditor, trustee in bankruptcy or other stakeholder of the Applicant, notwithstanding any enforcement or other process, and without leave or further order of this Court.

18. **THIS COURT DECLARES** that, subject solely to the Consultant's obligations to pay to the Applicant the Additional Consultant Goods Fee pursuant to the Consulting Agreement, all Additional Consultant Goods and their proceeds shall remain the exclusive property of the Consultant until sold pursuant to the Sale or paid (as applicable) in accordance with the terms of the Consulting Agreement. For greater certainty, Additional Consultant Goods shall not constitute property of the Applicant and no other person or entity shall have any claim against any of the Additional Consultant Goods or their proceeds.

19. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;
- (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") in respect of the Applicant, or any bankruptcy order made pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Applicant;
- (d) the provisions of any federal or provincial statute; or
- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other document or agreement to which the Applicant is a party;

the Consulting Agreement and the transactions and actions provided for and contemplated therein, including without limitation, the payment of amounts due to the Consultant and the Assigned Landlord Rights shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by any Person, including any creditor of the Applicant, nor shall they, or any of

them, constitute or be deemed to be a preference, fraudulent conveyance, transfer at undervalue or other challengeable reviewable transaction, under the BIA or any applicable law, nor shall they constitute oppressive or unfairly prejudicial conduct under any applicable law.

OTHER

20. **THIS COURT ORDERS** that the Applicant is authorized and permitted to transfer to the Consultant personal information in the Applicant's custody and control solely for the purposes of assisting with and conducting the Sale and only to the extent necessary for such purposes.

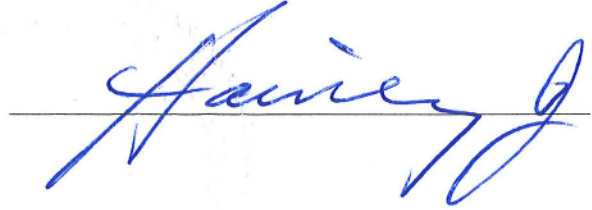
21. **THIS COURT ORDERS** that nothing in paragraph 9 of the Initial Order shall be construed to suggest that the Sale commenced before the date of this Order or as authorizing the conduct of the Sale other than in accordance with the terms of this Order (including the Sale Guidelines).

GENERAL

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

23. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

24. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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LE / DANS LE REGISTRE NO:

JAN 24 2020

PER / PAR:

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SCHEDULE "A"

SALE GUIDELINES

The following procedures shall apply to any Sales to be held at SFP Canada Ltd.'s ("**Applicant**") retail stores (the "**Stores**"). Terms capitalized but not defined in these Sale Guidelines have the meanings ascribed to them in the Consulting Agreement (as defined below).

1. Except as otherwise expressly set out herein, and subject to: (i) the Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated January 24, 2020 approving the Consulting Agreement between a contractual joint venture comprised of Gordon Brothers Retail Partners, LLC and Hilco Merchant Resources, LLC (together, the "**Original Consultant**") and the assignees of their respective rights, benefits and obligations as they relate to the conduct of the Sale in Canada and the Canadian Stores, Gordon Brothers Canada ULC and Merchant Retail Solutions, ULC (collectively and together with the Original Consultant, the "**Consultant**"), Schurman Retail Group, LLC and the Applicant (d/b/a Papyrus and American Greetings) dated as of January 17, 2020 (the "**Consulting Agreement**") and the transactions contemplated thereunder (the "**Approval Order**"); or (ii) any further Order of the Court; or (iii) any subsequent written agreement between the Applicant and its applicable landlord(s) (individually, a "**Landlord**" and, collectively, the "**Landlords**") and approved by the Consultant, the Sale shall be conducted in accordance with the terms of the applicable leases/or other occupancy agreements for each of the affected Stores (individually, a "**Lease**" and, collectively, the "**Leases**"). However, nothing contained herein shall be construed to create or impose upon the Applicant or the Consultant any additional restrictions not contained in the applicable Lease or other occupancy agreement.
2. The Sale shall be conducted so that each of the Stores remain open during their normal hours of operation provided for in the respective Leases for the Stores until the applicable premises vacate date for each Store under the Consulting Agreement (the "**Vacate Date**"), and in all cases no later than March 31, 2020. Rent payable under the respective Leases shall be paid as provided in the Initial Order of the Court dated January 23, 2020 (as amended and restated from time to time, the "**Initial Order**").
3. The Sale shall be conducted in accordance with applicable federal, provincial and municipal laws, unless otherwise ordered by the Court.
4. All display and hanging signs used by the Consultant in connection with the Sale shall be professionally produced and all hanging signs shall be hung in a professional manner. Notwithstanding anything to the contrary contained in the Leases, the Consultant may advertise the Sale at the Stores as a "everything on sale", "everything must go", "store closing" or similar theme sale at the Stores (provided however that no signs shall advertise the Sale as a "bankruptcy", a "liquidation" or a "going out of business" sale, it being understood that the French equivalent of "clearance" is "liquidation" and is permitted to be used in French language signs). Forthwith upon request, the Consultant shall provide the proposed signage packages along with proposed dimensions by e-mail or facsimile to the applicable Landlords or to their counsel of record and the applicable Landlord shall notify the Consultant of any requirement for such signage to otherwise comply with the terms of the Lease and/or the Sale Guidelines and where the provisions

of the Lease conflicts with these Sale Guidelines, these Sale Guidelines shall govern. The Consultant shall not use neon or day-glow signs or any handwritten signage (save that handwritten "you pay" or "topper" signs may be used). If a Landlord is concerned with "Store Closing" signs being placed in the front window of a Store or with the number or size of the signs in the front window, the Applicant, the Consultant and the Landlord will work together to resolve the dispute. Furthermore, with respect to enclosed mall Store locations without a separate entrance from the exterior of the enclosed mall, no exterior signs or signs in common areas of a mall shall be used unless explicitly permitted by the applicable Lease. In addition, the Consultant shall be permitted to utilize exterior banners/signs at stand alone or strip mall Stores or enclosed mall Store locations with a separate entrance from the exterior of the enclosed mall; provided, however, that: (i) no signage in any other common areas of a mall shall be used; and (ii) where such banners are not explicitly permitted by the applicable Lease and the Landlord requests in writing that banners are not to be used, no banners shall be used absent further Order of the Court, which may be sought on an expedited basis on notice to the Service List. Any banners used shall be located or hung so as to make clear that the Sale is being conducted only at the affected Store and shall not be wider than the premises occupied by the affected Store. All exterior banners shall be professionally hung and to the extent that there is any damage to the facade of the premises of a Store as a result of the hanging or removal of the exterior banner, such damage shall be professionally repaired at the expense of the Consultant. The Consultant shall not utilize any commercial trucks to advertise the Sale on the Landlord's property or mall ring roads.

5. The Consultant shall be permitted to utilize sign walkers and street signage; provided, however, such sign walkers and street signage shall not be located on the shopping centre or mall premises.
6. Subject to further Order of this Court at the comeback hearing in these CCAA proceedings on or before January 31, 2020, or the agreement of the applicable Landlord, the Consultant shall be entitled to include additional merchandise in the Sale in accordance with the terms of the Consulting Agreement; provided that the additional merchandise is of like kind and category and no lesser quality to the Merchandise, and consistent with any restriction on usage of the Stores set out in the applicable Leases.
7. Conspicuous signs shall be posted in the cash register areas of each Store to the effect that all sales are "final" and customers with any questions or complaints are to call the Applicant's hotline number.
8. The Consultant shall not distribute handbills, leaflets or other written materials to customers outside of any of the Stores on Landlord's property, unless explicitly permitted by the applicable Lease or, if distribution is customary in the shopping centre in which the Store is located. Otherwise, the Consultant may solicit customers in the Stores themselves. The Consultant shall not use any giant balloons, flashing lights or amplified sound to advertise the Sale or solicit customers, except as explicitly permitted under the applicable Lease or agreed to by the Landlord.
9. At the conclusion of the Sale in each Store, the Consultant and the Applicant shall arrange that the premises for each Store are in "broom-swept" and clean condition, and shall arrange that the Stores are in the same condition as on the commencement of the

Sale, ordinary wear and tear excepted. No property of any Landlord of a Store shall be removed or sold during the Sale. No permanent fixtures (other than Offered FF&E (as defined below) for clarity) may be removed without the Landlord's written consent unless otherwise provided by the applicable Lease and in accordance with the Initial Order and the Approval Order. Any trade fixtures or personal property left in a Store after the applicable Vacate Date in respect of which the applicable Lease has been disclaimed by the Applicant shall be deemed abandoned, with the applicable Landlord having the right to dispose of the same as the Landlord chooses, without any liability whatsoever on the part of the Landlord. Nothing in this paragraph shall derogate from the Consultant's obligations under the Consulting Agreement.

10. Subject to the terms of paragraph 8 above, the Consultant shall sell furniture, fixtures and equipment owned by the Applicant ("**Offered FF&E**") and located in the Stores during the Sale (other than Retained FF&E). For greater certainty, Offered FF&E does not include any portion of the Stores' HVAC, sprinkler, fire suppression, or fire alarm systems. The Applicant and the Consultant may advertise the sale of Offered FF&E consistent with these Sale Guidelines on the understanding that the Landlord may require such signs to be placed in discreet locations within the Stores reasonably acceptable to the Landlord. Additionally, the purchasers of any Offered FF&E sold during the Sale shall only be permitted to remove the Offered FF&E either through the back shipping areas designated by the Landlord or through other areas after regular Store business hours or, through the front door of the Store during Store business hours if the Offered FF&E can fit in a shopping bag, with Landlord's supervision as required by the Landlord and in accordance with the Initial Order and the Approval Order. The Consultant shall repair any damage to the Stores resulting from the removal of any Offered FF&E by Consultant or by third party purchasers of Offered FF&E from Consultant.
11. The Consultant shall not make any alterations to interior or exterior Store lighting, except as authorized pursuant to the affected Lease. The hanging of exterior banners or other signage, where permitted in accordance with the terms of these Sale Guidelines, shall not constitute an alteration to a Store.
12. The Applicant hereby provides notice to the Landlords of the Applicant and the Consultant's intention to sell and remove Offered FF&E from the Stores. The Consultant shall make commercially reasonable efforts to arrange with each Landlord represented by counsel on the Service List and with any other Landlord that so requests, a walk-through with the Consultant to identify the Offered FF&E subject to the Sale. The relevant Landlord shall be entitled to have a representative present in the applicable Stores to observe such removal. If the Landlord disputes the Consultant's entitlement to sell or remove any Offered FF&E under the provisions of the Lease, such Offered FF&E shall remain on the premises and shall be dealt with as agreed between the Applicant, the Consultant and such Landlord, or by further Order of the Court upon application by the Applicant on at least two (2) days' notice to such Landlord and the Monitor. If the Applicant has disclaimed or resiliated the Lease governing such Store in accordance with the CCAA and the Initial Order, it shall not be required to pay rent under such Lease pending resolution of any such dispute (other than rent payable for the notice period provided for in the CCAA and the Initial Order), and the disclaimer or resiliation of the

Lease shall be without prejudice to the Applicant's or the Consultant's claim to the Offered FF&E in dispute.

13. If a notice of disclaimer or resiliation is delivered pursuant to the CCAA and the Initial Order to a Landlord while the Sale is ongoing and the Store in question has not yet been vacated, then: (a) during the notice period prior to the effective time of the disclaimer or resiliation, the Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant, the Monitor and the Consultant 24 hours' prior written notice; and (b) at the effective time of the disclaimer or resiliation, the relevant Landlord shall be entitled to take possession of any such Store without waiver of or prejudice to any claims or rights such Landlord may have against the Applicant in respect of such Lease or Store, provided that nothing herein shall relieve such Landlord of any obligation to mitigate any damages claimed in connection therewith.
14. The Consultant and its agents and representatives shall have the same access rights to the Stores as the Applicant under the terms of the applicable Lease, and the Landlords shall have the rights of access to the Stores during the Sale provided for in the applicable Lease (subject, for greater certainty, to any applicable stay of proceedings).
15. The Applicant and the Consultant shall not conduct any auctions of Merchandise or Offered FF&E at any of the Stores.
16. The Consultant shall designate a party to be contacted by the Landlords should a dispute arise concerning the conduct of the Sale. The initial contact person for Consultant shall be Stuart Brotman of Fasken Martineau DuMoulin LLP who may be reached by phone at 416-865-5419 or email at sbrotman@fasken.com. If the parties are unable to resolve the dispute between themselves, the Landlord or the Applicant shall have the right to schedule a "status hearing" before the Court on no less than two (2) days written notice to the other party or parties, during which time the Consultant shall cease all activity in dispute other than activity expressly permitted herein, pending determination of the matter by the Court; provided, however, subject to paragraph 4 of these Sale Guidelines, if a banner has been hung in accordance with these Sale Guidelines and is the subject of a dispute, the Consultant shall not be required to take any such banner down pending determination of any dispute.
17. Nothing herein or in the Consulting Agreement is, or shall be deemed to be a consent by any Landlord to the sale, assignment or transfer of any Lease, or shall, or shall be deemed to, or grant to the Landlord any greater rights than already exist under the terms of any applicable Lease.
18. These Sale Guidelines may be amended by written agreement between the Consultant, the Applicant and the applicable Landlord.

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

Court File No: CV-20-634980-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SFP CANADA LTD.**

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

PROCEEDING COMMENCED AT TORONTO

LIQUIDATION SALE APPROVAL ORDER

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Lawyers for the Applicant

Appendix “C”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

)

THURSDAY, THE 23RD

JUSTICE HAINEY

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DAY OF JANUARY, 2020

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SFP CANADA LTD. (the "**Applicant**")

AMENDED AND RESTATED INITIAL ORDER

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

ON READING the affidavit of Craig M. Boucher sworn January 23, 2020 and the Exhibits thereto (the "**Boucher Affidavit**"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant and Richter Advisory Group Inc. ("**Richter**"), in its capacity as proposed monitor of the Applicant, and on reading the consent of Richter to act as the monitor (the "**Monitor**"),

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

2A. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

3. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of the value of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, advisors, consultants, agents, experts, appraisers, valuers, brokers, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

4. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to use the central cash management system currently in place as described in the Boucher Affidavit or, with the prior consent of the Monitor, replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire

into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. **THIS COURT ORDERS** that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges; and
- (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicant prior to the date of this Order by third party suppliers or service providers up to a maximum aggregate amount of \$100,000, if in the opinion of the Applicant, the supplier or service provider is critical to the Orderly Wind-down (as hereinafter defined).

6. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course during the Orderly Wind-down after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. **THIS COURT ORDERS** that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to make no payments, transfers or disbursements to, or on account of, any related

party to the Applicant, including Schurman Fine Papers and SFP Franchise Corporation; (c) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of its Property; and (d) to not grant credit or incur liabilities except in the ordinary course of the Business.

ORDERLY WIND-DOWN

9. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate; provided that, with respect to any leased premises, the Applicant may, subject to the requirements of the CCAA and paragraphs 10 to 12 herein, vacate, abandon or quit the whole but not part of any leased premises;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as the Applicant deems appropriate;
- (c) pursue all offers for sales of material parts of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any sale (except as permitted by paragraph 9(a) above); and
- (d) apply to this Court for such approval, vesting or other Orders as may be necessary to consummate sale transactions for all or any part of the Property,

all of the foregoing to permit the Applicant to proceed with an orderly wind-down of the Business (the “**Orderly Wind-down**”).

REAL PROPERTY LEASES

10. **THIS COURT ORDERS** that, until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease,

but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the Applicant or the making of this Order) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA by the Applicant, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. **THIS COURT ORDERS** that until and including March 31, 2020, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant, or its employees or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicant or the Monitor, or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

15. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all trademark license and other intellectual property, computer software, communication and other data services, centralized banking services, payroll and benefit services, insurance, freight services, transportation services, customs clearing, warehouse and logistics services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply or license of such goods, services, trademarks or other intellectual property as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of the trademarks and other intellectual property currently licensed to, used or owned by the Applicant (including *Papyrus* and *Carlton Cards / Cartes Carlton*) and of its premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case, that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

17. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

18. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any

obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

19. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

20. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraphs 32 and 34 hereof.

21. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 19 of this Order.

APPOINTMENT OF MONITOR

22. **THIS COURT ORDERS** that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

23. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor and review the Applicant's receipts and disbursements;
- (b) monitor the Orderly Wind-down of the Business and operations of the Applicant, including any liquidation that may be approved;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Orderly Wind-down and such other matters as may be relevant to the proceedings herein;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

24. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

27. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the date of this Order, by the

Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Applicant on a weekly basis or on such terms as such parties may agree and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor and counsel to the Applicant, retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

29. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

30. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Applicant and the CROs (as hereinafter defined), shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$400,000 as security for their professional fees and disbursements incurred at their standard rates and charges of the Monitor and such counsel, both before and after the making of this Order, and the CROs. The Administration Charge shall have the priority set out in paragraphs 32 and 34 hereof.

APPOINTMENT OF CO-CHIEF RESTRUCTURING OFFICERS

31. **THIS COURT ORDERS** that:

- (a) the engagement letter in the form attached as Exhibit “K” to the Boucher Affidavit (the “**CRO Engagement Letter**”), pursuant to which Mackinac Partners, LLC shall provide the services of Michael Nowlan and Craig M. Boucher to act as co-chief restructuring officers of the Applicant (collectively, the “**CROs**” and each a “**CRO**”), the execution of CRO Engagement Letter by the Applicant, *nunc pro tunc*, and the appointment of the CROs as co-chief restructuring officers of the Applicant pursuant to the terms thereof, are hereby approved, including, without limitation, with respect to the payment of the fees and expenses contemplated thereby and incurred by the CROs in providing services to the Applicant;

- (b) the CROs shall be responsible for performing the functions and obligations set out in the CRO Engagement Letter for the benefit of the Applicant and shall provide timely updates to the Monitor in respect of such functions and obligations;
- (c) the CROs shall not be deemed to be a director, *de facto* director or employee of the Applicant;
- (d) nothing in this Order shall be construed as resulting in either CRO being an employer, successor employer, a responsible person, operator or person with apparent authority within the meaning of any statute, regulation or rule of law, or equity for any purpose whatsoever;
- (e) the CROs shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on the part of the CROs;
- (f) neither of the CROs, as a result of the performance of their respective obligations and duties in accordance with the terms of the CRO Engagement Letter, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation; provided however, if either of the CROs are nevertheless later found to be in Possession of any Property, then the applicable CRO, shall be entitled to the benefits and protections in relation to the Applicant and such Property as are provided to a monitor under Section 11.8(3) of the CCAA; and
- (g) no action or other proceeding shall be commenced directly, or by way of counterclaim, third party claim or otherwise, against or in respect of either of the CROs and all rights and remedies of any Person against or in respect of each of the CROs are hereby stayed and suspended, except with the written consent of the applicable CRO or with leave of this Court on notice to the Applicant, the Monitor and the applicable CRO. Notice of any such motion seeking leave of this Court shall be served upon the Applicant, the Monitor and the applicable CRO at least seven (7) days prior to the return date of any such motion for leave.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors' Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$400,000); and

Second – Directors' Charge (to the maximum amount of \$1,000,000).

33. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the Directors' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

35. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges, or further Order of this Court.

36. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of

Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (iii) the payments made by the Applicant pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

37. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant’s interest in such real property leases.

SERVICE AND NOTICE

38. **THIS COURT ORDERS** that the Monitor shall (a) without delay, publish in the Globe & Mail a notice containing the information prescribed under the CCAA, and (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000, and (iii) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

39. **THIS COURT ORDERS** that any employee of the Applicant who is sent a notice of termination of employment shall be deemed to have received such notice by no later than 8:00 a.m. Eastern Standard/Daylight Time on the fourth day following the date any such notice is sent, if such notice is sent by ordinary mail, expedited parcel or registered mail to the individual’s address as reflected in the Applicant’s books and records; provided, however, that (a) any notice of termination of employment that is provided to an employee of the Applicant in person at one of the Applicant’s stores shall be deemed to have been received on the date of such delivery notwithstanding the mailing of any notices of termination of employment, and (b) any

notice of termination of employment that is sent to an employee of the Applicant by electronic message to the individual's email address as last shown in the Applicant's books and records shall be deemed to have been received 24 hours after the time such electronic message was sent, notwithstanding the mailing of any notices of termination of employment.

40. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.richter.ca/insolvencycase/sfp-canada-ltd/>.

41. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

42. **THIS COURT ORDERS** that the Applicant and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within

the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

SEALING

43. **THIS COURT ORDERS** that Confidential Appendix "A" to the Boucher Affidavit shall be and is hereby sealed, kept confidential and shall not form part of the public record.

GENERAL

44. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their respective powers and duties hereunder.

45. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

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

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

48. **THIS COURT ORDERS** that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

A handwritten signature in blue ink, appearing to read "Haring", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JAN 31 2020

PER / PAR:

A small, handwritten signature in blue ink, possibly reading "u", is written above the text "PER / PAR:".

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SFP CANADA LTD.

Applicant

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED AND RESTATED
INITIAL ORDER**

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Lawyers for the Applicant

Matter No: 1207156

Appendix “D”

RICHTER

Court File No. CV-20-634980-00CL

SFP CANADA LTD.

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF
SFP CANADA LTD.**

JANUARY 24, 2020

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Court File No. CV-20-634980-00CL

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SFP CANADA LTD.

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF SFP CANADA LTD.**

JANUARY 24, 2020

I. INTRODUCTION

1. On January 23, 2020 (the **"Filing Date"**), the Ontario Superior Court of Justice (Commercial List) (the **"Court"**) issued an order (the **"Initial Order"**) granting SFP Canada Ltd. (**"SFP Canada"** or the **"Company"**), protection pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the **"CCAA"**). Pursuant to the Initial Order, Richter Advisory Group Inc. (**"Richter"**) was appointed as the Company's Monitor (the **"Monitor"**).
2. The Initial Order, *inter alia*,
 - (a) granted a stay of proceedings in favour of the Company until January 31, 2020 (the **"Stay Period"**);
 - (b) approved the engagement of Mackinac Partners, LLC (**"Mackinac"**) to provide the services of Michael Nowlan and Craig M. Boucher to act as co-chief restructuring officers (the **"CROs"** and each a **"CRO"**) of SFP Canada;
 - (c) ordered that the Company make no payments, transfers or disbursements to, or on account of, any related parties such that all funds generated from SFP Canada's operations throughout the CCAA Proceedings will remain available to SFP Canada; and
 - (d) granted the Administration Charge and Directors' Charge (each as defined hereinafter).

The proceedings commenced by SFP Canada under the CCAA are herein referred to as the **"CCAA Proceedings"**.

II. PURPOSE OF REPORT

3. This report, the Monitor's first report (the **"First Report"**) is to provide information to the Court in respect of the following:
 - (a) a limited summary of certain background information about SFP Canada;
 - (b) the objectives of the Company's CCAA Proceedings, including the Company's post-filing strategy and the liquidation process proposed to be undertaken by SFP Canada;
 - (c) the key terms of a consulting agreement (the **"Consulting Agreement"**) between SFP Canada and Schurman Retail Group, LLC, and a contractual joint venture comprised of Gordon Brothers Retail Partners, LLC and Hilco Merchant Resources, LLC (collectively, the **"Consultant"**), pursuant to which the Company engaged the Consultant to act as liquidation consultant to assist in liquidating the Company's inventory, certain owned furniture, fixtures and equipment (**"FF&E"**) and certain other goods at SFP Canada's retail locations in accordance with the sale guidelines (the **"Sale Guidelines"**) appended to the Liquidation Sale Approval Order (as hereinafter defined) following the issuance thereof by the Court;

- (d) the Company's statement of projected cash flow (the "**Cash Flow Forecast**") for the thirteen-week period from January 18, 2020 to April 17, 2020 (the "**Forecast Period**");
- (e) the Court-ordered priority charges granted by the Initial Order; and
- (f) the Monitor's recommendation that the Court grant the Liquidation Sale Approval Order.

III. TERMS OF REFERENCE

- 4. In preparing this First Report, the Monitor has relied solely on information and documents provided by SFP Canada and their advisors, including unaudited financial information, and discussions with representatives of Mackinac and the Company's legal counsel (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the First Report, Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
- 5. Capitalized terms not otherwise defined herein are as defined in the Company's motion materials, including the affidavit of Craig M. Boucher of Mackinac, sworn January 23, 2020 (the "**Boucher Affidavit**") filed in support of both the Initial Order and the Liquidation Sale Approval Order. This First Report should be read in conjunction with the Boucher Affidavit, as certain information contained in the Boucher Affidavit has not been included herein in order to avoid unnecessary duplication. A copy of the Boucher Affidavit (without exhibits) is attached hereto as **Appendix "A"**.
- 6. The Monitor has established a website at <http://www.richter.ca/insolvencycase/sfp-canada-ltd/> to make available copies of the orders granted in these proceedings as well as the motion materials and reports of the Monitor.
- 7. Unless otherwise noted, all monetary amounts contained in this First Report are expressed in Canadian dollars.

IV. GENERAL BACKGROUND INFORMATION

- 8. SFP Canada operates 76 retail stores across Canada under the "Papyrus", "Carlton Cards / Cartes Carlton", and "Paper Destiny" brand names selling stationary, greeting cards, paper products and gift items. As noted in the Boucher Affidavit, SFP US (defined below), SFP Canada's parent company, operates an e-commerce website that is accessible to Canadian consumers, but SFP Canada does not operate its own website.

9. SFP Canada's business, affairs, financial performance and position, as well as the causes of its insolvency, are detailed in the Boucher Affidavit and are, therefore, not repeated herein. The Monitor has reviewed the Boucher Affidavit and discussed the business and affairs of SFP Canada with the CROs and the Company's legal counsel and other advisors and is of the view that the Boucher Affidavit provides a fair summary thereof.

Historical Overview and Organizational Structure

10. As noted in the Boucher Affidavit, Schurman Fine Papers ("**SFP US**", and together with its subsidiaries, including SFP Canada, the "**Schurman Group**") was founded in 1950 by Marcel and Margrit Schurman, as in importer and wholesaler of fine art greeting cards and stationary from Europe. SFP Canada is a wholly owned subsidiary of SFP US. Over the years, SFP US' business evolved and, in 2009, as part of a larger transaction (the "**Transaction**") expanded into Canada.
11. As also noted in the Boucher Affidavit, the Transaction involved the sale of SFP US' wholesale business and the "Papyrus" brand and related trademarks to American Greetings Corporation ("**American Greetings**"). As part of the Transaction, the Schurman Group acquired the retail business operated by American Greetings in Canada and the United States. To facilitate the Transaction, the Schurman Group and American Greetings also entered into mutual transition services agreements in addition to ongoing commercial licensing, supply and marketing agreements (collectively, the "**American Greetings Agreements**"). As a result of these agreements, the Schurman Group was highly dependent on American Greetings for the majority of goods sold in SFP Canada's retail locations as well as for the trademarks (the "**Trademarks**") required to operate its retail business under the "Papyrus" and "Carlton Cards / Cartes Carlton" names.

Events Leading to the CCAA Proceedings

12. As noted in the Boucher Affidavit, due to a number of factors, including costs incurred in refurbishing and / or closing underperforming retail stores acquired as part of the Transaction with American Greetings, pricing decisions made by American Greetings in respect of the products it sold to the Schurman Group, and unfavourable brick-and-mortar retail market trends, the Schurman Group's Canadian and US operations have suffered financial losses, resulting in liquidity issues.
13. As a result of these and other challenges, the Schurman Group's collective obligations to American Greetings have ballooned to approximately USD\$48 million of which, the Monitor understands, approximately USD\$9 million is owed by SFP Canada.

14. Unfortunately, the Schurman Group's attempts to address their liquidity issues have been unsuccessful and, in early December 2019, American Greetings informed SFP US that it was immediately terminating the American Greetings Agreements and ceasing its supply of products to the Schurman Group. Subsequent negotiations between the Schurman Group and American Greetings to settle on new terms upon which the Schurman Group would be permitted to continue using the Trademarks and purchasing products from American Greetings have failed, and the Monitor understands that American Greetings recently informed the Schurman Group that it is not willing to engage in further negotiations.
15. As a result of the above, and for the reasons described in the Boucher Affidavit, SFP US concluded that it can no longer operate as a going concern and commenced insolvency proceedings to, among other things, pursue an orderly wind-down / liquidation of their retail stores in the United States. On January 23, 2020, SFP US commenced voluntary reorganization proceedings (the "**Chapter 11 Proceedings**") in the United States Bankruptcy Court for the District of Delaware by filing voluntary petitions for relief under chapter 11 of the *United States Bankruptcy Code*, in order to, among other things, pursue an orderly liquidation of the Schurman Group's retail stores in the United States.
16. SFP Canada is in a similar position to that of SFP US. Without a license to use the Trademarks or the ongoing supply of products from American Greetings that, as noted in the Boucher Affidavit, account for in excess of 50% of SFP Canada's gross sales, SFP Canada can no longer operate as a going concern. Moreover, as the Schurman Group is a highly integrated business primarily managed out of the United States, SFP Canada is dependent on SFP US for many critical services (discussed further below). As a result of the Chapter 11 Proceedings, these critical services will no longer be available. Without the continued support of SFP US, SFP Canada determined that it could no longer survive as a going concern and that, in the circumstances, it is in the best interest of all stakeholders for SFP Canada to complete an orderly wind-down / liquidation of their inventory and other assets.
17. The Monitor understands that no relief is being sought in the Chapter 11 Proceedings with respect to SFP Canada and, similarly, no relief is being sought in the CCAA Proceedings with respect to SFP US save and except for the provisions in the Initial Order restricting transfers to related parties by SFP Canada and providing for SFP Canada's continued use of trademarks. The Monitor further understands that SFP Canada is not jointly and severally liable for, and has not guaranteed, SFP US' senior secured debt.

SFP Canada's Financial Results

18. Summarized below are SFP Canada's unaudited financial results for the fiscal year ended January 31, 2019 ("FY19") and the ten (10) months ended November 30, 2019 ("YTD FY20"):

SFP Canada Ltd. Historical Financial Results (CAD\$, in millions; unaudited)		FY20 10-months ended 30-Nov-19	FY19 Year ended 31-Jan-19
Total revenues, net	\$	28.9	\$ 47.3
Total Cost of Goods Sold		9.2	16.6
Gross Profit	\$	19.7	\$ 30.7
Operating Expenses			
Payroll and benefits		6.3	8.8
Rent and occupancy costs		10.3	13.6
Selling, general, and administrative		0.8	1.3
Amortization and depreciation		0.5	0.7
Shared services cost		2.0	2.5
Total operating expenses	\$	20.0	\$ 26.9
Operating Profit	\$	(0.2)	\$ 3.8
Non-operating expenses		2.1	2.8
Income (loss) before income taxes	\$	(2.3)	\$ 0.9
Taxes		0.2	0.2
Net income (loss)	\$	(2.5)	\$ 0.7

Source: Information provided by the Schurman Group

19. As detailed above, SFP Canada incurred a net loss of \$2.5 million YTD FY20 as compared to net income of \$0.7 million in FY19. The Monitor understands the YTD FY20 losses have depleted the Company's cash reserves needed to continue operations.

Retail Operations

20. As noted above, as at the Filing Date, SFP Canada operated 76 retail stores across Canada, of which 35 stores are located in Ontario, 12 in Alberta, 11 in British Columbia, 6 in Quebec, 5 in Nova Scotia, 3 in Manitoba, 3 in Saskatchewan and 1 in Newfoundland and Labrador. All of SFP Canada's retail locations are leased.

Employees

21. As at the Filing Date, SFP Canada had approximately 405 employees of which approximately 323 were part-time employees. SFP Canada's employees are not represented by a union and are not subject to a collective bargaining agreement. SFP Canada has established a group Registered Retirement Saving Plan ("RRSP") for employees, which is administered by Manulife Financial – SFP Canada does not make any matching contributions to the RRSP. A chart

detailing the geographic distribution of SFP Canada employees by province is included at paragraph 46 of the Boucher Affidavit.

22. As described in the Boucher Affidavit, the Schurman Group is a highly integrated business managed out of the United States where the Schurman Group maintains its head office. Although SFP Canada's registered office is in Saint John, New Brunswick, the Monitor understands that:
- (a) all material decisions regarding SFP Canada's business and its operations are managed by Schurman Group personnel located in the United States. In particular, all of SFP Canada's treasury and financial decisions are made at the Schurman Group's head office located in Goodlettsville, Tennessee (the "**US Head Office**");
 - (b) the Schurman Group's human resources, legal, accounting, information technology, marketing and communications functions are primarily administered from the US Head Office or from satellite offices in the United States;
 - (c) there are no management personnel employed directly by SFP Canada or located in Canada. Although SFP Canada does employ store managers and area managers to oversee day-to-day operations of SFP Canada stores, as noted above, all material retail store related matters are managed from the US Head Office;
 - (d) other than retail employees located at SFP Canada stores across Canada, there are no customer service personnel employed by SFP Canada. All customer service matters are managed by the US Head Office (other than in-store service);
 - (e) all of SFP Canada's accounts payable and accounts receivable are managed from the US Head Office;
 - (f) SFP Canada does not have any information technology personnel. All technology decisions are managed by the US Head Office. Further, the Schurman Group's e-commerce sites are managed in the United States;
 - (g) all strategic decisions for SFP Canada, including asset management, capital expenditure and planning decisions are made by the US Head Office; and
 - (h) SFP Canada's sole director is Dominique Schurman, a California resident.
23. The Schurman Group engaged the CROs pursuant to an engagement letter dated January 22, 2020 (the "**CRO Engagement Letter**") to, among other things, assist with the implementation of the CCAA Proceedings, the Chapter 11 Proceedings and the Liquidation Sale. The Monitor understands that SFP Canada's sole director will not be directly involved in the CCAA Proceedings and, therefore, the appointment of the CROs is appropriate and necessary in the circumstances.

24. The CRO Engagement Letter provides that Mackinac will be paid for the services of the CROs at their customary hourly billing rates. The Monitor understands that the cost for the CROs will be split between SFP Canada and SFP US based on the time spent by the CROs in respect of matters relating to SFP Canada and SFP US respectively; however, SFP Canada will not be liable for payment of the "Completion Fee" contemplated under the CRO Engagement Letter.

SFP Canada's Creditors

25. As noted in the Boucher Affidavit, as at November 30, 2019 (the most recent date for which financial information is available), SFP Canada had liabilities totaling approximately USD\$11.7 million, as follows:

Liabilities	Amount Owing (USD\$, in 000s)
Current Liabilities	
Trade Payables*	10,416
Income Taxes Payable	121
Sales and Use Tax Payable	152
Accrued Liabilities	585
Non Current Liabilities	
Deferred Rent	306
Tenant Improvement Allowance	176
Total Liabilities	11,756

* Approximately USD\$9.1 million is owing to American Greetings

26. As described in the Boucher Affidavit, the Monitor understands that SFP Canada has entered into loan and security agreements with Wells Fargo Bank, National Association ("**Wells Fargo**") and a security agreement with American Greetings. As at the Filing Date, the Monitor understands that no amounts are owed by SFP Canada to Wells Fargo and that approximately USD\$9.1 million is owed by SFP Canada to American Greetings.

Wells Fargo

27. As noted in the Boucher Affidavit, the Schurman Group has outstanding secured obligations to Wells Fargo pursuant to a consolidated credit agreement among SFP Canada, SFP US (and another related US entity) and Wells Fargo dated April 17, 2019 (as amended, the "**Wells Fargo Credit Agreement**").
28. Pursuant to the Wells Fargo Credit Agreement, SFP US and another related US entity (collectively the "**US Borrowers**") were permitted to borrow funds in US dollars (the "**US Revolving Facility**") and SFP Canada was permitted to borrow funds in Canadian dollars (the "**Canadian Revolving Facility**") up to a collective maximum of USD\$35 million on a revolving basis. As stated in the Boucher Affidavit, as at January 20, 2020, the US Borrowers owed approximately USD\$6.3 million on the US Revolving Facility and SFP Canada had no amounts owing in respect of the Canadian Revolving Facility.

29. Under the Wells Fargo Credit Agreement, each borrower has granted a security interest in their present and after acquired property to secure the obligations under the Wells Fargo Credit Agreement. The Monitor further understands that the US Borrowers are jointly and severally liable for all obligations under the Wells Fargo Credit Agreement. SFP Canada, however, is not jointly and severally liable for the obligations of the US Borrowers.
30. As also noted in the Boucher Affidavit, American Greetings has provided a limited guarantee of the obligations owing by the Schurman Group under the Wells Fargo Credit Agreement up to a maximum of USD\$10 million.

American Greetings

31. On June 25, 2019, SFP Canada, the US Borrowers and American Greetings entered into a security agreement (the **"American Greetings Security Agreement"**), pursuant to which SFP Canada and the US Borrowers granted American Greetings a continuing lien and security interest over their present and after-acquired property to secure, among other things, the payment and performance of the Schurman Group's obligations pursuant to the American Greetings Agreements or any other agreements between the Schurman Group and American Greetings.
32. The Monitor has been advised that prior to entering into the American Greetings Security Agreement, American Greetings supplied goods and services to the Schurman Group, pursuant to the American Greetings Agreements, on credit on an unsecured basis. The Monitor further understands that the parties entered into the American Greetings Security Agreement to, among other things, secure the amounts due by the Schurman Group to American Greetings.
33. Pursuant to a subordination and intercreditor agreement between Wells Fargo and American Greetings (the **"Subordination and Intercreditor Agreement"**), Wells Fargo has first-ranking priority over the Collateral (as defined in the agreement).
34. The Monitor has instructed its independent legal counsel, Stikeman Elliott LLP (**"Stikeman"**) to review the validity and enforceability of the security granted by SFP Canada in favour of American Greetings in the jurisdictions in which the Company has retail operations and the Monitor will report back to this Honourable Court on this matter following its receipt of Stikeman's opinion.

V. OBJECTIVES OF THE CCAA PROCEEDINGS

35. As noted above, as a result of a number of factors, SFP Canada cannot continue operating as a going concern and has determined that, in the circumstances, it is in the best interest of all stakeholders for SFP Canada to complete an orderly wind-down of its retail operations and liquidation of its inventory and other assets with the assistance of an experienced liquidator under the supervision of the Monitor.

VI. LIQUIDATOR SELECTION PROCESS

36. It is SFP Canada's belief that realizations from its retail operations will be maximized through the appointment of an experienced liquidator to assist SFP Canada with the orderly wind-down of its retail operations (the "**Liquidation Sale**").
37. As described in the Boucher Affidavit, in anticipation of the commencement of insolvency proceedings in both the United States and Canada, on November 29, 2019, the Schurman Group retained Mackinac as their financial advisor to, among other things, develop a plan to solicit proposals from third parties to assist with the Liquidation Sale.
38. Following a competitive process, as detailed in the Boucher Affidavit, SFP US and SFP Canada notified the Consultant of their desire to proceed with its proposal and, with the assistance of their respective advisors, worked to finalize the terms of the Consulting Agreement.

VII. THE INVENTORY LIQUIDATION CONSULTING AGREEMENT

39. On January 17, 2020, SFP US, SFP Canada and the Consultant agreed on the final form of the Consulting Agreement, a copy of which is attached hereto as **Appendix "B"**. The key terms of the Consulting Agreement are as follows:
 - (a) the Consultant will assist SFP Canada in conducting a store closing or other similar-themed liquidation sale in respect of all merchandise and certain other owned assets in SFP Canada's retail locations;
 - (b) the Liquidation Sale commenced on or about January 16, 2020 and will conclude no later than February 29, 2020, or such other dates as agreed to by SFP Canada and the Consultant, in consultation with the Monitor (but no later than March 31, 2020 in accordance with the terms of the proposed Liquidation Sale Approval Order (as defined below) and the Sale Guidelines);
 - (c) SFP Canada is responsible for all costs and expenses in connection with the Liquidation Sale, certain of which are subject to an agreed upon budget with the Consultant, except solely for certain amounts in excess of specifically enumerated "Consultant Controlled Expenses" in accordance with a budget appended to the Consulting Agreement;
 - (d) in consideration of its services, the Consultant will earn a fee based on gross recoveries (net of applicable sales taxes) realized from the sale of SFP Canada's owned merchandise (subject to certain exceptions, including defective merchandise) (either in stores, in transit or on order) from SFP Canada's retail stores, as part of the Liquidation Sale, as follows:

Gross Recovery Percentage	Merchandise Fee
Below 190%	1.75% of Gross Proceeds
Above 190%	2.00% of Gross Proceeds

- (e) the Consultant will also assist SFP Canada in selling any owned FF&E other than Retained FF&E (as defined in the Consulting Agreement). The Consultant will earn a fee of fifteen percent (15%) of the gross proceeds from the sale of SFP Canada's owned FF&E;
 - (f) the Consultant will have the ability, at its sole cost and expense, to supplement SFP Canada's merchandise with additional goods procured by the Consultant, which are of like kind and of no lesser quality than SFP Canada's merchandise, to include in the Liquidation Sale (the "**Consultant Goods**"). SFP Canada will be paid seven and one-half percent (7.5%) of the gross proceeds (net of applicable sales taxes) realized from the sale of the Consultant Goods; and
 - (g) the Consulting Agreement is subject to approval of the Court as part of the CCAA Proceedings and shall be subject to the terms of the Liquidation Sale Approval Order and the Sale Guidelines following such approval.
40. The Monitor is supportive of the proposed order approving, among other things, the Consulting Agreement (the "**Liquidation Sale Approval Order**"), and the Sale Guidelines regarding the conduct of the Liquidation Sale following such approval, for the following reasons:
- (a) the Consultant has extensive experience in retail liquidations and inventory disposition in the Canadian marketplace;
 - (b) the fee payable to the Consultant is, in the Monitor's view, comparable to the fee payable to liquidators in other recent retail liquidations;
 - (c) the Consultant has experience working with Canadian landlords of retail tenants in insolvency proceedings and understands their requirements and concerns;
 - (d) the Sales Guidelines provide that, subject to certain exceptions, the Liquidation Sale is to be conducted in accordance with the terms of the applicable leases for each of SFP Canada's retail location;
 - (e) in the Monitor's view, the Sale Guidelines are in a form similar to sale guidelines approved by the Court in other recent Canadian retail liquidations; and
 - (f) the cash flow forecast filed by SFP Canada (discussed further below) contemplates that the merchandise in SFP Canada's retail stores will be sold expeditiously. In the Monitor's view, it is essential that the Liquidation Sale Approval Order be approved as soon as possible, as any delay could negatively impact the Company's cash flows and potentially impair recoveries.

VII. SFP CANADA'S CASH FLOW STATEMENT

41. SFP Canada, with the assistance of the Monitor, has prepared the Cash Flow, a copy of which is attached as **Appendix "C"** and is summarized below:

SFP Canada Ltd Cash Flow Forecast From January 18, 2020 to April 17, 2020 (CAD\$, in millions; unaudited)	
	13 Week Total
Receipts	
Canada Retail Receipts	9.9
Total Receipts	\$ 9.9
Disbursements	
Freight	\$ (0.2)
Rent & Utilities	(1.2)
Store Expenses and Other	(0.3)
Payroll & Benefits	(1.5)
Liquidation Fee & Expenses	(0.5)
Sales Tax Remittances	(2.1)
Professional Fees	(2.3)
Miscellaneous/Other	(0.2)
Total Disbursements	\$ (8.4)
Net Cash Flow	\$ 1.5
Opening Cash Balance	\$ 4.1
Net Cash Flow	1.5
Ending Cash Balance	\$ 5.6

42. The Cash Flow Forecast indicates that SFP Canada will have sufficient liquidity to fund both operating costs as part of the Liquidation Sale and the costs of the CCAA Proceedings during the Forecast Period. As at January 18, 2020, SFP Canada had approximately \$4.1 million of cash on hand. The Cash Flow Forecast projects that the Company will experience a net cash inflow of approximately \$1.5 million over the Forecast Period, comprised of:
- (a) cash receipts of approximately \$9.9 million, relating to the gross proceeds from the sale of merchandise as part of the Liquidation Sale; and
 - (b) cash disbursements of approximately \$8.4 million, primarily related to payroll and benefits, rent and operating expenses for the Company's retail locations, sales tax remittances, and the costs of the CCAA Proceedings.

43. The Monitor notes that the Cash Flow Forecast contemplates the payment of certain pre-filing amounts during the Forecast Period including (i) sales taxes owing for December 2019 (\$0.7 million) and (ii) accrued pre-filing wages and vacation pay owing to the Company's employees (\$0.5 million).
44. As noted in the Boucher Affidavit, on January 17, 2020, SFP Canada transferred USD\$3 million to SFP US on account of (i) repayment for certain costs previously paid by SFP US for the benefit of SFP Canada and (ii) prepayment of certain costs to be paid by SFP US for the benefit SFP Canada during the CCAA Proceedings. As at the date of this First Report, the Monitor has not conducted a detailed review of the support for this payment but notes that the Initial Order provides that SFP Canada will not make any further payments to, or on account of, any related party until further Order of the Court.
45. The Monitor has reviewed the Cash Flow Forecast to the standard required of a Court-appointed Monitor by section 23(1)(b) of the CCAA. Section 23(1)(b) requires a Monitor to review the debtor's cash flow statement as to its reasonableness and to file a report with the Court on the Monitor's findings. The Canadian Association of Restructuring Professionals' standards of professional practice include a standard for monitors fulfilling their statutory responsibilities under the CCAA in respect of a monitor's report on the Cash Flow Forecast. A copy of the Monitor's Report on the Cash Flow Forecast is attached hereto as **Appendix "D"**.
46. Pursuant to this standard, the Monitor's review of the Cash Flow Forecast consisted of inquiries, analytical procedures and discussion related to information supplied to it by SFP Canada and its advisors. Since the probable and hypothetical assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Forecast. The Monitor also reviewed the support provided by SFP Canada and its advisors for the probable and hypothetical assumptions and the preparation and presentation of the Cash Flow Forecast.
47. Based on the Monitor's review, nothing has come to its attention that causes it to believe, in all material respects, that:
- (a) the probable and hypothetical assumptions are not consistent with the purpose of the Cash Flow Forecast;
 - (b) as at the date of this report, the probable and hypothetical assumptions are not suitably supported and consistent with the Company's plans or do not provide a reasonable basis for the Cash Flow Forecast, given the probable and hypothetical assumptions; or
 - (c) the Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

48. Since the Cash Flow Forecast is based on assumptions regarding future events, actual results may vary from the information presented even if the probable and hypothetical assumptions occur, and the variation could be material. Accordingly, the Monitor expresses no assurance as to whether the Cash Flow Forecast will be achieved. In addition, the Monitor expresses no opinion or other form of assurance with respect to the accuracy of the financial information presented in the Cash Flow Forecast or relied upon by the Monitor in preparing this report.
49. The Cash Flow Forecast has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

VIII. PRIORITY CHARGES

50. The Initial Order provides for certain priority charges on the current and future assets, undertakings and properties of the Company wherever located, including all proceeds thereof, that rank in the following order:
- (a) first, the Administration Charge (to the maximum amount of \$0.4 million); and
 - (b) second, the Directors' Charge (to the maximum amount of \$1.0 million).

Administration Charge

51. The Initial Order provides for a priority charge up to a maximum of \$0.4 million (the "**Administration Charge**") in favour of the Company's counsel, Osier, Hoskin & Harcourt LLP, the CROs, and the Monitor and its counsel, as security for the professional fees and disbursements incurred prior to and after the commencement of the CCAA Proceedings.
52. The amount of the Administration Charge sought by the Company was determined in consultation with the Monitor, and the Monitor is of the view that the Administration Charge is reasonable in the circumstances.

Directors' Charge

53. The Initial Order provides for a charge to indemnify the current directors and officers of the Company (the "**Directors and Officers**") against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of these CCAA proceedings (the "**Directors' Charge**").
54. The Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent such coverage is insufficient to pay an indemnified amount. As per the Boucher Affidavit, the Monitor understands that SFP Canada maintains directors' and officers' liability insurance with a USD\$5.0 million aggregate limit but that the coverage limits are shared with directors and officers of SFP US.

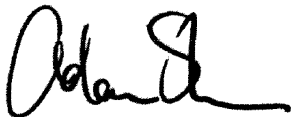
55. The amount of the Directors Charge has been calculated by the Company, in consultation with the Monitor, taking into consideration sales taxes, employee payroll and related expenses (including source deductions) as well as other employment related liabilities that attract potential liability for the Directors and Officers. The Monitor is of the view that the Directors' Charge is reasonable in the circumstances.

VIII. MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

56. For the reasons set out in this First Report, the Monitor is of the view that the relief requested by the Company is both appropriate and reasonable and the Monitor therefore recommends that this Court approve the Consulting Agreement and grant the Liquidation Sale Approval Order.

All of which is respectfully submitted on this 24th day of January, 2020.

Richter Advisory Group Inc.
in its capacity as Monitor of
SFP Canada Ltd.
and not in its personal capacity



Adam Sherman, MBA, CIRP, LIT



Pritesh Patel, MBA, CFA, CIRP, LIT

Appendix “E”

RICHTER

Court File No. CV-20-634980-00CL

SFP CANADA LTD.

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF
SFP CANADA LTD.**

JANUARY 30, 2020

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APPENDICES

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SFP CANADA LTD.

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS MONITOR OF SFP CANADA LTD.**

JANUARY 30, 2020

I. INTRODUCTION

1. On January 23, 2020 (the “**Filing Date**”), the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Initial Order**”) granting SFP Canada Ltd. (“**SFP Canada**” or the “**Company**”), protection pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). Pursuant to the Initial Order, Richter Advisory Group Inc. (“**Richter**”) was appointed as the Company’s Monitor (the “**Monitor**”).
2. The Initial Order, *inter alia*,
 - (a) granted a stay of proceedings in favour of the Company until January 31, 2020 (the “**Stay Period**”);
 - (b) approved the engagement of Mackinac Partners, LLC (“**Mackinac**”) to provide the services of Michael Nowlan and Craig M. Boucher to act as co-chief restructuring officers (the “**CROs**” and each a “**CRO**”) of SFP Canada;
 - (c) ordered that the Company make no payments, transfers or disbursements to, or on account of, any related parties such that all funds generated from SFP Canada’s operations throughout the CCAA Proceedings will remain available to SFP Canada; and
 - (d) granted certain charges sought by SFP Canada.

A copy of the Initial Order is attached hereto as **Appendix “A”**. The proceedings commenced by SFP Canada under the CCAA are herein referred to as the “**CCAA Proceedings**”.

3. On January 24, 2020, the Court issued an order (the “**Liquidation Sale Approval Order**”) which, among other things:
 - (a) approved the consulting agreement (the “**Consulting Agreement**”) between SFP Canada and Schurman Retail Group, LLC, and a contractual joint venture comprised of Gordon Brothers Retail Partners, LLC and Hilco Merchant Resources, LLC (collectively, the “**Consultant**”), pursuant to which the Company engaged the Consultant to act as liquidation consultant to assist in liquidating the Company’s inventory, certain owned furniture, fixtures and equipment (“**FF&E**”) and certain other goods at SFP Canada’s retail locations (the “**Liquidation Sale**”) in accordance with the sale guidelines (the “**Sale Guidelines**”) appended to the Liquidation Sale Approval Order; and
 - (b) authorized SFP Canada, with the assistance of the Consultant, to conduct the Liquidation Sale.

A copy of the Liquidation Sale Approval Order is attached hereto as **Appendix “B”**.

4. The first report of the Monitor dated January 24, 2020 (the “**First Report**”) was filed with the Court, *inter alia*, in support of the Liquidation Sale Approval Order. A copy of the First Report, without appendices, is attached hereto as **Appendix “C”**.
5. The principal purpose of the CCAA Proceedings is for SFP Canada to complete an orderly wind-down of its retail operations and a liquidation of its inventory and other assets with the assistance of an experienced liquidator under the supervision of the Monitor.

II. PURPOSE OF REPORT

6. The purpose of this report, the Monitor’s second report (the “**Second Report**”) is to provide information to the Court in respect of the following:
 - (a) the activities of SFP Canada and the Monitor since the issuance of the Initial Order;
 - (b) the status of the Liquidation Sale; and
 - (c) SFP Canada’s request for certain amendments to the Initial Order (the “**Amended and Restated Initial Order**”), including an extension of the Stay Period to March 31, 2020.

III. TERMS OF REFERENCE

7. In preparing this Second Report, the Monitor has relied solely on information and documents provided by SFP Canada and their advisors, including unaudited financial information, and discussions with representatives of Mackinac and the Company’s legal counsel (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Second Report, Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
8. Capitalized terms not otherwise defined herein are as defined in the Company’s motion materials, including the affidavit of Craig M. Boucher, sworn January 29, 2020 (the “**January 29 Boucher Affidavit**”) filed in support of the Company’s motion for approval of the proposed Amended and Restated Initial Order. This Second Report should be read in conjunction with the January 29 Boucher Affidavit, as certain information contained in the January 29 Boucher Affidavit has not been included herein in order to avoid unnecessary duplication.
9. Unless otherwise noted, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

IV. THE ACTIVITIES OF SFP CANADA SINCE THE ISSUANCE OF THE INITIAL ORDER

10. Since the date of the Initial Order, the activities of SFP Canada have included:

- (a) corresponding with the Company's employees regarding the CCAA Proceedings, including issuing termination letters to all of SFP Canada's employees providing working notice of termination (or advance notice of termination to those employees on leave);
- (b) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
- (c) making payments to suppliers for goods and services received following the issuance of the Initial Order;
- (d) communicating with the Canadian Consultant (as hereinafter defined) and counsel for certain landlords regarding the Liquidation Sale; and
- (e) consulting with the Monitor and its counsel on various matters in connection with the CCAA Proceedings.

V. THE ACTIVITIES OF THE MONITOR SINCE THE ISSUANCE OF THE INITIAL ORDER

11. Since the date of the Initial Order, the Monitor's activities have included:

- (a) arranging for notice of the CCAA Proceedings to be published in the January 29, 2020 and February 5, 2020 editions of the Globe & Mail, as required pursuant to the Initial Order;
- (b) sending a notice, within 5 days of the issuance of the Initial Order, of the CCAA Proceedings to all known creditors of SFP Canada;
- (c) filing prescribed documents with the Office of the Superintendent of Bankruptcy pursuant to the CCAA;
- (d) establishing a website at <http://www.richter.ca/insolvencycase/sfp-canada-ltd/>, where all materials filed with the Court, and all orders made by the Court in connection with the CCAA Proceedings, are available in electronic form;
- (e) arranging for a toll-free hotline through which the Company's creditors or other interested parties can make enquires related to the CCAA Proceedings;
- (f) implementing procedures for the monitoring of SFP Canada's cash flows and for ongoing reporting of variances to SFP Canada's Cash Flow Forecast (as hereinafter defined);

- (g) corresponding and communicating with SFP Canada, Mackinac and the Company's legal counsel on cash management and various other matters in connection with the CCAA Proceedings;
 - (h) communicating with counsel for certain landlords regarding the Consulting Agreement, the Sale Guidelines and the Liquidation Sale;
 - (i) communication with its legal counsel, Stikeman Elliott LLP ("**Stikeman**"), in connection with its ongoing review of the validity and enforceability of the security granted by SFP Canada in favour of American Greetings Corporation and other matters in connection with the CCAA Proceedings;
 - (j) responding to calls and enquiries from creditors and other stakeholders in connection with the CCAA Proceedings;
 - (k) attending at Court in connection with the Liquidation Sale Approval Order; and
 - (l) preparing this Second Report.
12. In addition to the above, as noted in the First Report, on January 17, 2020, SFP Canada transferred USD\$3 million (the "**Funds Transfer**") to its US parent company, Schurman Fine Papers ("**SFP US**", and together with its subsidiaries, including SFP Canada, the "**Schurman Group**"), on account of (i) repayment for certain costs previously paid by SFP US for the benefit of SFP Canada and (ii) prepayment of certain costs to be paid by SFP US for the benefit SFP Canada during the CCAA Proceedings. After becoming aware of the Funds Transfer, the Monitor contacted the CROs to request that all available information and documentation supporting the Funds Transfer be provided to the Monitor. The Monitor notes that the Initial Order provided that SFP Canada would not make any further payments to, or on account of, any related party until further Order of the Court.
 13. Subsequent to the issuance of the Initial Order, counsel for a creditor contacted Stikeman to, among other things, request additional information in connection with the Funds Transfer, including the steps taken to effect the Funds Transfer, as well as the views of both the Monitor and SFP Canada as to the bona fides of the Funds Transfer.
 14. As at the date of this Second Report, the Monitor is not in a position to report further on the Funds Transfer – the Monitor will report back to this Court on this matter following its review and examination of the information and documentation to be provided by SFP Canada and/or the CROs.

VI. THE LIQUIDATION SALE

15. As noted in the First Report, SFP Canada has determined that it is in the best interest of all stakeholders to complete the Liquidation Sale.
16. As noted in the January 29 Boucher Affidavit, the Consultant provided notice to the Schurman Group that it had assigned its rights, benefits and obligations under the Consulting Agreement relating to the Liquidation Sale in Canada to Canadian affiliates, namely Gordon Brothers Canada ULC and Merchant Retail Solutions, ULC (collectively, the “**Canadian Consultant**”) effective as of January 17, 2020. As a result, the Canadian Consultant will be performing all the services to be performed by the Consultant in connection with the Liquidation Sale in Canada.
17. The Schurman Group expects that the Liquidation Sale will be concluded by February 29, 2020.

VII. THE AMENDED AND RESTATED INITIAL ORDER

18. The Initial Order provided for the Stay Period to expire on January 31, 2020 and such further relief determined to be reasonably necessary for SFP’s continued operations during the initial Stay Period. SFP Canada is now seeking the proposed Amended and Restated Initial Order, which contemplates an extension of the Stay Period to March 31, 2020 and certain other relief, including, *inter alia*, the following:
 - (a) authorization to file a plan of compromise or arrangement (the “**Plan**”);
 - (b) approval to permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate;
 - (c) safeguards, in favour of both the Monitor and the CROs, in respect of any property of SFP Canada that may be environmentally contaminated; and
 - (d) additional protections in connection with the charges granted pursuant to the Initial Order.
19. As noted in the First Report, SFP Canada, with the assistance of the Monitor, prepared a statement of its projected cash flows for the period January 18, 2020 to April 17, 2020 (the “**Cash Flow Forecast**”), a copy of which is attached hereto as **Appendix “D”** and is summarized below:

SFP Canada Ltd Cash Flow Forecast From January 18, 2020 to April 17, 2020 (CAD\$, in millions; unaudited)	
	13 Week Total
Receipts	
Canada Retail Receipts	9.9
Total Receipts	\$ 9.9
Disbursements	
Freight	\$ (0.2)
Rent & Utilities	(1.2)
Store Expenses and Other	(0.3)
Payroll & Benefits	(1.5)
Liquidation Fee & Expenses	(0.5)
Sales Tax Remittances	(2.1)
Professional Fees	(2.3)
Miscellaneous/Other	(0.2)
Total Disbursements	\$ (8.4)
Net Cash Flow	\$ 1.5
Opening Cash Balance	\$ 4.1
Net Cash Flow	1.5
Ending Cash Balance	\$ 5.6

20. The Cash Flow Forecast indicates that SFP Canada will have sufficient liquidity to fund both operating costs as part of the Liquidation Sale and the costs of the CCAA Proceedings during the extension of the Stay Period to March 31, 2020, if granted.
21. While it is too early to determine whether a viable Plan will be presented by SFP Canada to its creditors, in the Monitor's view, the Company's request for an extension of the Stay Period to March 31, 2020 is appropriate in the circumstances for the following reasons:
- (a) SFP Canada has acted and continues to act in good faith and with due diligence in taking steps to monetize its assets for the benefit of its stakeholders;
 - (b) the extension will allow for the completion of the Liquidation Sale and permit SFP Canada, in consultation with other stakeholders, sufficient time to report to this Court accordingly; and
 - (c) the extension should not prejudice any group of creditors, as SFP Canada is projected to have sufficient funds to pay post-filing services and supplies, as contemplated by the Cash Flow Forecast.

VIII. MONITOR'S CONCLUSIONS AND RECOMMENDATIONS

22. For the reasons set out in this Second Report, the Monitor is of the view that the relief requested by SFP Canada is both appropriate and reasonable and the Monitor therefore recommends that this Court approve the proposed Amended and Restated Initial Order.

All of which is respectfully submitted on this 30th day of January, 2020.

Richter Advisory Group Inc.
in its capacity as Monitor of
SFP Canada Ltd.
and not in its personal capacity



Adam Sherman, MBA, CIRP, LIT



Pritesh Patel, MBA, CFA, CIRP, LIT

Appendix “F”

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SFP FRANCHISE CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-10134 (JTD)

(Jointly Administered)

Ref Nos. 101 & 102

**ORDER AUTHORIZING IMPLEMENTATION OF KEY EMPLOYEE
RETENTION PLAN AND KEY EMPLOYEE INCENTIVE PLAN**

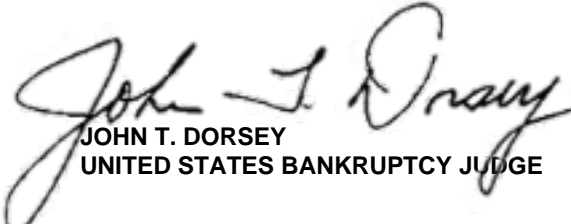
Upon the *Motion of the Debtors for Entry of an Order Authorizing Implementation of Key Employee Retention Plan* (the “Motion”)² and upon the First Day Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and the Court having found that this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court may enter an order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that sufficient notice of the Motion has been given; and it appearing that there is good and sufficient cause for the relief set forth in this Order and that the relief set forth in this Order is in the best interests of the Debtors’ estates; and the Court having determined that, based on the evidence submitted at the hearing on the Motion, none of the Key Employees are “insiders” of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code; it is hereby

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: SFP Franchise Corporation (6248); and Schurman Fine Papers (1409). The location of the Debtors’ principal place of business is 300 Oak Bluff Lane, Goodlettsville, Tennessee 37072.

² Capitalized terms not defined herein shall have the same meaning as ascribed to them in the Motion.

1. ORDERED that the Motion is GRANTED as set forth herein; and it is further
2. ORDERED that the KERP is approved in its entirety and the Debtors are authorized to implement the KERP in their discretion; and it is further
3. ORDERED that the Debtors are hereby authorized, but not directed, to make payments to the Key Employees listed on Exhibit 1 to the Motion, in amounts not to exceed those set forth on Exhibit 1 for each Key Employee, pursuant to the KERP, as applicable and the authorization to make such payments shall not create any obligation on the part of the Debtors to make payments under the KERP unless the participants meet the necessary conditions thereunder; and it is further
4. ORDERED that all amounts earned and payable under the KERP shall have administrative expense priority under Bankruptcy Code sections 503(b) and 507(a)(2); and it is further
5. ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon entry; and it is further
6. ORDERED that the Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion; and it is further
7. ORDERED that the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: February 14th, 2020
Wilmington, Delaware


JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SFP FRANCHISE CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-10134 (JTD)

(Jointly Administered)

**Requested Hearing Date: February 14, 2020
at 10:00 a.m. (ET)**

**Requested Objection Deadline: February 12, 2020
at 11:00 a.m. (ET)**

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER AUTHORIZING
IMPLEMENTATION OF KEY EMPLOYEE RETENTION PLAN**

The above-captioned debtors and debtors-in-possession (the “Debtors”) by and through their proposed undersigned counsel, hereby submit this *Motion of the Debtors for Entry of an Order Authorizing Implementation of Key Employee Retention Plan* (the “Motion”). In support of the Motion, the Debtors rely on the *Declaration of Craig M. Boucher in Support of the Debtors’ Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”),² and respectfully represent and set forth as follows:

PRELIMINARY STATEMENT

The Debtors’ employees are the very heart and lifeblood of their businesses. Retention of employees is highly competitive, especially when unemployment is at a historical low generally, particularly in the hiring markets in which the Debtors operate.³ In light of the Liquidation and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: SFP Franchise Corporation (6248); and Schurman Fine Papers (1409). The location of the Debtors’ principal place of business is 300 Oak Bluff Lane, Goodlettsville, Tennessee 37072.

² Except where otherwise indicated, capitalized terms used but not defined in this Motion have the meanings ascribed to them in the First Day Declaration.

³ According to the Bureau of Labor Statistics, the Nashville metropolitan area, which includes Goodlettsville, has an unemployment rate of 2.6% while the average in the rest of the United States is

imminent closure of the Debtors' businesses, the need to retain the Key Employees (defined below) is especially acute. At bottom, providing incentives for the Key Employees to remain with the Debtors through the completion of the Liquidation is critically important to the Debtors' efforts to maximize value for the benefit of all stakeholders.

The Key Employees are twenty-eight (28) highly qualified, skilled personnel who have knowledge, experience and expertise that is essential to maintaining the Debtors' operational stability, making them critical to the Liquidation, thus maximizing the value of the Debtors' estates. Absent their retention, the prospects of which can be enhanced (although not guaranteed) by the approval of the KERP, the Debtors face significant risk of employee attrition that would threaten to disrupt the Debtors' day-to-day operations and the Liquidation. Compared to the potential risks of losing the Key Employees, the cost of the KERP – approximately \$284,000, with an average payout of approximately \$10,142.86 – is a small price to pay. Moreover, the Approved Budget agreed to by the Senior Lenders pursuant to the Interim Cash Collateral Order provides for the funding of the KERP.⁴

For these reasons, and as further detailed below, the Debtors submit that the Court should approve the KERP.

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended*

3.5%. Unemployment Rate in Nashville-Davidson-Murfreesboro-Franklin, TN (Jan. 3, 2020), <https://fred.stlouisfed.org/series/NASH947UR>.

⁴ As set forth in the First Day Declaration, the Debtors' non-debtor affiliate SFP Canada, Ltd. ("SFP Canada") has commenced a proceeding under the Companies' Creditors Arrangement Act in Ottawa, Canada (the "CCAA Proceeding"). The Debtors have been informed that SFP Canada intends to apply for similar relief as set forth herein in the CCAA Proceeding. Contingent on the approval of the relief requested in the CCAA Proceeding, the Debtors expect that SFP Canada will fund approximate 30% of the gross cost of the KERP.

Standing Order of Reference from the United States District Court for the District of Delaware dated February 29, 2012. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.⁵

2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief requested herein are sections 105(a), 363 and 503(c)(3) of title 11 of chapter 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended or modified, the “Bankruptcy Code”).

GENERAL BACKGROUND

4. On January 23, 2020 (the “Petition Date”), the Debtors commenced the above-captioned chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code with the Court.

5. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession, pursuant to Bankruptcy Code sections 1107(a) and 1108. As of the date of this Motion, no trustee, examiner or statutory committee has been appointed in these Chapter 11 Cases.

6. Additional information regarding the circumstances leading to the commencement of these Chapter 11 Cases and information regarding the Debtors’ businesses and capital structure is set forth in detail in the First Day Declaration filed on the Petition Date and incorporated herein by reference.

⁵ Pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtors hereby confirm their consent to entry of a final order by this Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

RELIEF REQUESTED

7. By this Motion, the Debtors seek entry of an order, substantially in the form of the proposed order attached hereto, authorizing the implementation of a key employee retention plan (the “KERP”).

THE KERP

8. The Debtors seek authorization to implement the KERP and retain twenty-eight (28) employees (the “Key Employees”) who are critical to the Debtors’ (a) ongoing operations during these Chapter 11 Cases; and (b) ability to effectively conduct the Liquidation. These Key Employees play significant roles in numerous facets of the Debtors’ businesses and are necessary to the continued operation thereof. Significantly, and consistent with the requirements of the Bankruptcy Code, these Key Employees are not officers or directors of the Debtors, and thus do not constitute “corporate insiders.” A confidential listing of the Key Employees identities and the proposed amounts to which they would be entitled under the KERP is attached hereto as **Exhibit 1**. The KERP affords these Key Employees potential payments of approximately 13% of their annual base salary. The value of the payments range from \$1,920.00 to \$24,230.77, for a total of \$283,984.06. Assuming the Motion is granted, the Debtors’ have agreed to pay the Key Employees their KERP amounts within fourteen days of the Final Retention Date (as defined below).

9. As part of the process of formulating the KERP, the Debtors reviewed the functions and anticipated tasks of each Key Employee and determined that each such Key Employee is critical to the Debtors’ operations and conducting the Liquidation through a date certain, as reflected on **Exhibit 1** (each such date, the “Final Retention Date”). Each Key Employee must remain employed by the Debtors through his or her Final Retention Date in order

to receive their respective KERP payment. If a Key Employee resigns or is terminated for cause before the Final Retention Date, such Key Employee shall forfeit his or her KERP payment. Participation in the KERP also requires the Key Employees to release the Debtors of any claims or potential claims they may have against the Debtors and their estates.

10. The Debtors conducted significant due diligence in identifying the needs for and designing the KERP. For example, the Debtors' financial advisor and counsel advised the Debtors about the necessity and propriety of the KERP, as well as its comparison to other chapter 11 cases. The Debtors' Professionals assisted the Debtors in determining that the terms of the KERP are reasonable, particularly when compared to KERP's previously approved in other bankruptcy cases.

11. The Debtors also worked diligently in identifying the appropriate personnel to participate in the KERP. The Key Employees were selected because of their unique operational and historical knowledge of the businesses and the vital role they play in the daily operations of the various aspects of the Debtors' business and well as the ongoing Liquidation. Without the KERP, the Debtors face a heightened risk that Key Employees will leave the Debtors to find employment elsewhere. In their absence, an information and leadership vacuum would result and the Debtors' operations and the Liquidation would significantly suffer. These Key Employees would be difficult and expensive, if not impossible, to replace. Even assuming that these Key Employees can be replaced, training new hires would be costly and time consuming, thereby detracting the Debtors' energy and efforts from operating their businesses, pursuing a value-maximizing Liquidation and advancing these Chapter 11 Cases. The inability to find replacements for the Key Employees is particularly acute in these Chapter 11 Cases where the Debtors believe that they will cease all operations by the end of March 2020.

12. The Debtors selected employees from the following departments to participate in the KERP:

Department	Number of Key Employees
Real Estate	1
Product Management	1
Inventory Management	2
In House Printing	3
Finance	8
Information Technology	6
Human Resources	3
Product Safety	1
Store Operations	3

Because the Key Employees play such critical roles in important aspects of the Debtors' operations, the Debtors' business will greatly benefit by their retention. More importantly, losing these Key Employees would significantly harm the Debtors' businesses as any potential replacements will be virtually impossible to replace in light of the Liquidation and imminent cessation of the Debtors' business operations by the end of March 2020.

13. Ultimately, the Debtors' determined that the KERP was necessary to maintain stability, allay fears related to the Debtors' financial performance and maximize value for the Debtors' creditors and stakeholders.

BASIS FOR RELIEF

14. The Debtors seek authority to implement the KERP under section 503(c)(3) of the Bankruptcy Code. The KERP satisfies the business judgment rule as (a) it is closely related to the Debtors' goal, (b) its costs are reasonable in light of the Debtors' assets, liabilities, and projected earnings in the Liquidation, (c) it is fair, nondiscriminatory and customary in the chapter 11 context, particularly those related to the retail industry, and (d) it was fully vetted by the Debtors with assistance from outside professionals.

A. Governing Law

15. Traditionally, compensation plans were analyzed and approved under section 363 of the Bankruptcy Code, which authorizes the debtor to use, sell or lease the property of the estate. *See, e.g., In re Global Home Prods., LLC*, 369 B.R. 778, 784 (Bankr. D. Del. 2007) (“The reasonable use of incentives and performance bonuses are considered the proper exercise of a debtor’s business judgment.”); *In re Nobex Corp.*, 2006 Bankr. LEXIS 417, at *7 (Bankr. D. Del. Jan. 19, 2006) (approving incentive pay outside of ordinary course where it was “an appropriate exercise of the Debtor’s business judgment.”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153-55 (D. Del. 1999) (affirming bankruptcy court approval of key employee retention program; stating that “[i]n determining whether to authorize the use, sale, or lease of property of the estate under [section 363(b)], courts require the debtors to show that a sound business purpose justifies such actions”). If such use, sale or lease is conducted outside the ordinary course of business, the debtor’s transaction must satisfy the business judgment rule. *See In re Del. & Hudson R.R. Co.*, 124 B.R. 169, 176 (D. Del. 1991) (explaining that the Third Circuit has adopted the “sound business purpose” test to evaluate motions brought pursuant to section 363(b)).

16. In 2005, Congress enacted the Bankruptcy Abuse Prevention and Consumer Protection Act (the “BAPCPA”), which added section 503(c) to the Bankruptcy Code and restricted retention-based payments to corporate insiders. *See* S. 256, 109th Cong. (2005); H.R. 685, 109th Cong. (2005); *see also In re Global Home Prods., LLC*, 369 B.R. at 784 (recounting purpose of BAPCPA). Thus, if a proposed compensation plan is purely motivated by retaining a corporate insider, it will have to comply with the rigid requirements of section 503(c)(1). *See In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 802 (Bankr. D. Del. 2007) (finding that section

503(c)(1) applies only to retention programs with “the primary purpose of inducing [an employee] to remain with the debtor’s business.”). On the other hand, other payments made to non-insiders, outside the ordinary course, are approved under section 503(c)(3) if they satisfy the business judgment rule. *See id.* at 803-804; *see also In re Dana Corp.*, 358 B.R. 567, 574 (Bankr. S.D.N.Y. 2006).

17. In assessing whether a proposed compensation plan satisfies section 503(c)(3) and the business judgment rule, courts consider the following factors:

- Is there a reasonable relationship between the plan proposed and the results to be obtained?
- Is the cost of the plan reasonable in the context of the debtor’s assets, liabilities and earning potential?
- Is the scope of the plan fair and reasonable, such that it does not discriminate unfairly?
- Is the KERP consistent with industry standards and practices?
- What due diligence did the debtor conduct in determining that there is a need for a KERP and in selecting the employees eligible under the proposed KERP, in light of what is available and applicable in the industry?
- Did the debtor receive independent counsel in performing this due diligence, and in crafting and authorizing the KERP?

In re Dana Corp., 358 B.R. at 574. *See Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (noting that under normal circumstances, courts defer to a trustee’s judgment concerning use of property under section 363(b) when there is legitimate business justification).

B. The KERP Is Authorized Under Section 503(c)(3) Because It Does Not Confer Any Benefits to Corporate Insiders and Satisfies the Business Judgment Rule

18. The Court should approve the KERP because it satisfies the business judgment test of section 503(c)(3) of the Bankruptcy Code. Section 503(c)(3) is applicable because the

KERP does not benefit any corporate insiders. *See In re Nellson Nutraceutical, Inc.*, 369 B.R. at 801 (“[S]ection 503(c)(1) only applies to transfers to ‘insiders,’ which includes the directors and officers of the Debtors.”). Indeed, none of the Key Employees are officers or directors of the Debtors.

19. Applying the business judgment test factors expounded above, the KERP should be approved because it is reasonably related and necessary to the operational and financial stability of the Debtors’ businesses and assist with the Liquidation for the benefit of all stakeholders. The KERP will ensure that the Key Employees will continue to assist the Liquidation and maximize the value of the Debtors’ estates. The Key Employees hold critical positions throughout the Debtors’ businesses and their absence would significantly impair operations and reduce the value of the Debtors’ estates.

20. Moreover, the cost of funding the KERP is reasonable when considering the losses that the Debtors would suffer without the Key Employees. Even if the Key Employees can be replaced, the Debtors would incur substantial hiring and training costs and the replacements would face a significant learning curve. Accordingly, the cost of retaining these Key Employees, if any to the Debtors’ estates, pales in comparison to the losses caused by their absence.

21. Additionally, the KERP will be administered fairly among, without discriminating against any of, the Key Employees. While some employees will not be eligible for the KERP, that is so because the Debtors made the very difficult decision, after applying their business judgment, that only certain Key Employees must be retained as critical members of their operations and to support the Liquidation.

22. Furthermore, the KERP underwent a thorough vetting process and its implementation was guided by outside financial and legal professionals.

23. More significantly, courts of this District have granted similar relief to that requested herein. *See In re Destination Maternity Corporation*, Case No. 19-12256 (BLS) (Dec. 11, 2019); *In re HRI Holding Corp.*, Case No. 19-12415 (MFW) (Dec. 6, 2019); *In re Kona Grill, Inc.*, Case No. 19-10953 (CSS) (May 23, 2019); *In re Achaogen, Inc.*, Case No. 19-10844 (BLS) (May 8, 2019); *In re American Apparel, LLC*, Case No. 16-12551 (BLS) (Jan. 4, 2017); *In Re Furniture Brands Int'l, Inc.*, Case No. 13-12329 (CSS) (Oct. 11, 2013); *In re Drug Fair Group, Inc.*, Case No. 09-10897 (BLS) (Bankr. D. Del. May 4, 2009); *In re Nortel Networks Inc.*, Case No. 09-10138 (KG), Dkt. Nos. 436 & 511 (Bankr. D. Del. Mar. 5 & 20, 2009).

24. Therefore, the Court should approve the KERP under section 503(c)(3) of the Bankruptcy Code because it satisfies the business judgment rule.

NOTICE AND NO PRIOR REQUEST

25. The Debtors will provide notice of this application to: (a) the Office of the U.S. Trustee for the District of Delaware; (b) each of the Debtors' creditors holding the thirty (30) largest unsecured claims as set forth in the consolidated list filed with the Debtors' petition; (c) the Senior Lenders; (d) the Subordinated Creditor; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; and (g) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

26. No prior application for the relief requested herein has been filed in this or any other Court.

WHEREFORE, for the reasons set forth herein and in the First Day Declaration, the Debtors respectfully request that this Court enter an order, substantially in the form of the proposed order attached hereto, (a) authorizing the Debtors to (i) implement the KERP and (ii) make payments to related to the KERP, and (b) granting such other and further relief as is just and proper.

Dated: January 31, 2020
Wilmington, Delaware

LANDIS RATH & COBB LLP



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*Proposed Counsel to the Debtors
and Debtors-In-Possession*

Exhibit 1

(Filed Under Seal)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

SFP FRANCHISE CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-10134 (JTD)

(Jointly Administered)

Ref No. ____

**ORDER AUTHORIZING IMPLEMENTATION OF KEY EMPLOYEE
RETENTION PLAN AND KEY EMPLOYEE INCENTIVE PLAN**

Upon the *Motion of the Debtors for Entry of an Order Authorizing Implementation of Key Employee Retention Plan* (the “Motion”)² and upon the First Day Declaration; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and the Court having found that this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court may enter an order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that sufficient notice of the Motion has been given; and it appearing that the relief set forth in this Order is in the best interests of the Debtors’ estates; and sufficient cause appearing therefor; it is hereby

1. ORDERED that the Motion is GRANTED as set forth herein; and it is further

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: SFP Franchise Corporation (6248); and Schurman Fine Papers (1409). The location of the Debtors’ principal place of business is 300 Oak Bluff Lane, Goodlettsville, Tennessee 37072.

² Capitalized terms not defined herein shall have the same meaning as ascribed to them in the Motion.

2. ORDERED that the KERP is approved in its entirety and the Debtors are authorized to implement the KERP in their discretion; and it is further

3. ORDERED that the Debtors are hereby authorized, but not directed, to make payments to the Key Employees pursuant to the KERP, as applicable and the authorization to make such payments shall not create any obligation on the part of the Debtors to make payments under the KERP unless the participants meet the necessary conditions thereunder; and it is further

4. ORDERED that all amounts earned and payable under the KERP shall have administrative expense priority under Bankruptcy Code sections 503(b) and 507(a)(2); and it is further

5. ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon entry; and it is further

6. ORDERED that the Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion; and it is further

7. ORDERED that the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: February __, 2020
Wilmington, Delaware

THE HONORABLE JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE

Appendix “G”

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SFP CANADA LTD.**

**MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)**

The management of SFP Canada Ltd. ("**SFP Canada**" or the "**Company**") have developed the assumptions and prepared the attached statement of projected cash flow as of March 24, 2020 for the period from March 21, 2020 to July 3, 2020 (the "**Extended Cash Flow Forecast**").

The hypothetical assumptions are reasonable and consistent with the purpose of the Extended Cash Flow Forecast described in the notes therein, and the probable assumptions are suitably supported and consistent with the plans of SFP Canada and provide a reasonable basis for the Extended Cash Flow Forecast. All such assumptions are disclosed in the notes therein.

Since the Extended Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The Extended Cash Flow Forecast has been prepared solely for the purpose described in the notes therein, using the probable and hypothetical assumptions set out therein. Consequently, readers are cautioned that the Extended Cash Flow Forecast may not be appropriate for other purposes.

Dated at the City of Hollywood, in the State of Florida on March 24, 2020.

**MACKINAC PARTNERS
IN ITS CAPACITY AS
CHIEF RESTRUCTURING OFFICER OF
SFP CANADA LTD.**



**Craig Boucher
Senior Managing Director**

SFP Canada LTD.
Extended Cash Flow Forecast
For the period March 21, 2020 to July 3, 2020
(in \$CAD 000's)

Week #		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15-Week
Week Ending	Notes	3/27/20	4/3/20	4/10/20	4/17/20	4/24/20	5/1/20	5/8/20	5/15/20	5/22/20	5/29/20	6/5/20	6/12/20	6/19/20	6/26/20	7/3/20	Total
Receipts																	
Canadian Retail Receipts		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Receipts		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Disbursements																	
Freight	1	(50)	(21)	0	0	0	0	0	0	0	0	0	0	0	0	0	(71)
Store Expenses and Other	2	0	0	(25)	(25)	(25)	0	(119)	0	0	0	0	0	0	0	0	(194)
Sales Tax Remittances	3	(899)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	(899)
Professional Fees	4	(175)	0	(450)	0	(450)	0	(250)	0	(150)	0	(100)	0	(100)	0	(70)	(1,745)
Miscellaneous / Other	5	0	(50)	0	(50)	0	(50)	0	(50)	0	0	0	0	0	0	0	(200)
Total Disbursements		(1,124)	(71)	(475)	(75)	(475)	(50)	(369)	(50)	(150)	0	(100)	0	(100)	0	(70)	(3,109)
Net Cash Flow		(1,124)	(71)	(475)	(75)	(475)	(50)	(369)	(50)	(150)	0	(100)	0	(100)	0	(70)	(3,109)
Opening Cash Balance		8,120	6,995	6,924	6,450	6,375	5,900	5,850	5,481	5,431	5,281	5,281	5,181	5,181	5,081	5,081	8,120
Net Cash Flow		(1,124)	(71)	(475)	(75)	(475)	(50)	(369)	(50)	(150)	0	(100)	0	(100)	0	(70)	(3,109)
Ending Cash Balance		6,995	6,924	6,450	6,375	5,900	5,850	5,481	5,431	5,281	5,281	5,181	5,181	5,081	5,081	5,011	5,011

SFP Canada Ltd.
15-Week Cash Flow Forecast
Notes and Summary of Assumptions

In the Matter of the Companies' Creditors Arrangement Act ("CCAA") Proceedings of SFP Canada Ltd. ("SFP Canada" or the "Company").

Disclaimer

The purpose of the Extended Cash Flow Forecast is to present the estimated cash receipts and disbursements of SFP Canada for the period from March 21, 2020 to July 3, 2020 in respect of its proceedings under the CCAA. The Extended Cash Flow Forecast has been prepared by the Company based on available financial information at the date of Company's motion seeking, *inter alia*, an extension of the stay of proceedings to June 30, 2020. Readers are cautioned that this information may not be appropriate for other purposes.

The Extended Cash Flow Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Extended Cash Flow Forecast period will vary from the Extended Cash Flow Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

The Extended Cash Flow Forecast is presented in thousands of Canadian dollars. Receipts and disbursements denominated in U.S. currency have been converted to Canadian dollars at an exchange rate of USD/CAD = \$1.33.

Capitalized terms not defined herein shall have the meaning ascribed to them in the Monitor's Third Report to Court dated March 24, 2020.

Note 1 Freight

Includes costs incurred during the Liquidation Sale for logistics and supply chain providers to ship merchandise to and among the Company's retail locations, which have not yet been paid.

Note 2 Store Expenses and Other

Includes a reimbursement to SFP US in respect of a retention bonus (approximately \$119,000) to be paid by SFP US, on behalf of the Company, to certain key employees located in the United States. These employees provide back office and other support to the Company. The retention bonus was approved by the US Court pursuant to an order dated February 14, 2020. The balance also includes certain store expenses for which the Company has yet to be invoiced/charged such as supplies, bank fees and credit card processing fees.

Note 3 Sales Tax Remittances

Represents the Company's sales taxes payable (GST/HST, QST, PST) for the month of February 2020. The Extended Cash Flow Forecast assumes sales taxes are remitted during the last week of each month, for the prior month.

Note 4 Professional Fees

Includes payments to (i) the Company's legal counsel, (ii) the Chief Restructuring Officers of the Company, and (iii) the Monitor and its legal counsel.

Note 5 Miscellaneous / Other

Miscellaneous expenses related to the wind-down of the Company.

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SFP CANADA LTD.**

**MONITOR'S REPORT ON CASH FLOW STATEMENT
(paragraph 23(1)(b) of the CCAA)**

The attached statement of projected cash flow of SFP Canada Ltd. ("**SFP Canada**" or the "**Company**"), prepared as of the 24th Day of March, 2020, consisting of the period from March 21, 2020 to July 3, 2020 (the "**Extended Cash Flow Forecast**"), has been prepared by management of the Company for the purpose described in the notes thereto, using the probable and hypothetical assumptions set out in the notes to the Extended Cash Flow Forecast.

Our review consisted of inquiries, analytical procedures and discussions related to information supplied by management and employees of SFP Canada. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Extended Cash Flow Forecast. We have also reviewed the support provided by management for the probable assumptions and the preparation and presentation of the Extended Cash Flow Forecast.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

- (a) the hypothetical assumptions are not consistent with the purpose of the Extended Cash Flow Forecast;
- (b) as at the date of this report, the probable assumptions developed by management are not suitably supported and consistent with the plans of the Applicant or do not provide a reasonable basis for the Extended Cash Flow Forecast, given the hypothetical assumptions; or
- (c) the Extended Cash Flow Forecast does not reflect the probable and hypothetical assumptions.

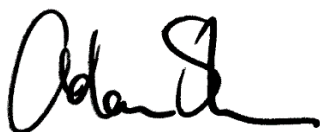
Since the Extended Cash Flow Forecast is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Extended Cash Flow Forecast will be achieved.

The Extended Cash Flow Forecast has been prepared solely for the purpose described in the notes thereto and readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto, in the Province of Ontario, this 27th day of March 2020.

**RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS CCAA MONITOR OF
SFP CANADA LTD.
AND NOT IN ITS PERSONAL CAPACITY**

Per:



**Adam Sherman, MBA, CIRP, LIT
Senior Vice President**

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

Court File No: CV-20-634980-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SFP CANADA LTD.**

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

Proceeding commenced at Toronto

**THIRD REPORT OF
RICHTER ADVISORY GROUP INC.,
IN ITS CAPACITY AS MONITOR**

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