

IN THE MATTER OF THE BANKRUPTCY OF  
1000054770 Ontario Inc.  
of the City of Toronto  
in the Province of Ontario

**BANKRUPTCY TRUSTEE'S REPORT TO THE FIRST MEETING OF CREDITORS  
ON PRELIMINARY ADMINISTRATION**

**BACKGROUND AND CAUSES OF BANKRUPTCY**

1000054770 Ontario Inc. ("**ResidualCo**" or the "**Company**") was incorporated on December 15, 2021 under the *Business Corporation Act* (Ontario) (the "**BCA**"). It was incorporated as a wholly-owned subsidiary of Junction Craft Brewing Inc. ("**Junction**") for the purpose of accepting the transfer of certain assets (the "**Excluded Assets**") and liabilities (the "**Excluded Liabilities**") of Junction, in connection with a share purchase transaction of Junction's business, which was approved by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), as discussed below. ResidualCo has no employees, assets other than the Excluded Assets, or business activities. For clarity, the Excluded Assets are primarily comprised of contracts with certain parties, for which any claims against Junction thereunder were deemed an Excluded Liability.

Junction was founded in 2011, and subsequently incorporated under the BCA in 2014. Junction operates primarily as a brewer and seller of hand-crafted beers and other beverage products from an approximately 16,513 square foot leased premises located at 150 Symes Road, Toronto, Ontario (the "**Facility**"). More specifically, Junction's operations include: (i) the sales of its own brewed beer under various brands, both at the Facility, through its on-site taproom, and through retailers, including the Liquor Control Board of Ontario and The Beer Store and (ii) the production of beer, cold brew coffee, non-alcoholic sparkling beverages and spirit-based drinks, on a contract basis, on behalf of approximately twenty (20) different unrelated parties. Junction also earns rent and other income from hosting weddings, fundraisers, parties, and corporate functions at the Facility.

As a result of a number of factors, including (i) the incurrence of significant unforeseen costs in connection with the move to, and fit-out of the Facility, and (ii) the negative impacts of the COVID-19 pandemic on Junction's business operations/activities, Junction experienced financial difficulties and liquidity challenges.

In the face of these difficulties/challenges, Junction was dependent on support from certain shareholders, by way of secured loans, as well as other accommodations provided by Junction's creditors, to fund ongoing losses and continue operations. From April 15, 2019 to April 26, 2021, Junction received loans from certain shareholders totalling approximately \$807,000 and in April 2020 and August 2020, Junction's senior secured lender, Farm Credit Canada ("**FCC**"), agreed to amend Junction's debt service obligations to provide for interest only payments for two three-month periods.

In addition, the landlord of the Facility agreed to a number of rent payment deferrals in connection with Junction's obligations under its lease. As a result of the deferrals, Junction owed approximately \$293,000 to the landlord for rent arrears.

However, and notwithstanding the support and accommodations provided by Junctions' shareholders and creditors, in light of the unfavourable impacts of COVID-19, Junction's financial performance continued to decline, such that, Junction reported a net loss of approximately \$0.9 million for the fiscal year ended December 31, 2020, and approximately \$0.6 million for the nine-month period ending September 30, 2021. Absent additional funding from shareholders or accommodations from creditors, Junction was without the liquidity to meet its obligations as they came due, including to FCC.

On October 6, 2021, due to Junction's inability to repay its obligations owing to FCC as agreed, FCC issued a demand letter and a Notice of Intent to Enforce Security pursuant to Section 244 (the "**244 Notice**") of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**").

As a result of the 244 Notice and given Junction's liquidity situation, Junction determined that, in the circumstances, the best course of action was to file a Notice of Intent to Make a Proposal (an "**NOI**") to provide an opportunity to stabilize its business and pursue a restructuring.

On October 15, 2021, Junction filed an NOI pursuant to Section 50.4(1) of the BIA and Richter Advisory Group Inc. ("**Richter**") was appointed as trustee (in such capacity, the "**Proposal Trustee**") under the NOI. Junction's NOI proceedings are referred to herein as the "**NOI Proceedings**".

On November 8, 2021, the Court issued an order (the "**Sale Process Order**"), *inter alia*:

- (i) authorizing the Proposal Trustee, on behalf of Junction, to undertake a court-supervised sale solicitation process (the "**Sale Process**") for the sale of Junction's business and/or assets; and
- (ii) approving the amended and restated stalking horse share purchase agreement dated November 5, 2021 (the "**Amended and Restated Stalking Horse Agreement**") and the transaction structure contemplated thereby, pursuant to which 1000003509 Ontario Limited, a company controlled by certain of Junction's former shareholders, agreed to act as a stalking horse bidder in the Sale Process (the "**Stalking Horse Purchaser**").

The structure of the Amended and Restated Stalking Horse Agreement contemplated the purchase of shares using the concept of a "reverse vesting order", to (i) provide an efficient mechanism to transfer licenses needed to operate the business, thereby avoiding a lengthy and potentially disruptive "re-licensing" process and preserving the going-concern value of Junction's business, and (ii) preserve potential tax losses that may be carried forward to offset against future taxable income of Junction, which would not otherwise be available through a sale of Junction's assets.

Parties who were interested in submitting an offer in the Sale Process were required to do so with the Proposal Trustee by 5 p.m. on December 9, 2021 (the "**Offer Deadline**"). No offers other than the offer from the Stalking Horse Purchaser were received by the Offer Deadline. As a result, and in accordance with the Sale Process Order, the Stalking Horse Purchaser was deemed to be the winning bidder.

On December 17, 2021, the Court made orders (the “**December 17 Orders**”) approving, among other things:

- (i) the transactions between Junction and the Stalking Horse Purchaser contemplated in the Amended and Restated Stalking Horse Agreement, including, but not limited to, the incorporation ResidualCo;
- (ii) vesting all of Junction's right, title and interest in and to the Excluded Assets in ResidualCo;
- (iii) channeling, assuming and vesting in ResidualCo the Excluded Liabilities;
- (iv) authorizing the Proposal Trustee to file an assignment in bankruptcy on behalf of ResidualCo; and
- (v) terminating the NOI Proceedings upon the filing of a certificate (the “**Discharge Certificate**”) by the Proposal Trustee with the Court.

Richter, in its capacity as Proposal Trustee, filed two (2) reports, and one (1) supplemental report with the Court (the “**Proposal Trustee's Reports**”), which, among other things, provided the Court with information relating to, among other things, the NOI Proceedings, the Proposal Trustee's activities and the Sale Process and the results thereof. The Proposal Trustee's Reports, the Amended and Restated Stalking Horse Agreement, the Sale Process Order, the December 17 Orders and other material documents pertaining to the NOI Proceedings are available on Richter's website at: <https://www.richter.ca/insolvencycase/junction-craft-brewing-inc/>.

On December 30, 2021 (the “**Date of Bankruptcy**”), and in accordance with the December 17 Orders,

- (i) the Proposal Trustee delivered a certificate to the Stalking Horse Purchaser and Junction certifying that Junction's right, title and interest in and to the Excluded Assets and the Excluded Liabilities were transferred to and vested in ResidualCo. As a result of the foregoing, all claims against Junction included in the Excluded Liabilities became, exclusively, claims against ResidualCo; and
- (ii) ResidualCo made an assignment in bankruptcy. Richter was appointed as trustee in bankruptcy of ResidualCo (in such capacity, the “**Bankruptcy Trustee**”), subject to affirmation by the creditors of ResidualCo at the first meeting of creditors.

On January 7, 2022, notice of the first meeting of creditors of ResidualCo (the “**Meeting**”), a list of creditors, a proof of claim form/proxy, and registration form to attend the Meeting (which is being held via videoconference) were sent to all known creditors of ResidualCo. On January 13, 2022, a notice advising of ResidualCo's bankruptcy and the date/time of the Meeting was published in *The Globe and Mail* (National Edition).

The activities of the Bankruptcy Trustee since its appointment have primarily consisted of statutory work in accordance with the provisions of the BIA.

## FINANCIAL POSITION/ASSETS

As noted above, ResidualCo has no assets other than the Excluded Assets. As detailed in ResidualCo's Statement of Affairs, as at the Date of Bankruptcy, ResidualCo's assets have no value, book or otherwise. Accordingly, it is not anticipated that there will be any funds available for distribution to ResidualCo's creditors.

## SECURED CREDITORS

According to ResidualCo's Statement of Affairs, it has twelve (12) secured creditors that are owed a total of approximately \$1.5 million as at the Date of Bankruptcy. ResidualCo's largest secured creditor is FCC which was owed approximately \$0.4 million as at the Date of Bankruptcy.

Junction, as borrower, and FCC, as lender, entered into loan agreements dated June 28, 2017 (the "**First FCC Loan**"), and September 11, 2017 (the "**Second FCC Loan Agreement**"), and together with the First FCC Loan Agreement, the "**FCC Loan Agreements**"). The loans advanced under the FCC Loan Agreements are referred to herein as the "**FCC Loans**". In order to secure advances made under the FCC Loans, Junction granted security in favour of FCC in all of its present and after-acquired personal property, including certain of Junction's assets (collectively, the "**FCC Security**").

Pursuant to the December 17 Orders, the Proposal Trustee was authorized to distribute, on behalf of the Stalking Horse Purchaser, \$400,000 to FCC in respect of Junction's obligations owing under the FCC Loans (the "**FCC Distribution**"). The FCC Distribution was funded by the Stalking Horse Purchaser in accordance with the Amended and Restated Stalking Horse Agreement.

In its prior capacity as Proposal Trustee, Richter instructed its counsel, Aird & Berlis LLP ("**Aird & Berlis**") to review the FCC Security. The Proposal Trustee received a written opinion from Aird & Berlis, confirming that, subject to typical qualifications and assumptions, the FCC Security is valid and enforceable in accordance with its terms in the province of Ontario.

Following the FCC Distribution, the balance owing to FCC in respect of the FCC Loan was approximately \$443,000 (the "**Remaining FCC Obligation**"). The Remaining FCC Obligation, was transferred to and vested in ResidualCo as an Excluded Liability.

### Leasing Creditors

In addition to the FCC Security, the Bankruptcy Trustee is aware of certain other registrations in respect of specific leased assets made pursuant to the Personal Property Security Act (Ontario) (the "**PPSA**"), certain of which were transferred to and vested in ResidualCo as an Excluded Liability.

### Shareholder Loans

As noted above, Junction relied on loans from certain of its shareholders to fund operations. Junction granted general security agreements in favour of five (5) of Junction's shareholders who filed registrations against the Company under the PPSA. The total amount of loans made by these five shareholders to Junction

is approximately \$0.8 million. Each of these loans was transferred to and vested in ResidualCo as an Excluded Liability.

#### TD Bank

The Bankruptcy Trustee understands that Junction had an authorized line of credit revolving by overdraft with Toronto Dominion Bank (“**TD Bank**”) to a maximum of \$20,000, and a VISA credit card facility. Junction also has its business bank account with TD Bank. The Bankruptcy Trustee further understands that on November 1, 2021, TD Bank withdrew Junction’s line of credit and cancelled Junction’s VISA credit card facility. TD Bank filed a registration under the PPSA against all of Junction’s personal property. The obligations owing to TD Bank were transferred to and vested in ResidualCo as an Excluded Liability.

#### Ministry of Finance

In April 2020, the Ministry of Finance (the “**MOF**”) filed a registration under the PPSA against all of Junction’s property (excluding motor vehicles) in connection with beer tax owing in the amount of \$20,318. In April 2021, pursuant to the PPSA, the MOF amended the quantum of its registration against Junction to \$114,814. According to the Statement of Affairs, approximately \$149,000 is owing to the MOF as at the Date of Bankruptcy. Junction’s obligations owing to the MOF were transferred to and vested in ResidualCo as an Excluded Liability.

As of the date of this report, the Bankruptcy Trustee has not obtained a legal opinion concerning the validity and enforceability of the security registered in respect of the leasing creditors, the shareholder loans, TD Bank and the Ministry of Finance. It is the intention of the Trustee to discuss any security review in respect of the foregoing with the inspectors to be appointed at the first meeting of creditors.

### **SECURITY FOR UNPAID WAGES - S. 81.3 CLAIMS**

The Bankruptcy Trustee is not aware of any potential claims pursuant to section 81.3 of the BIA.

The Bankruptcy Trustee will comply with the provisions of the *Wage Earner Protection Program Act* and related regulations, where applicable.

### **PREFERRED CREDITORS**

ResidualCo’s Statement of Affairs indicates that, as at the Date of Bankruptcy, there were no known preferred creditors.

### **UNSECURED CREDITORS**

ResidualCo’s Statement of Affairs indicates that there are approximately 126 unsecured creditors with claims totalling approximately \$1.8 million.

**CLAIMS FILED**

As at 5:00 p.m. on January 19, 2022, the Bankruptcy Trustee has recorded Proofs of Claim filed, as follows:

	<b>Claims Filed (#)</b>	<b>Amount (CAD)</b>	<b>Proxies in Favour of Trustee (#)</b>	<b>Amount (CAD)</b>
Secured	2	\$624,531.66	-	-
Preferred	-	-	-	-
Unsecured	9	\$376,632.86	2	\$26,274.76
<b>TOTAL</b>	<b>11</b>	<b>\$1,001,164.52</b>	<b>2</b>	<b>\$26,274.76</b>

**PREFERENCE PAYMENTS AND TRANSFERS UNDER VALUE**

The Bankruptcy Trustee has not performed a review of the Company's books and records with respect to potential fraudulent preferences, settlements or transfers at undervalue, as defined in the BIA. It is the intention of the Trustee to discuss the scope of its review with the Inspectors (where applicable).

**BANKRUPTCY TRUSTEE'S FEES**

Pursuant to the December 17 Orders and in accordance with the Amended and Restated Stalking Horse Agreement, the Stalking Horse Purchaser advanced \$35,000 (plus HST) to the Proposal Trustee for the purpose of funding the costs of the Bankruptcy Trustee's fees and disbursements for statutory work pertaining to ResidualCo's bankruptcy proceedings.

**OTHER**

Further information relating to these bankruptcy proceedings of ResidualCo may be obtained from Richter's website at: <https://www.richter.ca/insolvencycase/1000054770-ontario-inc/>.

Dated at Toronto, Ontario, this 20<sup>th</sup> day of January 2022.

**RICHTER ADVISORY GROUP INC.**

in its capacity as Bankruptcy Trustee of the estate of  
1000054770 Ontario Inc.  
and not in its personal or corporate capacity



Karen Kimel, MAcc, CPA, CA, CIRP, LIT