



CV-18-597987-0001  
Court File No.

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

THE HONOURABLE ) WEDNESDAY, THE 16<sup>TH</sup>  
 )  
MR. JUSTICE MCEWEN ) DAY OF MAY, 2018

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

**AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")**

**APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**SUPPLEMENTAL ORDER  
(FOREIGN MAIN PROCEEDING)**

**THIS APPLICATION**, made by Rockport Blocker, LLC in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Application, the affidavit of Paul Kosturos sworn May 15, 2018 (the "**Kosturos Affidavit**"), the Pre-Filing Report of Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**") dated May 16, 2018, 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 Foreign Representative, counsel for the Proposed Information Officer, counsel for Citizens Business

Capital, in its capacity as Administrative Agent and Collateral Agent (the "**DIP ABL Agent**") for the lenders (together with the DIP ABL Agent, the "**DIP ABL Lenders**") under the Senior Secured Super-Priority Debtor-in-Possession Revolving Credit Agreement (the "**DIP ABL Credit Agreement**"), counsel for the Senior Secured Noteholders and DIP Note Lenders, counsel for The Cadillac Fairview Corporation Limited, counsel for RioCan REIT and Ivanhoe Cambridge Inc., and upon no one appearing for any other parties although duly served as appears from the Affidavit of Service of Evita Ferreira sworn May 15, 2018, and on reading the consent of Richter Advisory Group Inc. to act as the information officer:

### **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.

### **INITIAL RECOGNITION ORDER**

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated May 16, 2018 (the "**Recognition Order**") or in the Kosturos Affidavit.
3. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

### **RECOGNITION OF FOREIGN ORDERS**

4. **THIS COURT ORDERS** that the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the District of Delaware made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

- (a) an order authorizing Rockport Blocker to act as the foreign representative of the Debtors (the "**Foreign Representative Order**");
- (b) an order directing the joint administration of the Chapter 11 cases of the Debtors in the Foreign Proceeding (the "**Joint Administration Order**");
- (c) an order authorizing the retention of Prime Clerk LLC as claims and noticing agent (the "**Claims Agent Order**");
- (d) an order enforcing and restating the automatic stay protections and *ipso facto* prohibitions of the United States Bankruptcy Code (the "**Automatic Stay Order**");
- (e) an interim order authorizing the Debtors to pay all or a portion of the shipping and warehousing claims and certain import charges (the "**Shippers and Warehouse Order**");
- (f) an interim order authorizing, but not directing, the Debtors to pay prepetition obligations of certain critical vendors (the "**Critical Foreign Vendors Order**");
- (g) an interim order authorizing, but not directing, the payment of certain taxes and fees (the "**Taxes Order**");
- (h) an interim order authorizing the Debtors to continue to renew their insurance programs including premium financing and surety bond programs (the "**Insurance Order**");
- (i) an interim order authorizing the Debtors to pay certain employee compensation and benefits and prepetition claims of independent contractors and temporary workers (the "**Wages Order**");
- (j) an interim order authorizing, but not directing, the Debtors to maintain certain customer programs and to honour or pay certain prepetition obligations related to the customer programs during the pendency of the Foreign Proceeding (the "**Customer Program Order**");

- (k) an interim order (i) prohibiting the Debtors utility service providers from altering or discontinuing service; (ii) approving an adequate assurance deposit as adequate assurance of postpetition payment to the utilities; and (iii) establishing procedures for resolving any subsequent request by utilities for additional adequate assurance of payment (the "**Utilities Order**");
- (l) an interim order authorizing the Debtors to, *inter alia*, continue to use their cash management system and bank accounts (the "**Cash Management Order**"); and
- (m) an interim order, *inter alia*, (i) approving postpetition financing; and (ii) granting liens and super-priority administrative expense claim status to the DIP ABL Agent on its behalf and on behalf of the DIP ABL Lenders (the "**Interim DIP Financing Order**");

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada. Copies of the Foreign Orders are attached as Exhibits "C" to "O" to the Kosturos Affidavit.

#### **APPOINTMENT OF INFORMATION OFFICER**

5. **THIS COURT ORDERS** that Richter Advisory Group Inc. (the "**Information Officer**") is hereby appointed as an officer of this Court, with the powers and duties set out herein.

#### **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

6. **THIS COURT ORDERS** that, subject to paragraph 22, until such date as this Court may order (the "**Stay Period**") no proceeding or enforcement process in any court or tribunal in Canada (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtors or affecting their business (the "**Business**") or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), except with leave of this Court, and any and all

Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

7. **THIS COURT ORDERS** that, subject to paragraph 22, 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 Debtors, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

8. **THIS COURT ORDERS** that, subject to paragraph 22, 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, licence or permit in favour of or held by any of the Debtors and affecting the Business in Canada, except with leave of this Court.

#### **ADDITIONAL PROTECTIONS**

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Debtors, and that the Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names.

10. **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 Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors 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.

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and 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.

#### **OTHER PROVISIONS RELATING TO INFORMATION OFFICER**

12. **THIS COURT ORDERS** that the Information Officer:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (b) shall report to this Court at least once every three months with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;

- (d) shall 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 Debtors, to the extent that is necessary to perform its duties arising under this Order; and
- (e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in these proceedings or in the Foreign Proceeding, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. **THIS COURT ORDERS** that the Information Officer 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.

15. **THIS COURT ORDERS** that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer 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 Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on

such terms as the Information Officer, the Foreign Representative and the relevant Debtors may agree.

17. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be paid by the Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amounts of \$50,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of \$300,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 21 and 23 hereof.

#### **INTERIM FINANCING**

20. **THIS COURT ORDERS** that the DIP ABL Lenders shall be entitled to the benefit of and are hereby granted a hypothec and charge (the "**DIP Lenders' Charge**") on the Property in Canada, which DIP Lenders' Charge shall be consistent with the liens and charges created by the DIP ABL Credit Agreement and the Interim DIP Financing Order, provided however that the DIP Lenders' Charge, with respect to the Property in Canada, shall have the priority set out in



paragraphs 21 and 23 hereof, and further provided that the DIP Lenders' Charge shall not be enforced unless the DIP ABL Agent delivers a Default Notice (as such term is defined in the Interim DIP Financing Order) and otherwise complies with the procedure set out in paragraph 27 of the Interim DIP Financing Order.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

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

First – Administration Charge to the maximum amount of \$300,000; and

Second – DIP Lenders' Charge to the maximum amount of US\$60,000,000.

22. **THIS COURT ORDERS** that notwithstanding any other provision of this Order or the Recognition Order:

- (a) the DIP ABL Lenders may, but are not required to, take such steps from time to time as it may deem necessary or appropriate to file, register, or record the DIP Lenders' Charge or any of the related documents;
- (b) the DIP ABL Lenders may administer the DIP ABL Facility in accordance with the terms of the DIP ABL Credit Agreement and the Interim DIP Financing Order;
- (c) upon the occurrence of an Event of Default (as defined in the DIP ABL Credit Agreement), provided the DIP ABL Lenders are authorized to do so pursuant to the Interim DIP Financing Order, and subject to any notice requirements in the Interim DIP Financing Order, the DIP ABL Lenders may exercise their rights and remedies under the DIP ABL Credit Agreement and the Interim DIP Financing Order, subject to and in accordance with the terms and conditions thereof in respect of the Property of the Debtors located in Canada without further application to this Court; and

- (d) the foregoing rights and remedies of the DIP ABL Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Debtors or the Property.

23. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the DIP Lenders' 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 the Charges.

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

25. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Charges, unless the Debtors also obtain the prior written consent of the Information Officer and the DIP ABL Lenders.

26. **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 "**Charges**") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act (Canada)*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) 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 any Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by a Debtor of any Agreement to which it is a party;
- (b) 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
- (c) the payments made by the Debtors to the Chargees pursuant to this Order and the Interim DIP Financing 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.

27. **THIS COURT ORDERS** that any Charges created by this Order over leases of real property in Canada shall only be a charge in the applicable Debtor's interest in such real property leases.

28. **THIS COURT ORDERS** that the Debtors are authorized and empowered to execute and deliver such deeds of hypothec, Canadian security agreements, and other definitive documents as are contemplated by the DIP ABL Credit Agreement or as may be reasonably required by the DIP ABL Lenders pursuant to the terms of the DIP ABL Credit Agreement.

#### **SERVICE AND NOTICE**

29. **THIS COURT ORDERS** that the Debtors, the Foreign Representative, the Information Officer and their 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 Debtors' 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 juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

30. **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/e-service-protocol/>) 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 '<http://www.richter.ca/Folder/Insolvency-Cases/R/Rockport-Canada>'.

31. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative and the Information Officer 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 Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the applicable Debtor 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.

#### **GENERAL**

32. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

33. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

34. **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 of America, to give effect to this Order and to assist the Debtors, the Foreign Representative, the

Information Officer, 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 Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

35. **THIS COURT ORDERS** that each of the Debtors, the Foreign Representative and the Information Officer 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.

36. **THIS COURT ORDERS** that the Guidelines for Court-to-Court Communications in Cross-Border Cases developed by the American Law Institute and attached as Schedule "A" hereto is adopted by this Court for the purposes of these recognition proceedings.

37. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Information Officer, the DIP ABL Agent and the Senior Secured Noteholders and their respective counsel, and 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.

38. **THIS COURT ORDERS** that, notwithstanding paragraph 36, no Order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the DIP ABL Credit Agreement and the DIP Lenders' Charge unless notice of a motion for such Order is served in accordance with paragraph 36 above and is returnable no later than the date of the hearing for the Final Order (as defined in the Interim DIP Financing Order), or the Debtors, the Foreign Representative and the DIP ABL Lenders consent to such Order.

39. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 am on the date of this Order.

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**Schedule "A"**

**Guidelines for Court-to-Court Communications in Cross-Border Cases  
developed by the American Law Institute**

THE AMERICAN LAW INSTITUTE

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TRANSNATIONAL INSOLVENCY:  
COOPERATION AMONG  
THE NAFTA COUNTRIES

PRINCIPLES OF  
COOPERATION AMONG  
THE  
NAFTA COUNTRIES

**Guidelines Applicable to Court-to-Court Communications in  
Cross-Border Cases**

*As Adopted and Promulgated*  
BY  
THE AMERICAN LAW INSTITUTE  
AT WASHINGTON, D.C.

May 16, 2000



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**Guidelines**  
**Applicable to Court-to-Court Communications**  
**in Cross-Border Cases**

***Introduction:***

One of the most essential elements of cooperation in cross-border cases is communication among the administering authorities of the countries involved. Because of the importance of the courts in insolvency and reorganization proceedings, it is even more essential that the supervising courts be able to coordinate their activities to assure the maximum available benefit for the stakeholders of financially troubled enterprises.

These Guidelines are intended to enhance coordination and harmonization of insolvency proceedings that involve more than one country through communications among the jurisdictions involved. Communications by judges directly with judges or administrators in a foreign country, however, raise issues of credibility and proper procedures. The context alone is likely to create concern in litigants unless the process is transparent and clearly fair. Thus, communication among courts in cross-border cases is both more important and more sensitive than in domestic cases. These Guidelines encourage such communications while channeling them through transparent procedures. The Guidelines are meant to permit rapid cooperation in a developing insolvency case while ensuring due process to all concerned.

The Guidelines at this time contemplate application only between Canada and the United States because of the very different rules governing communications with and among courts in Mexico. Nonetheless, a Mexican Court might choose to adopt some or all of these Guidelines for communications by a *sindico* with foreign administrators or courts.

A Court intending to employ the Guidelines — in whole or part, with or without modifications — should adopt them formally before applying them. A Court may wish to make its adoption of the Guidelines contingent upon, or temporary until, their adoption by other courts concerned in the matter. The adopting Court may want to make adoption or continuance conditional upon adoption of the Guidelines by the other Court in a substantially similar form, to ensure that judges, counsel, and parties are not subject to different standards of conduct.

The Guidelines should be adopted following such notice to the parties and counsel as would be given under local procedures with regard to any important procedural decision under similar circumstances. If communication with other courts is urgently needed, the local procedures, including notice requirements, that are used in urgent or emergency situations should be employed, including, if appropriate, an initial period of effectiveness, followed by further consideration of the Guidelines at a later time. Questions about the parties entitled to such notice (for example, all parties or representative parties or representative counsel) and the nature of the court's

consideration of any objections (for example, with or without a hearing) are governed by the Rules of Procedure in each jurisdiction and are not addressed in the Guidelines.

The Guidelines are not meant to be static, but are meant to be adapted and modified to fit the circumstances of individual cases and to change and evolve as the international insolvency community gains experience from working with them. They are to apply only in a manner that is consistent with local procedures and local ethical requirements. They do not address the details of notice and procedure that depend upon the law and practice in each jurisdiction. However, the Guidelines represent approaches that are likely to be highly useful in achieving efficient and just resolutions of cross-border insolvency issues. Their use, with such modifications and under such circumstances as may be appropriate in a particular case, is therefore recommended.

#### **Guideline 1**

Except in circumstances of urgency, prior to a communication with another Court, the Court should be satisfied that such a communication is consistent with all applicable Rules of Procedure in its country. Where a Court intends to apply these Guidelines (in whole or in part and with or without modifications), the Guidelines to be employed should, wherever possible, be formally adopted before they are applied. Coordination of Guidelines between courts is desirable and officials of both courts may communicate in accordance with Guideline 8(d) with regard to the application and implementation of the Guidelines.

#### **Guideline 2**

A Court may communicate with another Court in connection with matters relating to proceedings before it for the purposes of coordinating and harmonizing proceedings before it with those in the other jurisdiction.

#### **Guideline 3**

A Court may communicate with an Insolvency Administrator in another jurisdiction or an authorized Representative of the Court in that jurisdiction in connection with the coordination and harmonization of the proceedings before it with the proceedings in the other jurisdiction.

#### **Guideline 4**

A Court may permit a duly authorized Insolvency Administrator to communicate with a foreign Court directly, subject to the approval of the foreign Court, or through an Insolvency Administrator in the other jurisdiction or through an authorized Representative of the foreign Court on such terms as the Court considers appropriate.

#### **Guideline 5**

A Court may receive communications from a foreign Court or from an authorized Representative of the foreign Court or from a foreign Insolvency Administrator and

should respond directly if the communication is from a foreign Court (subject to Guideline 7 in the case of two-way communications) and may respond directly or through an authorized Representative of the Court or through a duly authorized Insolvency Administrator if the communication is from a foreign Insolvency Administrator, subject to local rules concerning ex parte communications.

#### **Guideline 6**

Communications from a Court to another Court may take place by or through the Court:

- (a) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings, or other documents directly to the other Court and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;
- (b) Directing counsel or a foreign or domestic Insolvency Administrator to transmit or deliver copies of documents, pleadings, affidavits, factums, briefs, or other documents that are filed or to be filed with the Court to the other Court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;
- (c) Participating in two-way communications with the other Court by telephone or video conference call or other electronic means, in which case Guideline 7 should apply.

#### **Guideline 7**

In the event of communications between the Courts in accordance with Guidelines 2 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by either of the two Courts:

- (a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;
- (b) The communication between the Courts should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of both Courts, should be treated as an official transcript of the communication;
- (c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of either Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to counsel for all parties

in both Courts subject to such Directions as to confidentiality as the Courts may consider appropriate; and

- (d) The time and place for communications between the Courts should be to the satisfaction of both Courts. Personnel other than Judges in each Court may communicate fully with each other to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by either of the Courts.

#### **Guideline 8**

In the event of communications between the Court and an authorized Representative of the foreign Court or a foreign Insolvency Administrator in accordance with Guidelines 3 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by the Court:

- (a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;
- (b) The communication should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of the Court, can be treated as an official transcript of the communication;
- (c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of the Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to the other Court and to counsel for all parties in both Courts subject to such Directions as to confidentiality as the Court may consider appropriate; and
- (d) The time and place for the communication should be to the satisfaction of the Court. Personnel of the Court other than Judges may communicate fully with the authorized Representative of the foreign Court or the foreign Insolvency Administrator to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by the Court.

#### **Guideline 9**

A Court may conduct a joint hearing with another Court. In connection with any such joint hearing, the following should apply, unless otherwise ordered or unless otherwise provided in any previously approved Protocol applicable to such joint hearing:

- (a) Each Court should be able to simultaneously hear the proceedings in the other Court.

- (b) Evidentiary or written materials filed or to be filed in one Court should, in accordance with the Directions of that Court, be transmitted to the other Court or made available electronically in a publicly accessible system in advance of the hearing. Transmittal of such material to the other Court or its public availability in an electronic system should not subject the party filing the material in one Court to the jurisdiction of the other Court.
- (c) Submissions or applications by the representative of any party should be made only to the Court in which the representative making the submissions is appearing unless the representative is specifically given permission by the other Court to make submissions to it.
- (d) Subject to Guideline 7(b), the Court should be entitled to communicate with the other Court in advance of a joint hearing, with or without counsel being present, to establish Guidelines for the orderly making of submissions and rendering of decisions by the Courts, and to coordinate and resolve any procedural, administrative, or preliminary matters relating to the joint hearing.
- (e) Subject to Guideline 7(b), the Court, subsequent to the joint hearing, should be entitled to communicate with the other Court, with or without counsel present, for the purpose of determining whether coordinated orders could be made by both Courts and to coordinate and resolve any procedural or nonsubstantive matters relating to the joint hearing.

#### **Guideline 10**

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in the other jurisdiction without the need for further proof or exemplification thereof.

#### **Guideline 11**

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, accept that Orders made in the proceedings in the other jurisdiction were duly and properly made or entered on or about their respective dates and accept that such Orders require no further proof or exemplification for purposes of the proceedings before it, subject to all such proper reservations as in the opinion of the Court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such Orders.

#### **Guideline 12**

The Court may coordinate proceedings before it with proceedings in another jurisdiction by establishing a Service List that may include parties that are entitled to receive notice of proceedings before the Court in the other jurisdiction (“Non-Resident

Parties”). All notices, applications, motions, and other materials served for purposes of the proceedings before the Court may be ordered to also be provided to or served on the Non-Resident Parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the Court in accordance with the procedures applicable in the Court.

#### **Guideline 13**

The Court may issue an Order or issue Directions permitting the foreign Insolvency Administrator or a representative of creditors in the proceedings in the other jurisdiction or an authorized Representative of the Court in the other jurisdiction to appear and be heard by the Court without thereby becoming subject to the jurisdiction of the Court.

#### **Guideline 14**

The Court may direct that any stay of proceedings affecting the parties before it shall, subject to further order of the Court, not apply to applications or motions brought by such parties before the other Court or that relief be granted to permit such parties to bring such applications or motions before the other Court on such terms and conditions as it considers appropriate. Court-to-Court communications in accordance with Guidelines 6 and 7 hereof may take place if an application or motion brought before the Court affects or might affect issues or proceedings in the Court in the other jurisdiction.

#### **Guideline 15**

A Court may communicate with a Court in another jurisdiction or with an authorized Representative of such Court in the manner prescribed by these Guidelines for purposes of coordinating and harmonizing proceedings before it with proceedings in the other jurisdiction regardless of the form of the proceedings before it or before the other Court wherever there is commonality among the issues and/or the parties in the proceedings. The Court should, absent compelling reasons to the contrary, so communicate with the Court in the other jurisdiction where the interests of justice so require.

#### **Guideline 16**

Directions issued by the Court under these Guidelines are subject to such amendments, modifications, and extensions as may be considered appropriate by the Court for the purposes described above and to reflect the changes and developments from time to time in the proceedings before it and before the other Court. Any Directions may be supplemented, modified, and restated from time to time and such modifications, amendments, and restatements should become effective upon being accepted by both Courts. If either Court intends to supplement, change, or abrogate Directions issued under these Guidelines in the absence of joint approval by both Courts, the Court should give the other Courts involved reasonable notice of its intention to do so.

### **Guideline 17**

Arrangements contemplated under these Guidelines do not constitute a compromise or waiver by the Court of any powers, responsibilities, or authority and do not constitute a substantive determination of any matter in controversy before the Court or before the other Court nor a waiver by any of the parties of any of their substantive rights and claims or a diminution of the effect of any of the Orders made by the Court or the other Court.



CV-18-597987-000  
Court File No.:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")  
APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
  
PROCEEDINGS COMMENCED AT TORONTO  
  
**SUPPLEMENTAL ORDER**  
**(Foreign Main Proceeding - May 16, 2018)**

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