

**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 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**

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

**FIRST REPORT OF THE INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**JUNE 14, 2018**

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## I. INTRODUCTION

1. On May 14, 2018 (the “**Petition Date**”), Rockport Blocker, LLC (“**Rockport Blocker**”), 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 (collectively, the “**US Debtors**”), and Rockport Canada ULC (“**Rockport Canada**” and together with the US Debtors, the “**Rockport Group**” or the “**Debtors**”), commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101-1532 (the “**Bankruptcy Code**”).
2. Also on the Petition Date, the Debtors filed various motions for interim and/or final orders (the “**First Day Motions**” and the orders granted by the US Court in respect thereof, the “**First Day Orders**”) in the Chapter 11 Proceedings to permit the Debtors to advance their reorganization. The First Day Orders included an order authorizing Rockport Blocker to act as the foreign representative (in such capacity, the “**Foreign Representative**”) of the Debtors for the within proceedings (the “**Foreign Representative Order**”).
3. On May 15, 2018, the US Court granted the Foreign Representative Order and other First Day Orders (as described below). Also on May 15, 2018, Rockport Blocker, in its capacity as Foreign Representative, commenced an application before the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (R.S.C. 1985, c. C-36, as amended) (the “**CCAA**”).
4. On May 16, 2018, the Canadian Court granted an initial recognition order (the “**Initial Recognition Order**”) which, among other things: (i) declared that Rockport Blocker is a “foreign representative” as defined in section 45 of the CCAA; (ii) declared that the centre of main interest for the Rockport Group is the United States and the Chapter 11 Proceedings are recognized as a “foreign main proceeding” under the CCAA; and (iii) granted a stay of proceedings against the Rockport Group in Canada.
5. Also on May 16, 2018, the Canadian Court granted a supplemental order (the “**Supplemental Order**”), pursuant to section 49 of the CCAA which, among other things: (i) appointed Richter Advisory Group Inc. (“**Richter**”) as the information officer (the “**Information Officer**”) in respect of these proceedings; (ii) stayed any proceeding, rights or remedies against or in respect of the Rockport Group, the business and property of the Rockport Group, the directors and officers of the Rockport Group in Canada, and the Information Officer; (iii) restrained the right of any person or entity to, among other things, discontinue or terminate any supply of products or services required by the Rockport Group in Canada; (iv) granted a super-priority charge over the Debtors’ property in Canada in favour of the Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings, up to a maximum amount of \$300,000 (the “**Administration Charge**”); (v) granted a super-priority charge

over the Debtors' property in Canada in favour of the DIP ABL Lenders (as hereinafter defined) to secure obligations of the Rockport Group, including Rockport Canada, under the DIP ABL Facility (as hereinafter defined) (the "**DIP ABL Lenders' Charge**"); and (vi) recognized and gave full force and effect in Canada to the following First Day Orders:

- (a) the Foreign Representative Order;
- (b) an order directing the joint administration of the Chapter 11 Proceedings;
- (c) an order authorizing the retention of Prime Clerk LLC ("**Prime Clerk**" or in such capacity, the "**Claims Agent**") 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 Bankruptcy Code;
- (e) an interim order authorizing the Debtors to pay all or a portion of the shipping and warehousing claims and certain import charges;
- (f) an interim order authorizing, but not directing, the Debtors to pay prepetition obligations of certain critical vendors;
- (g) an interim order authorizing, but not directing, the payment of certain taxes and fees;
- (h) an interim order authorizing the Debtors to continue to renew their insurance programs, including premium financing and surety bond programs;
- (i) an interim order authorizing the Debtors to pay certain employee compensation and benefits and prepetition claims of independent contractors and temporary workers;
- (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 Chapter 11 Proceedings;
- (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 providers; and (iii) establishing procedures for resolving any subsequent request by utilities for additional adequate assurance of payment;
- (l) an interim order authorizing the Debtors to, *inter alia*, continue to use their cash management system and bank accounts (the "**Interim 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.
- 6. The primary purpose of the Chapter 11 Proceedings is to facilitate the Rockport Group's entry into an asset purchase agreement dated May 13, 2018 (the "**Stalking Horse Agreement**") to sell substantially all of the Debtors' assets to CB Marathon Opco, LLC (the "**Stalking Horse Bidder**"), an affiliate of Charlesbank Equity Fund IX, Limited Partnership ("**Charlesbank**"), or another higher or otherwise better bidder pursuant to section 363 of the Bankruptcy Code.
- 7. Richter, in its capacity as proposed Information Officer, previously filed a report (the "**Pre-Filing Report**") dated May 16, 2018 with the Canadian Court to provide information relating to the Rockport Group's business and operations, their debt and capital structure, and other matters relevant to the Canadian Court's determination of the Foreign Representative's request for the Initial Recognition Order and Supplemental Order. A copy of the Pre-Filing Report is attached hereto as Appendix "A".

## II. PURPOSE OF REPORT

- 8. The purpose of this first report (the "**First Report**") of the Information Officer is to provide the Canadian Court with information concerning:
  - (a) the motions heard by the US Court in the Chapter 11 Proceedings for the Second Day Orders (as hereinafter defined) and the motion of the Foreign Representative returnable June 14, 2018, for recognition in Canada of the Second Day Orders and the Bidding Procedures Order (as hereinafter defined);
  - (b) an update on other matters relating to the Chapter 11 Proceedings;
  - (c) an update on matters relating to Rockport Canada; and
  - (d) the activities of the Information Officer to date.

## III. TERMS OF REFERENCE

- 9. In preparing this First Report, the Information Officer has relied solely on information and documents provided by the Debtors and their advisors, including unaudited financial information, declarations and affidavits of the Debtors' executives and other information provided on the U.S. docket for the Chapter 11 Proceedings (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.

10. Unless otherwise stated, all monetary amounts contained herein expressed in United States dollars, which is the Debtors' common reporting currency.
11. The Information Officer has established a website at <http://www.richter.ca/en/folder/insolvency-cases/r/rockport-canada> to make available copies of the orders granted in these proceedings as well as motion materials and reports of the Information Officer. As well, there is a link on the Information Officer's website to the Debtors' restructuring website maintained by the Claims Agent, which includes copies of the US Court materials and orders, notices and additional information in respect of the Chapter 11 Proceedings.
12. Capitalized terms not otherwise defined herein are as defined in the application materials, including the affidavit of Paul Kosturos, interim Chief Financial Officer of the Debtors, sworn June 13, 2018 (the "**June 13 Kosturos Affidavit**") filed in support of the Foreign Representative's motion. This First Report should be read in conjunction with the June 13 Kosturos Affidavit, as certain information contained in the June 13 Kosturos Affidavit has not been included herein in order to avoid unnecessary duplication.

#### **IV. ORDERS OF THE U.S. COURT FOR WHICH RECOGNITION IS SOUGHT**

13. On June 5, 2018, the US Court heard the Debtors motion for Orders (I)(A) Approving Bidding Procedures for Sale of Substantially All of the Debtors' Assets, (B) Approving Stalking Horse Bid Protections, (C) Scheduling Auction for, and Hearing to Approve, Sale of Substantially All of the Debtors' Assets, (D) Approving Form and Manner of Notice of Sale, Auction and Sale Hearing, (E) Approving Assumption and Assignment Procedures and (F) Granting Related Relief (the "**Bidding Procedures Order**"); and (II)(A) Approving Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, (B) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases and (C) Granting Related Relief. The Foreign Representative is seeking recognition of the Bidding Procedures Order on the within motion.
14. On June 12, 2018, the US Court entered various orders sought by the Debtors, of which the Foreign Representative is seeking recognition of the following orders (the "**June 12 Entered Orders**") on the within motion:
  - (a) a final Order (I) Prohibiting Utility Companies from Altering or Discontinuing Service on Account of Prepetition Invoices, (II) Deeming Utility Companies Adequately Assured of Future Performance and (III) Establishing Procedures for Resolving Requests for Additional Adequate Assurance;
  - (b) a final Order Authorizing (I) Debtors to Pay Certain Prepetition Taxes, Governmental Assessments and Fees and (II) Financial Institutions to Honor and Process Related Checks and Transfers;

- (c) a final Order Authorizing (I) Debtors to Pay Claims of Critical and Foreign Vendors in the Ordinary Course of Business and (II) Financial Institutions to Honor and Process Related Checks and Transfers;
  - (d) a final Order Authorizing (I) the Debtors to (A) Pay Certain Employee Compensation and Benefits, (B) Maintain and Continue Such Benefits and Other Employee-Related Programs, and (C) Pay Prepetition Claims of Independent Contractors and Temporary Workers and (II) Financial Institutions to Honor and Process Related Checks and Transfers;
  - (e) a final Order (I) Authorizing the Debtors to Continue and Renew Their (A) Insurance Programs and Premium Financing and (B) Surety Bond Program and to Pay All Obligations With Respect Thereto, (II) Modifying the Automatic Stay with Respect to the Workers' Compensation Program and (III) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers;
  - (f) a final Order (I) Authorizing Continued Use of Existing Cash Management System and Bank Accounts; (II) Waiving Certain United States Trustee Requirements; (III) Authorizing Continued Performance of Intercompany Transactions; and (IV) Granting Related Relief (the "**Final Cash Management Order**");
  - (g) an Order Authorizing Employment and Compensation of Professionals Utilized in Ordinary Course of Business, Effective *nunc pro tunc* to the Petition Date (the "**Ordinary Course Professionals Order**"); and
  - (h) an Order Authorizing the Employment and Retention of Prime Clerk LLC as Administrative Advisor *nunc pro tunc* to the Petition Date (the "**Administrative Advisor Order**").
15. The Information Officer understands the June 12 Entered Orders were entered by the US Court without hearing, as prior to the hearing date, all informal comments received by the Debtors were resolved by the Debtors to the satisfaction of the interested parties.
16. With the exception of the Ordinary Course Professionals Order and the Administrative Advisor Order, the remaining June 12 Entered Orders grant on a final basis substantially the same relief granted on an interim basis by the US Court on May 15, 2018 and recognized by the Canadian Court pursuant to the Supplemental Order.
17. The Information Officer notes that the Final Cash Management Order maintained the ring-fencing and protective language found in the Interim Cash Management Order, which stated Rockport Canada will not transfer funds to the Rockport Group on account of any prepetition intercompany transaction other than for Permitted Rockport Canada Intercompany Transactions (as defined in the Final Cash Management Order), unless otherwise ordered by the US Court.



18. On June 13, 2018, the US Court entered various orders sought by the Debtors at their “second day hearings”, of which the Foreign Representative is seeking recognition the following orders (the “**June 13 Entered Orders**” and together with the June 12 Entered Orders, the “**Second Day Orders**”) on the within motion:
- (a) a final Order Authorizing (I) the Debtors to Pay (A) Certain Prepetition Claims of Shippers and Warehousemen and (B) Import Charges and (II) Financial Institutions to Honor and Process Related Checks and Transfers;
  - (b) an Order (I) Authorizing the Debtors to (A) Conduct Store Closing Sales (the “**Store Closing Sales**”) at their North American Retail Locations and (B) Pay Store Closing Bonuses to Employees at the Closing Stores and (II) Granting Related Relief (the “**Store Closing Order**”);
  - (c) an Order (I) Authorizing the Retention and Employment of HYPERAMS, LLC (the “**Consultant**”) as Liquidation Consultant *nunc pro tunc* to May 25, 2018 and (II) Modifying Certain Reporting Requirements under the Local Rules (the “**Liquidation Consultant Order**”); and
  - (d) an Order Authorizing the Debtors to (A) Retain Alvarez & Marsal North America, LLC (“**A&M**”) to Provide the Debtors an Interim Chief Financial Officer, Interim Chief Operating Officer and Additional Personnel and (B) Designate Paul Kosturos as Interim Chief Financial Officer (the “**Interim CFO**”) and Josh Jacobs as Interim Chief Operating Officer (the “**Interim COO**”) for the Debtors *nunc pro tunc* to the Petition Date (the “**A&M Retention Order**”).
19. The Bidding Procedures Order and the Second Day Orders are each attached as an exhibit to the June 13 Kosturos Affidavit. The Bidding Procedures Order and certain of the Second Day Orders that may be relevant to Canadian stakeholders are addressed further below.

### **Bidding Procedures Order**

20. The Bidding Procedures Order, among other things:
- (a) established bidding and auction procedures pursuant to which the Rockport Group would solicit and select the highest or otherwise best offer for the sale of the Debtors’ assets;
  - (b) approved certain bid protections for the Stalking Horse Bidder, in particular (i) the payment of a break-up fee in an amount equal to 3% of the base cash amount of \$150 million (i.e. \$4.5 million) pursuant to the Stalking Horse Agreement, and (ii) reimbursement in an amount up to \$2 million for reasonable and documented out-of-pocket costs, fees and expenses of the Stalking Horse Bidder related to the transactions contemplated by the Stalking Horse Agreement (collectively, the “**Stalking Horse Protections**”);
  - (c) scheduled an auction, in the event the Debtors received, on or before the Bid Deadline, one or more Qualified Bids in addition to the bid from the Stalking Horse Bidder;

- (d) scheduled a sale hearing with the US Court; and
- (e) established procedures for notice and to determine cure amounts for contracts and leases to be assumed and assigned in connection with any sale transaction.

21. The key dates and timelines pursuant to the Bidding Procedures Order are:

Date	Activity
June 28, 2018 at 4:00 pm (EST)	Sale Objection Deadline
June 29, 2018 at 5:00 pm (EST)	Bid Deadline
July 3, 2018 at 5:00 pm (EST)	Deadline for Rockport Group to notify "Potential Bidders" of their status as "Qualified Bidders"
July 10, 2018 at 10:00 am (EST)	Auction to be held at the offices of Richard, Layton & Finger, P.A. (if necessary)
July 11, 2018	Target date for the Rockport Group to file with the US Court the "Notice of Auction Results"
July 16, 2018	Proposed date of the Sale Hearing to consider approval of the sale and entry of the Sale Order
on or after July 27, 2018	Closing Date (unless the "Successful Bidder" agrees to waive the 14-day stay of the "Sale Order")

22. In addition to the above, the Bidding Procedures Order set a deadline of June 28, 2018 at 4:00 p.m. EST for the filing of objections by counterparties to the proposed assumption or assignment of a contract or lease, including the proposed cure costs associated with the proposed assumption or assignment.

23. The Debtors received the following responses/objections in respect of the motion for the Bidding Procedures Order:

- (a) informal comments from the Office of the United States Trustee for the District of Delaware (the "**US Trustee**");
- (b) comments from certain of the Debtors' landlords in the U.S., namely Starwood Retail Partners, LLC, The Macerich Company and GGP Limited Partnership;
- (c) reservation of rights of Federal Insurance Company, Great Northern Insurance Company, Pacific Indemnity Company and ACE American Insurance Company (collectively, the "**Chubb Companies**") with respect to insurance policies issued by the Chubb Companies to the Debtors prior to the Petition Date; and
- (d) limited objection from the Official Committee of Unsecured Creditors of the Debtors (the "**UCC**") with respect to the Stalking Horse Protections, which the UCC asserted should not be approved absent remedial changes to the Stalking Horse Agreement.

24. The Information Officer understands that the above objections were substantially resolved prior to the hearing for the Bidding Procedures Order. The Debtors confirmed to the US Court that the Stalking Horse Agreement had been

amended to permit the Debtors to continue to market the assets of the Rockport Group and provide relevant information about the Rockport Group to any parties who had executed confidentiality agreements as part of the prepetition marketing process until the earlier of 25 days from the Petition Date or entry of the Bidding Procedures Order. Further, the US Court was advised of certain amendments which had been sought by various U.S. stakeholders and were approved by the US Court, including revisions to the circumstances in which the Stalking Horse Bidder would be able to avail itself of the Stalking Horse Protections.

25. The Debtors believe that the auction process and time periods set forth in the Bidding Procedures Order are reasonable and will provide parties with sufficient time and information necessary to formulate a bid to purchase all or substantially all of the Rockport Group's assets. Given the Debtors' extensive prepetition marketing efforts (as detailed in the Pre-Filing Report), the proposed timeline appears sufficient to complete a fair and open sale process as the most likely competing bidders are among those who previously executed confidentiality agreements or completed due diligence. As such, these parties would likely need minimal time to submit competing bids, if interested in acquiring all or substantially all of the Debtors' assets.

#### **Store Closing Order**

26. As noted in the Pre-Filing Report, the Debtors' North American retail assets, which includes inventory located at the retail locations, retail leases and furniture, fixtures and equipment (collectively the "**North American Retail Assets**"), are currently identified as Excluded Assets pursuant to the Stalking Horse Agreement. As at the Petition Date, the Debtors operated 60 retail locations (full-price and outlet) in North America (the "**Closing Stores**"), of which 33 were located in Canada.
27. The Stalking Horse Agreement provides that for a period of 25 days following the Petition Date (the "**No Liquidation Period**"), the Debtors shall not sell or otherwise dispose of any inventory other than in the ordinary course of business. The No Liquidation Period is intended to preserve ordinary inventory levels at the retail locations should the Stalking Horse Bidder decide to acquire any of the Debtors' North American Retail Assets. In the event that the Stalking Horse Bidder chooses to acquire any of the Debtors' North American Retail Assets, the purchase price shall be adjusted consistent with Section 3.1 of the Stalking Horse Agreement. In addition, the Stalking Horse Bidder shall be liable for any cure costs with respect to the assumption and assignment of any related North American retail leases.
28. The motion for the Store Closing Order was originally returnable June 5, 2018, but was adjourned to June 13, 2018 at the request of the UCC to allow for discussions between certain U.S. landlords and the Stalking Horse Bidder in connection with acquiring some or all of the North American Retail Assets. However, based on ongoing discussions with the Debtors, the Information Officer understands the Stalking Horse Bidder currently does not intend to acquire any of the North American Retail Assets, but discussions are still ongoing between the parties. Further, based on the Debtors' extensive prepetition marketing efforts and the prepetition offers received for the Debtors' assets, the Debtors

do not expect there to be any significant interest in the North American Retail Assets. Accordingly, the Information Officer understands the Debtors intend to commence the Store Closing Sales as soon as practical upon recognition of the Store Closing Order by the Canadian Court.

29. The Information Officer understands that draft sales guidelines governing the conduct of any North American retail store closures (the “**US Sale Guidelines**”) were negotiated and attached as a schedule to the Stalking Horse Agreement. A copy of the US Sale Guidelines was filed with the motion for the Store Closing Order. The Store Closing Order is subject to the Debtors’ ability to remove any Closing Store from the relief granted to the extent necessary to comply with the Stalking Horse Agreement or otherwise maximize value in connection with the sale process.
30. In accordance with the US Sale Guidelines and the Canadian Landlord Agreement (as hereinafter defined), the Debtors will make every reasonable effort to sell all North American Retail Assets at the Closing Stores as quickly and efficiently as possible for the purpose of monetizing such assets, with the goal of concluding such process and vacating the Closing Stores by July 31, 2018.
31. Pursuant to the Store Closing Order, the Debtors were authorized to carry out the Store Closing Sales in accordance with the US Sale Guidelines, and to apply the US Sale Guidelines if there is any inconsistency with the terms of relevant leases or state laws or regulations regarding the conduct of store closings, liquidations or other inventory clearance sales. The Debtors were also granted approval to cease complying with state laws that require entities to pay an employee contemporaneously with his or her termination, due to the large number of anticipated terminations resulting from the Closing Store Sales and the significant time the Debtors anticipate being required to process the payroll and associated information in a manner consistent with these laws.
32. The Store Closing Order also authorized the Debtors, including Rockport Canada, to enter into agreements with any landlord modifying the US Sale Guidelines with respect to a specific store(s). The Information Officer understands Rockport Canada entered into an agreement with certain of the large Canadian landlords with respect to the conduct of the Store Closing Sales in Canada (the “**Canadian Landlord Agreement**”).
33. Certain of the Canadian landlords raised issues with Rockport Canada and the Information Officer relating to the form of the US Sales Guidelines in comparison to sales guidelines approved by the Canadian Court in recent Canadian liquidation sales (such as Nine West). These Canadian landlords approached Rockport Canada with a proposal to utilize the terms the Store Closing Order which permitted the Debtors to enter into side agreements with landlords, to modify the US Sale Guidelines that culminated in the Canadian Landlord Agreement, which applies to all of the Closing Stores in Canada. A copy of the Canadian Landlord Agreement is attached as an exhibit to June 13 Kosturos

Affidavit. The Information Officer has reviewed the Canadian Landlord Agreement and notes the modifications are consistent with sales guidelines approved by the Canadian Court on similar retail liquidations.

34. The Store Closing Order authorized the Debtors to pay up to a total of \$300,000 in retention bonuses to store-level employees as part of the Store Closing Sales. The retention bonus program covers managers, assistant managers and sales associates (including part-time associates) at the Closing Stores, but specifically excludes insiders of the Debtors, if any. The Information Officer understands the Debtors intend to use their discretion in determining the appropriate amount of the retention bonus for each respective employee, which amounts will not be paid until the conclusion of the sale at each Closing Store.
35. The Information Officer has sought additional information from the Debtors on the retention bonus program, specifically as it relates to employees at the Closing Stores in Canada. However, as of the date of this First Report, the Debtors have not identified the employees who will be eligible for a retention bonus, and have not confirmed whether any of the Canadian employees will be eligible.

#### **Liquidation Consultant Order**

36. The Liquidation Consultant Order authorizes the Debtors to engage the Consultant to assist with and manage the Store Closing Sales in accordance with the US Sale Guidelines and maximize the value returned from the North American Retail Assets. At the time the Debtors filed the motion for the Store Closing Order on May 15, 2018, the Debtors had not engaged a liquidation consultant or agent. However, the Debtors subsequently determined that it is in the best interests of their estates to retain a professional liquidation consultant to advise and assist the Debtors in the management and direction of the Store Closing Sales.
37. The Liquidation Consultant Order provides that the Consultant shall be retained on an hourly basis at the rate of \$400 per hour from the May 25, 2018 to June 8, 2018 in connection with the planning and implementation of the store closing sales, and the Consultant's compensation shall not exceed \$10,000 for this period. Pursuant to the Consultant's agreement with the Debtors, the parties can mutually agree to extend the Consultant's provision of planning services on an hourly basis beyond this date in the event the Store Closing Sales have not commenced by June 9, 2018. The Consultant will be on site at the corporate offices of the Debtors during the initial week of the Store Closing Sales and will work remotely from its own offices on a weekly basis thereafter. The Consultant's services are expected to be required for at least the first five weeks of the Store Closing Sales, and will be subject to week-to-week continuation thereafter as mutually agreed between the Consultant and the Rockport Group. The Consultant will be paid a flat fee of \$17,500 for the first week of the Store Closing Sales and a flat fee of \$10,000 for every additional week thereafter. The Consultant will also be entitled to a commission of 15% from the gross proceeds of sale of furniture, fixture and equipment.

38. Prior to the objection deadline, the Debtors received certain informal comments from the US Trustee, which were addressed by the Debtors by revising the original form of the Liquidation Consultant Order. The Information Officer understands the revised form of the Liquidation Consultant Order was acceptable to the US Trustee and the UCC.
39. The Information Officer was not involved in the selection of the Consultant or determination of the Consultant's proposed compensation. However, the Information Officer understands that the Consultant is a nationally recognized liquidation consultant with extensive experience in conducting retail store closing sales, including the orderly liquidation of inventory and furniture, fixtures, equipment, and other assets. Some of the Consultant's prior engagements include Hudson's Bay Company *Zellers* division, Lord and Taylor Home Stores, Fields, RONA, Ace Hardware, Brennan's and Strellmax.

### **A&M Retention Order**

40. The A&M Retention Order authorized (i) the Debtors to retain the services of A&M as the Debtors' restructuring advisor, and (ii) the appointment of certain A&M personnel to act as the Debtors' Interim CFO and Interim COO for purposes of the Chapter 11 Proceedings. The Information Officer understands A&M has experience in the areas of bankruptcy and financial matters relevant to Chapter 11 Proceedings, and is intimately familiar with the Debtors' businesses, financial affairs, and capital structure, having been engaged by the Debtors in various capacities and mandates since February 2017.
41. Pursuant to the terms of a letter agreement between A&M and the Debtors, dated March 1, 2018, A&M will be paid by the Debtors for the services at their customary hourly billing rates with the exception of the Interim CFO and Interim COO. The Debtors will pay A&M a flat weekly rate of \$25,000 for each of the Interim CFO and Interim COO, for a total weekly rate of \$50,000 (prorated based on days for any partial weeks).
42. A&M received \$250,000 as a retainer in connection with preparing for and advancing the filing of the Chapter 11 Proceedings. In the 90 days prior to the Petition Date, A&M received payments totaling \$2,089,964 in the aggregate for services performed for the Debtors. A&M has applied these funds to amounts due for services rendered and expenses incurred prior to the Petition Date.
43. Prior to the objection deadline, the Debtors received certain informal comments from the US Trustee and the UCC, which were addressed by the Debtors by revising the original form of the A&M Retention Order. The Information Officer understands the revised form of the A&M Retention Order was acceptable to the US Trustee and the UCC.
44. In Debtors' view, the recognition of the A&M Retention Order in Canada is appropriate as A&M has been working with the Debtors in connection with the Debtors' restructuring and realization efforts, and have been providing services to all Debtors in connection with their role, all of which would potentially affect Rockport Canada and Canadian creditors.

### **Ordinary Course Professionals Order**

45. The Ordinary Course Professionals Order authorizes the Debtors to customarily retain the services of various attorneys and other professionals (the “**Ordinary Course Professionals**”) to represent them in matters arising in the ordinary course of their businesses, but unrelated to the Chapter 11 Proceedings.
46. The Debtors’ initial list of its current Ordinary Course Professionals expected to incur an average of \$35,000 or less of fees and expenses per month is attached as an exhibit to the Ordinary Course Professionals Order. The Debtors reserve the right to supplement this exhibit in the future.
47. The Information Officer understands the Ordinary Course Professionals includes certain Canadian professionals, including Crupi Law, which acts as Canadian real estate counsel to the Rockport Group, and McCarthy Tetrault LLP, which acts as Canadian counsel to the Rockport Group on certain corporate matters and as registration agent.

### **Administrative Advisor Order**

48. The Administrative Advisor Order authorizes the Debtors to employ and retain Prime Clerk as administrative advisor (in such capacity, the “**Administrative Advisor**”) in these Chapter 11 Proceedings pursuant to the terms of an engagement agreement which is attached as an exhibit to the Administrative Advisor Order. Prime Clerk was previously appointed as the Claims Agent pursuant to the Claims Agent Order, however the Debtors believe that administration of the Chapter 11 Cases will require Prime Clerk to perform duties outside the scope of services covered by the Claims Agent Order.
49. Pursuant to the terms the engagement agreement between the Debtors and the Administrative Advisor, the Administrative Advisor will be paid by the Debtors for the services at their customary hourly billing rates.
50. The Information Officer understands the Administrative Advisor will interact with Canadian creditors through solicitation, balloting and tabulation of votes of a plan of arrangement, if any, and will submit declarations in support of voting on any Plan, and so on.

## V. UPDATE ON CERTAIN OTHER MATTERS IN THE CHAPTER 11 PROCEEDINGS

### Final DIP Financing Order

51. On June 13, 2018, the US Court heard the Debtors' motion for a final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Super-Priority, Senior Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief (the "**Final DIP Financing Order**").
52. At the First Day Motions, the Debtors sought interim approval from the US Court of the DIP Financing (as hereinafter defined), which provided the Debtors with access to:
  - (a) up to \$60 million under a DIP post-petition revolving credit facility (the "**DIP ABL Facility**") pursuant to a senior secured superpriority DIP credit agreement (the "**DIP ABL Agreement**") between certain of the Debtors, including Rockport Canada, and Citizens Business Capital ("**CBC**" or the "**DIP ABL Lender**"); and
  - (b) up to \$20 million in new money (the "**DIP Note Facility**" and together with the DIP ABL Facility, the "**DIP Financing**") under a senior secured post-petition DIP Note Purchase and Security Agreement (the "**DIP Note Agreement**") between certain Rockport Group entities and the holders of the senior secured notes issued by the Debtors Prior to the Petition Date (the "**Prepetition Noteholders**" or the "**DIP Note Lenders**").
53. The Debtors received the following responses/objections in respect of the motion for the Final DIP Financing Order:
  - (a) informal comments from certain of the Debtors' landlords in the U.S., namely Starwood Retail Partners, LLC, The Macerich Company and GGP Limited Partnership;
  - (b) objection from the UCC, which was filed on the US Court on a sealed basis, with a redacted version posted to the US docket; and
  - (c) objection from the Information Officer (the "**IO Objection**"), a copy of which is attached hereto as Appendix "B".
54. The Information Officer understands the informal comments from the Debtors' landlords in the U.S. and the objection from the UCC were both resolved between the parties prior to the hearing for the Final DIP Financing Order.
55. The US Court reserved on this matter and advised it would issue a decision in the coming days.



## **Official Committee of Unsecured Creditors of the Debtors**

56. Since the Initial Recognition Order was granted on May 16, 2018, the UCC has been formed in the Chapter 11 Proceedings pursuant to the Bankruptcy Code. On May 23, 2018, the US Trustee appointed the UCC consisting of the following three members:
- (a) Earth, Inc.;
  - (b) Hemisphere Design & Manufacturing LLC; and
  - (c) Simon Property Group, L.P.
57. The Information Officer understands that while each of the three members of the UCC have registered head offices in the U.S., certain may have prepetition claims against Rockport Canada, as well as certain other Debtors.

## **Upcoming Matters in the Chapter 11 Proceedings**

58. The Information Officer understands that a meeting of creditors of the Debtors has been scheduled by the US Trustee for June 21, 2018 at 11am EST in Wilmington, Delaware. A claims process or deadline for filing proofs of claim against the Debtors has not been set or approved by the US Court.
59. As noted above, the US Court has scheduled a hearing date of July 16, 2018, in respect of the Debtors motion for an order (A) Approving Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, (B) Approving Assumption and Assignment of Executory Contracts and Unexpired Leases and (C) Granting Related Relief (the "**Sale Motion**").
60. The Information Officer will report further to the Canadian Court in respect of the Sale Motion as part the Foreign Representative's motion for an order seeking recognition of any orders granted by the US Court in connection with the Sale Motion.

## **VI. UPDATE ON CERTAIN MATTERS RELATING TO ROCKPORT CANADA**

61. Subsequent to the granting of the Supplemental Order, the Debtors have provided weekly reporting to the Information Officer with respect to the cash flows of Rockport Canada. For the three (3) weeks ended June 2, 2018, Rockport Canada had total cash receipts of approximately CAD\$3.8 million (as compared to forecast cash receipts of CAD\$3.1 million) and total cash disbursements of CAD\$1.7 million (as compared to forecast cash disbursements of \$1.7 million), for a net cash inflow of CAD\$2.1 million (as compared to forecast net cash inflow of CAD\$1.4 million) over the period.

62. As at June 2, 2018, the Information Officer understands that Rockport Canada had approximately CAD\$3.4 million of cash on hand. Based on the information provided to the Information Officer, Rockport Canada did not make any Permitted Rockport Canada Intercompany Transactions (as defined in the Final Cash Management Order) for the period from the Petition Date to June 2, 2018.

## **VII. ACTIVITIES OF THE INFORMATION OFFICER**

63. The activities of Richter or the Information Officer to date include:

- (a) coordinating the publication of a notice of the Chapter 11 Proceedings and CCAA Recognition Proceedings (the “**Notice**”) in the Globe & Mail, national edition, on May 23, 2018 and May 30, 2018, as required by the Initial Recognition Order and Section 53(b) of the CCAA. Copies of the Notice and published advertisement of the Notice are attached hereto as Appendix “C”;
- (b) responding to creditor inquiries regarding the Chapter 11 Proceedings and CCAA Recognition Proceedings;
- (c) communicating with the Debtors’ advisors and the Information Officer’s counsel regarding the status of matters related to the Chapter 11 Proceedings and the CCAA Recognition Proceedings;
- (d) reviewing materials filed by various parties in the Chapter 11 Proceedings in connection with the First Day Orders, the Bidding Procedures Order and the Second Day Orders;
- (e) preparing the Pre-Filing Report and attending before the Canadian Court for the Initial Recognition Order and the Supplemental Order;
- (f) reviewing materials provided by the Debtors in connection with the Proposed ABL Liability Allocation;
- (g) preparing the IO Objection and attending before the US Court in connection with the Final DIP Financing Order; and
- (h) preparing this First Report.

## **VIII. INFORMATION OFFICER’S RECOMMENDATION**

64. Based on the Information received and reviewed to date, the Information Officer is of the view that it is reasonable to recognize the Bidding Procedures Order and the Second Day Orders, and respectfully recommends that this Court grant the recognition orders sought by the Foreign Representative.

All of which is respectfully submitted on this 14<sup>th</sup> day of June, 2018.

**Richter Advisory Group Inc.**  
**in its capacity as Proposed Information Officer of**  
**Rockport Canada ULC *et al***  
**and not in its personal capacity**



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Adam Sherman, MBA, CIRP, LIT



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Pritesh Patel, MBA, CFA, CIRP, LIT

# **APPENDIX A**

Court File No. \_\_\_\_\_

**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 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**

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

**REPORT OF THE PROPOSED INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**MAY 16, 2018**

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Court File No. \_\_\_\_\_

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**REPORT OF THE PROPOSED INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**MAY 16, 2018**

## I. INTRODUCTION

1. On May 14, 2018 (the “**Petition Date**”), Rockport Blocker, LLC (“**Rockport Blocker**”), 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 (collectively, the “**US Debtors**”), and Rockport Canada ULC (“**Rockport Canada**” and together with the US Debtors, the “**Rockport Group**” or the “**Debtors**”), commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101-1532 (the “**Bankruptcy Code**”).
2. Also on the Petition Date, the Debtors filed various motions for interim and/or final orders (the “**First Day Motions**” and the orders granted by the US Court in respect thereof, the “**First Day Orders**”) in the Chapter 11 Proceedings to permit the Debtors to advance their reorganization. The First Day Orders included an order authorizing Rockport Blocker to act as the foreign representative (in such capacity, the “**Foreign Representative**”) of the Debtors for the within proceedings (the “**Foreign Representative Order**”).
3. On May 15, 2018, the US Court granted the Foreign Representative Order and other First Day Orders (as described below).
4. On May 15, 2018, Rockport Blocker, in its capacity as Foreign Representative, commenced an application before the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (R.S.C. 1985, c. C-36, as amended) (the “**CCAA**”) for:
  - (a) an initial recognition order (the “**Initial Recognition Order**”), *inter alia*: (i) declaring that Rockport Blocker is a “foreign representative” as defined in section 45 of the CCAA; (ii) declaring that the Chapter 11 Proceedings are recognized as a “foreign main proceeding” under the CCAA; and (iii) granting a stay of proceedings against the Rockport Group in Canada; and
  - (b) a supplemental order (the “**Supplemental Order**”), pursuant to section 49 of the CCAA, *inter alia*: (i) recognizing and giving full force and effect in Canada to certain of the First Day Orders; (ii) appointing Richter Advisory Group Inc. (“**Richter**” or the “**Proposed Information Officer**”) as the information officer (the “**Information Officer**”) in respect of these proceedings; (iii) staying any proceeding, rights or remedies against or in respect of the Rockport Group, the business and property of the Rockport Group, the directors and officers of the Rockport Group in Canada, and the Information Officer; (iv) restraining the right of any person or entity to, among other things, discontinue or terminate any supply of products or services required by the Rockport Group in Canada; (v) granting a super-priority charge over the Debtors’ property in Canada in favour of the Proposed



Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings, up to a maximum amount of \$300,000 (the “**Administration Charge**”); and (vi) granting a super-priority charge over the Debtors’ property in Canada in favour of the DIP ABL Lenders (as hereinafter defined) to secure obligations of the Rockport Group, including Rockport Canada, under the DIP ABL Facility (as hereinafter defined) (the “**DIP ABL Lenders’ Charge**”).

5. Other than these proceedings (the “**CCAA Recognition Proceedings**”) and the Chapter 11 Proceedings, there are currently no other foreign proceedings in respect of the Rockport Group of which the Proposed Information Officer is aware.
6. The primary purpose of the Chapter 11 Proceedings is to facilitate the Rockport Group’s entry into an asset purchase agreement to sell substantially all of the Debtors’ assets to CB Marathon Opco, LLC, an affiliate of Charlesbank Equity Fund IX, Limited Partnership (“**Charlesbank**”), or another higher or otherwise better bidder pursuant to section 363 of the Bankruptcy Code.

## **II. PURPOSE OF REPORT**

7. The purpose of this report of the Proposed Information Officer (the “**Pre-Filing Report**”) is to assist the Canadian Court in considering the Foreign Representative’s request for the Initial Recognition Order and the Supplemental Order, and to provide the Canadian Court with certain background information concerning the Rockport Group, including:
  - (a) Richter’s qualifications to act as Information Officer;
  - (b) the Rockport Group’s business and operations, including its organizational structure and financing facilities;
  - (c) Rockport Canada, the sole Canadian incorporated member of the Rockport Group;
  - (d) the Debtors’ centre of main interest;
  - (e) the events leading up to the Chapter 11 Proceedings and the CCAA Recognition Proceedings;
  - (f) the First Day Orders of the US Court that the Debtors are seeking to have recognized pursuant to section 46 of the CCAA;
  - (g) the Proposed ABL Liability Allocation (as hereinafter defined);

- (h) the proposed Administration Charge and the DIP ABL Lenders' Charge; and
- (i) the proposed initial activities of the Information Officer.

### III. TERMS OF REFERENCE

8. In preparing this Pre-Filing Report, the Proposed Information Officer has relied solely on information and documents provided by the Debtors and their advisors, including unaudited financial information, declarations and affidavits of the Debtors' executives and other information provided in the Chapter 11 Proceedings (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Pre-Filing 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.
9. Unless otherwise stated, all monetary amounts contained herein expressed in United States dollars, which is the Debtors' common reporting currency.
10. Capitalized terms not otherwise defined herein are as defined in the application materials, including the declaration of Paul Kosturos interim Chief Financial Officer of the Debtors in support of Debtors' Chapter 11 Petition and First Day Motions, sworn May 14, 2018 (the "**Kosturos US Declaration**") and the affidavit of Paul Kosturos, sworn May 15, 2018 (the "**Kosturos Cdn Affidavit**" and together with the Kosturos US Declaration the "**Kosturos Affidavits**") filed in support of the Foreign Representative's application. This Pre-Filing Report should be read in conjunction with the Kosturos Affidavits, as certain information contained in the Kosturos Affidavits has not been included herein in order to avoid unnecessary duplication.

### IV. RICHTER'S QUALIFICATION TO ACT AS INFORMATION OFFICER

11. Richter has significant experience in connection with proceedings under the CCAA, including acting as a Monitor or information officer in various cases.
12. Adam Sherman and Pritesh Patel, the individuals at Richter with primary carriage of this matter, are certified Chartered Insolvency and Restructuring Professionals and Licensed Insolvency Trustees. Further, Messrs. Sherman and Patel have acted in cross-border restructurings and CCAA matters of a similar nature in Canada.
13. Richter has consented to act as Information Officer should this Canadian Court approve the requested Supplemental Order.

## V. BACKGROUND

### Corporate Overview and Organizational Structure

14. The Proposed Information Officer understands that the Debtors, which were founded in 1971, are an integrated global designer, distributor and retailer of comfort footwear that operates in excess of fifty markets worldwide. The Debtors offer a wide assortment of men's and women's casual dress style shoes, boots, and sandals under the Rockport brand as well as their owned Aravon and Dunham brands.
15. The Debtors' operate a global, multi-channel business, organized by brand, geography and customer type, in the following market segments:
  - (a) **Wholesale Business** – the Debtors are a leading supplier of men's and women's footwear to well-known retailers across a variety of wholesale formats, including department stores, family retail outlets, internet retailers and independently-owned retailers. The Debtors' wholesale business accounts for approximately 57% of global sales.
  - (b) **Direct North American Retail Store Business** – The Debtors operate 8 full-price and 19 outlet stores in the United States and 14 full-price and 19 outlet stores in Canada.
  - (c) **Direct eCommerce Business** – the Debtors sell their footwear products directly through the following websites: <http://www.rockport.com> and <http://www.rockport.ca>.
  - (d) **International Business** – the Debtors have partnered with 22 distributors worldwide to sell their footwear products in 35 countries, including China, Indonesia, Egypt, South Africa, Mexico and Peru, without having to establish local operations. In addition, the Debtors' non-debtor foreign affiliates operate approximately 121 retail stores across the world.
16. The Rockport Group sources its inventory and other items related to its operations (collectively, the "**Merchandise**") from third-party manufacturers located primarily in China, Vietnam, India and Brazil. In addition, the Debtors rely on a global network of carriers, expeditors, consolidators, warehousemen and transportation service providers to transport, import and take delivery of the Merchandise on a worldwide basis.
17. In particular, the Debtors rely on warehouseman and logistics providers to (i) coordinate and process various import duties and related charges at ports or transportation centers around the world and (ii) transport and store Merchandise at the Debtors' warehousing and distribution centers located in the United States, Canada (in Brampton, Ontario) and internationally.

18. The Debtors' business in the United States is operated by The Rockport Company, LLC ("**Rockport US**") and the Debtors' Canadian business is operated by Rockport Canada, a British Columbia unlimited liability company. An organizational chart setting out the corporate structure of the Rockport Group is attached as Exhibit "P" to the Kosturos Cdn Affidavit.
19. Details of the Rockport Group, its incorporating jurisdictions and the location of its head offices are as follows:

<b>Debtor</b>	<b>Jurisdiction of Incorporation</b>	<b>Head Office</b>
Rockport Blocker, LLC	Delaware	West Newton, Massachusetts
The Rockport Group Holdings, LLC	Delaware	West Newton, Massachusetts
TRG 1-P Holdings, LLC	Delaware	West Newton, Massachusetts
TRG Intermediate Holdings, LLC	Delaware	West Newton, Massachusetts
TRG Class D, LLC	Delaware	West Newton, Massachusetts
The Rockport Group, LLC	Delaware	West Newton, Massachusetts
The Rockport Company, LLC	Delaware	West Newton, Massachusetts
Drydock Footwear, LLC	Delaware	West Newton, Massachusetts
DD Management Services LLC	Massachusetts	West Newton, Massachusetts
Rockport Canada ULC	British Columbia	West Newton, Massachusetts

20. Rockport Canada is the only Debtor incorporated in Canada.

### **Capital Structure – Debt Obligations**

21. As at the Petition Date, the Debtors' consolidated long-term debt obligations totaled approximately \$257 million. The Debtors' consolidated long-term debt obligations outstanding as at the Petition Date are outlined in the below table and in the paragraphs that follow:

<b>Indebtedness</b>	<b>Principal Outstanding (USD\$ millions)</b>
Prepetition ABL Facility	57.0
Prepetition Notes Facility	188.3
Prepetition Subordinated Note	11.9
<b>Total</b>	<b>257.2</b>

22. In addition to the above long-term debt obligations, as at the Petition Date, the Debtors estimate that they have unsecured obligations owing to trade creditors totaling approximately \$29.6 million

## Prepetition ABL Facility

23. As noted in the Kosturos Affidavits, the Debtors have outstanding secured debt to various lenders pursuant to a revolving credit agreement, dated July 31, 2015 (as amended, supplemented, restated or otherwise modified from time to time, the “**Prepetition ABL Facility**”) among certain of the Debtors, including Rockport Canada, and Citizens Business Capital (“**CBC**”), as administrative agent and collateral agent for the lenders. The Prepetition ABL Facility provides for borrowings of up to \$60 million in aggregate principal revolving loan commitments and a sublimit of \$10 million for letters of credit.
24. Although Rockport Canada’s borrowing availability under the Prepetition ABL Facility has been reduced to zero, Rockport Canada is jointly and severally liable both as a borrower and as a guarantor of the Rockport Group’s obligations under the Prepetition ABL Facility and has provided security over all of its assets to secure such obligations (the “**CBC Security**”).
25. Prior to the Petition Date, the Prepetition ABL Facility was used to fund the Rockport Group’s daily operations and the Debtors made daily requests to CBC to transfer available funds under the Prepetition ABL Facility into the Debtors’ primary operating account. In turn, Rockport would distribute funds to entities/affiliates of the Rockport Group, as needed by way of intercompany transfers.
26. Although Rockport Canada has not borrowed any monies directly under the Prepetition ABL Facility (Rockport Canada has guaranteed all amounts owing under the Prepetition ABL Facility), its assets were included in the facility’s borrowing base and funds received under the facility were used to, among other things, purchase Merchandise sold by Rockport Canada. As such, Rockport Canada’s access to the funding provided to other Debtors under the Prepetition ABL Facility was critical to its ability to operate as a going concern prior to the Petition Date.
27. As at the Petition Date, approximately \$57 million (including issued/outstanding letters of credit totaling approximately \$3.5 million) was outstanding under the Prepetition ABL Facility.
28. The Proposed Information Officer has received an opinion from its independent legal counsel, Stikeman Elliott LLP, confirming that subject to the typical qualifications and assumptions, the CBC Security is valid and enforceable in the provinces of Ontario and Quebec. At present, the Proposed Information Officer has not obtained an opinion regarding the validity and enforceability of the CBC Security in other provinces where Rockport Canada has operations. The Proposed Information Officer does note that, with the exception of CBC, there are no other registered security interests against Rockport Canada in the provinces where Rockport Canada has operations.

## **Prepetition Notes Facility**

29. As at the Petition Date, the Debtors (excluding Rockport Canada) have outstanding secured debt in respect of the senior secured notes issued by certain of the Debtors in 2015 (and due in 2022) in the original principal amount of \$130 million (the “**Initial Prepetition Notes**”). Prior to the Petition Date, approximately \$41 million in additional senior secured notes (the “**Additional Prepetition Notes**” and together with the Initial Prepetition Notes, the “**Prepetition Notes Facility**”) were issued to the holders (the “**Prepetition Noteholders**”) of the Initial Prepetition Notes. The Additional Prepetition Notes are senior in right of payment to the Initial Prepetition Notes. The Rockport Group (excluding Rockport Canada) has pledged all of its assets to secure the Debtors’ obligations under the Prepetition Notes Facility (the “**Notes Security**”). Pursuant to an Intercreditor Agreement dated July 31, 2015 between CBC and the Cortland Capital Market Services LLC (in its capacity as agent under the Prepetition Notes Facility), the CBC Security ranks in priority to the Notes Security in respect of the Revolving Priority Collateral (as defined therein) and the Notes Security ranks in priority to the CBC Security in relation to the Notes Priority Collateral (as defined therein) in relation to the same assets. As noted above, the Notes Security does not include the Rockport Canada assets.
30. As at the Petition Date, approximately \$188.3 million was outstanding under the Prepetition Notes Facility.
31. The Proposed Information Officer understands that the Prepetition Notes Facility was used to provide the Debtors with additional liquidity and to fund day-to-day operations.

## **Prepetition Subordinate Notes**

32. As at the Petition Date, the Debtors (excluding Rockport Canada) have outstanding obligations pursuant to certain promissory notes issued by certain of the Debtors in 2015 in favour of Reebok International Ltd. (the “**Prepetition Subordinated Notes**”). As at the Petition Date, approximately \$11.9 million was outstanding under the Prepetition Subordinated Notes.
33. The Prepetition Subordinated Notes are unsecured and, pursuant to an agreement dated July 31, 2015, subordinated to the Prepetition ABL Facility and the Prepetition Notes Facility.

## **Overview of Rockport Canada's Business**

34. Rockport Canada is an indirect wholly-owned subsidiary of Rockport US. Although Rockport Canada's registered office is located in Vancouver, British Columbia, the Proposed Information Officer understands that all material decisions regarding Rockport Canada and its business operations are made by Rockport US personnel in the United States.

35. Rockport Canada's operations include 14 retail (i.e. full-price) stores and 19 outlet stores, which are located in Alberta (6), British Columbia (3), Manitoba (2), Nova Scotia (1), Ontario (16), Prince Edward Island (1) and Quebec (4). All of Rockport Canada's retail/outlet locations are leased.
36. Rockport Canada operates a warehouse and distribution facility located in Brampton, Ontario, which is leased by Expeditors International of Washington, Inc. ("**Expeditors**"). Expeditors coordinates and processes import duties and arranges for transport of the Rockport Group's inventory, including the inventory of Rockport Canada in the Brampton warehouse.

### **Financial Position of Rockport Canada**

37. The Proposed Information Officer understands that Rockport Canada does not independently report its financial results. Rockport Canada's financial reporting is included as part of consolidated reporting for the Rockport Group.
38. As at February 28, 2018 (the date of the most recent internal unaudited financial information for Rockport Canada), Rockport Canada had assets with a book value of approximately CAD\$40.9 million and total liabilities of approximately CAD\$36.5 million.
39. As previously noted (although not reflected in the above internal unaudited financials), Rockport Canada is jointly and severally liable for all amounts owing under the Prepetition ABL Facility. As at the Petition Date, approximately \$57 million was outstanding under the Prepetition ABL Facility.
40. In addition, as at February 28, 2018, Rockport Canada's assets include approximately CAD\$24.3 million of inventory (on-hand and in-transit). As a result of Rockport Canada's dependence on the Rockport Group for corporate, managerial and other support functions, including sourcing and procurement of inventory, Rockport Canada's Merchandise is acquired by the Rockport Group such that Rockport Canada does not have significant third-party accounts payable. As at February 28, 2018, Rockport Canada's outstanding intercompany obligations to other Rockport Group entities represented approximately 90% of Rockport Canada's total indebtedness or approximately CAD\$32.6 million.
41. As at the Petition Date, the Proposed Information Officer understands that Rockport Canada has approximately CAD\$1.1 million of cash on hand.

## Employees of Rockport Canada

42. As at the Petition Date, Rockport Canada had 220 employees (4 salespersons and 216 retail employees). The Rockport Canada employees are not represented by a union and Rockport Canada does not sponsor any pension plans for its employees.
43. Rockport Canada maintains compensation and benefits programs for its employees, including an RRSP program. Pursuant to the RRSP program, the Rockport Group contributes an amount equal to 7.5% of a participating employee's earnings provided that the participating employee contributes at least 2.5% of his or her earnings. As at the Petition Date, Rockport Canada owes approximately \$140,000 in amounts due to its employees under its compensation and benefits programs. The Wages Order (as hereinafter defined) provides for the ongoing payment of wages and benefits to all employees of the Rockport Group.

## Rockport Canada's Cash Management System

44. The Rockport Group uses an integrated, centralized cash management system operated by the treasury team in the United States to collect, transfer and disburse funds generated by the Rockport Group (the "**Cash Management System**").
45. Rockport Canada maintains several bank accounts in Canada (HSBC Bank of Canada) denominated in both Canadian and US dollars (the "**Canadian Operations Accounts**").
46. Notwithstanding that the Canadian Operations Accounts largely operate as a self-contained cash management system within the broader Cash Management System of the Rockport Group, the cash management system of Rockport Canada is dependent upon the Rockport Group for all treasury and related services – no Rockport Canada employees have access to the Canadian Operating Accounts (other than to request deposit slips for the operating account).
47. Prior to the Petition Date, excess cash from the Canadian Operations Accounts was periodically transferred to accounts maintained by Rockport US in partial satisfaction of Rockport Canada's intercompany obligations to the US Debtors for supplied Merchandise. During the course of these proceedings, the Proposed Information Officer understands that Rockport US will cease the practice of sweeping excess cash from the Canadian Operations Accounts such that all funds generated from Rockport Canada's operations throughout these proceedings will remain available to Rockport Canada.
48. Further details regarding the Cash Management System, including Rockport Canada's cash management system, are provided in the Kosturos Affidavits.



## VI. CENTRE OF MAIN INTEREST

49. The Rockport Group operates a highly integrated business managed out of the United States where the Debtors maintain their head office. Although Rockport Canada's registered office is in Vancouver, British Columbia, the Proposed Information Officer understands:

- (a) all material decisions regarding the Rockport Canada business and its operations are managed by Rockport Group personnel located in the United States. In particular, all of Rockport Canada's treasury and financial decisions, including borrowing and pricing decisions are made at the Debtors' head office located in West Newton, Massachusetts (the "US Head Office");
- (b) the Rockport Group's human resources, legal, accounting, information technology, marketing and communications functions are primarily administered from the US Head Office;
- (c) Rockport Canada does not have any human resources personnel. Human resource matters for Rockport Canada are managed by the US Head Office;
- (d) there are no management personnel employed directly by Rockport Canada or located in Canada. Rockport Canada does, however, employ store managers and area managers to oversee day-to-day operations of Rockport Canada stores. The area managers oversee the posting of jobs and identifying staffing needs, but they cannot make decisions on hiring or terminating employees without the approval of the US Head Office;
- (e) other than the retail employees located at Rockport Canada stores across Canada, there are no customer service personnel employed by Rockport Canada. All customer service matters are managed by the US Head Office (other than in-store service);
- (f) all of Rockport Canada's accounts payable and accounts receivable are managed from the US Head Office;
- (g) Rockport Canada does not have any information technology personnel. All technology decisions and issues are managed by the US Head Office. Further, the Rockport Group's e-commerce sites are managed in the United States;
- (h) although Rockport Canada's inventory is distributed from a warehouse located in Brampton, Ontario, all decisions regarding inventory management are made at the US Head Office, which forecasts inventory needs and places orders on behalf of Rockport Canada;
- (i) all strategic decisions for Rockport Canada, including asset management, capital expenditure and planning decisions are made by the US Head Office;

- (j) Rockport Canada's sole director is Robert Infantino, a resident of West Newton, Massachusetts;
  - (k) Rockport Canada's officers are Robert Infantino, Karla Jarvis, Michael Smith and Georgina Wraight, each of whom are residents of West Newton, Massachusetts; and
  - (l) the Prepetition ABL Facility is a credit facility for the benefit of the Rockport Group, including Rockport Canada;
50. Based on the foregoing, the Proposed Information Officer believes it is reasonable to conclude that the Debtors' (including Rockport Canada) "centre of main interest" is in the United States.

## **VII. EVENTS LEADING TO THE CHAPTER 11 PROCEEDINGS AND CCAA RECOGNITION PROCEEDINGS**

51. The Proposed Information Officer understands that over the past several years, the Rockport Group has faced economic headwinds and operational challenges that significantly and adversely impacted the operating performance of the Debtors' business, including:
- (a) a costly and time consuming separation from the logistics and information technology networks of the former owners of the Rockport division of the Debtors' business;
  - (b) disruptive and costly supply chain interruptions; and
  - (c) the poor performance of certain retail locations.
52. In December 2017, the Rockport Group retained Houlihan Lokey, Inc. ("**Houlihan**"), an investment bank with experience in mergers and acquisitions, recapitalization and financial restructurings, to explore a potential sale of the Rockport Group's assets.
53. As part of this effort, Houlihan commenced a robust marketing process for the sale of all, or certain of the Rockport Group's assets and contacted 110 potential strategic and financial acquirers regarding the opportunity (the "**Potential Interested Parties**"). Approximately 60 Potential Interested Parties executed a non-disclosure agreement to review certain confidential business and financial information and access a data room containing preliminary diligence materials. 10 parties later submitted initial, non-binding indications of interest by the submission deadline of February 6, 2018, of which 7 were granted access to a data room containing additional confidential business and financial information and 6 met with senior management of the Rockport Group in person to review the opportunity and ask any questions in connection therewith.
54. On or before March 29, 2018, 3 parties submitted final letters of intent and a further verbal bid was received on April 4, 2018.

## The Transaction

55. After reviewing and carefully considering the bids received, the Rockport Group determined, in consultation with its advisors, that Charlesbank had submitted the highest or otherwise best offer, pursuant to which Charlesbank agreed to acquire substantially all of the Rockport Group's assets (other than the Rockport Group's North American retail assets) for a purchase price of (i) \$150,000,000 in cash (the "**Base Cash Amount**") subject to certain working capital adjustments; (ii) a warrant to purchase up to 5% of the common equity of the Purchaser (as defined in the Stalking Horse Agreement (as defined below)), at an exercise price equal to 2.5 times the price of the equity invested by the Equity Commitment Party (as defined in the Stalking Horse Agreement) in Parent Holdco (as defined in the Stalking Horse Agreement) as of the Closing Date (as defined in the Stalking Horse Agreement); and (iii) the assumption of certain liabilities.
56. Following good faith, arm's length negotiations between the parties and in consultation with their advisors and key stakeholders, the Rockport Group and Charlesbank entered into an Asset Purchase Agreement, dated as of May 13, 2018 (the "**Stalking Horse Agreement**"), pursuant to which Charlesbank will acquire the Purchased Assets (as defined in the Stalking Horse Agreement), subject to higher or otherwise better offers.
57. Under the terms of the Stalking Horse Agreement, the Rockport Group's North American retail assets (i.e. retail leases and related inventory in the US and Canada) are currently identified as excluded assets. Charlesbank is still considering whether it is interested in acquiring any portion of the Rockport Group's North American retail assets. The Stalking Horse Agreement provides that, for a period of 25 days following the Petition Date, the Rockport Group will not sell or otherwise dispose of any Inventory (as defined in the Stalking Horse Agreement) other than in the ordinary course of business (the "**No Liquidation Period**").
58. Although Charlesbank is contemplating acquiring a portion of the North American retail assets, the Proposed Information Officer understands that, based on the Rockport Group's discussions with Charlesbank, the Rockport Group is of the view that Charlesbank does not intend to acquire all or substantially all of the North American retail assets.
59. As part of the initial materials filed with the US Court, the Rockport Group has filed a motion seeking the approval of the US Court to conduct store closing sales for the Rockport Group's North American retail business, subject to the ability to remove any retail location from the relief granted to the extent necessary to comply with the Stalking Horse Agreement or otherwise maximize value in connection with the sale process. Draft sales guidelines governing the conduct of any North American retail store closures (the "**Sale Guidelines**") were negotiated and attached as a schedule to the Stalking Horse Agreement, and filed with the store closing sales motion. The Proposed Information Officer understands that the motion, if required, will be returnable on June 5, 2018. The Proposed Information Officer understands the US Debtors anticipate self-liquidating any retail stores not included in the Stalking Horse Agreement

(or higher or otherwise better offer identified through the sale process), with the assistance of a consultant to be identified by the Debtors.

60. In respect of the Stalking Horse Agreement and related sales process, the Rockport Group has filed with the US Court a motion seeking the US Court's approval of the bidding procedures designed to maximize the value received for the Rockport Group's assets (the "**Bidding Procedures Order**"), returnable on June 5, 2018. The Bidding Procedures Order, among other things:

- (a) seeks to establish bidding and auction procedures in connection with the sale of the Rockport Group's assets;
- (b) seeks approval of the proposed bid protections, including the payment of a break-up fee in an amount equal to 3% of the Base Cash Amount (i.e. \$4.5 million), pursuant to the Stalking Horse Agreement;
- (c) seeks reimbursement of certain expenses incurred by Charlesbank (up to \$2 million), in accordance with the Stalking Horse Agreement;
- (d) schedules an auction and sets a date and time for the sale hearing; and
- (e) establishes procedures for notice and to determine cure amounts for contracts and leases to be assumed and assigned in connection with any sale transaction.

61. The anticipated Bidding Procedures Order will also authorize, subject to the results of the auction, entry of an order to (a) approve and authorize a sale to the winning bidder; (b) authorize the assumption and assignment of certain contracts and leases; and (c) authorize the Rockport Group to enter into a transition services agreement, as contemplated by the Stalking Horse Agreement.

62. The anticipated timeline pursuant to the Bidding Procedures Order is:

Date	Activity
on or before June 5, 2018	Hearing to consider approval of the "Bidding Procedures" and entry of the "Bidding Procedures Order"
June 27, 2018 at 4:00 pm (EST)	Sale Objection Deadline
June 29, 2018 at 5:00 pm (EST)	Bid Deadline
July 3, 2018 at 5:00 pm (EST)	Deadline for Rockport Group to notify "Potential Bidders" of their status as "Qualified Bidders"
July 10, 2018 at 10:00 am (EST)	Auction to be held at the offices of Richard, Layton & Finger, P.A. (if necessary)
July 11, 2018	Target date for the Rockport Group to file with the US Court the "Notice of Auction Results"
July 13, 2018	Proposed date of the "Sale Hearing" to consider approval of the sale and entry of the "Sale Order"
on or after July 27, 2018	Closing Date (unless the "Successful Bidder" agrees to waive the 14-day stay of the "Sale Order")

63. The Proposed Information Officer has been in contact with Houlihan regarding the marketing process noted above. The Proposed Information Officer was also provided with and reviewed the confidential information memorandum provided by Houlihan to prospective purchasers, which contained certain limited information on the Rockport Group's operations, including Rockport Canada's operations, to assist with preliminary due diligence. Houlihan also informed the Proposed Information Officer of the identity of the Interested Parties and confirmed that the opportunity was presented to 1 Canadian strategic and 1 Canadian financial buyer, both of which declined the opportunity. Houlihan further advised that additional Canadian parties would not likely be contacted as part of the sales process, as the Rockport Group's assets were being marketed as a whole (as per the Stalking Horse Agreement) and the only likely Canadian buyers had already passed on the opportunity and it was unlikely that a buyer interested in Canadian only operations would be considered.
64. The Proposed Information Officer will seek additional information from the Rockport Group and Houlihan in respect of any expressions of interest received, as part of the proposed sales process, in respect of the Canadian operations.

## VIII. FIRST DAY ORDERS OF THE US COURT FOR WHICH RECOGNITION IS SOUGHT

65. The Foreign Representative is seeking recognition of the following First Day Orders that have been entered by the US Court in the Chapter 11 Proceedings, each of which is attached as an Exhibit to the Kosturos Cdn Affidavit:
- (a) an order directing the joint administration of the Chapter 11 cases of the Rockport Group in the US Proceedings (the "**Joint Administration Order**");
  - (b) an order appointing Prime Clerk LLC as claims and noticing agent in the Chapter 11 Proceedings (the "**Claims Agent Order**"). Pursuant to the Claims Agent Order, Prime Clerk is fully responsible for the distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Chapter 11 Proceedings;
  - (c) an order confirming the enforcement and applicability of the protections pursuant to sections 362, 365, 525 and 541(c) of the Bankruptcy Code (the "**Automatic Stay Order**"). The Automatic Stay Order enforced and restated the automatic stay provisions of the US Code and is appropriate and necessary for the Rockport Group to continue operations while it pursues its restructuring efforts;
  - (d) an order recognizing Rockport Blocker as the foreign representative of the Rockport Group in Canada (the "**Foreign Representative Order**");
  - (e) an interim order (i) authorizing, but not directing, the Rockport Group, in its sole discretion, to pay (a) all or a portion of the shipping and warehousing claims and (b) certain import charges; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the

Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Shipping and Warehousemen Order**");

- (f) an interim order (i) authorizing, but not directing, the Rockport Group to pay prepetition obligations of certain (a) vendors, suppliers, service providers and similar entities that provide goods or services critical to the ongoing operation of the Debtors' business in an amount not to exceed \$2 million on an interim and final basis; and (b) foreign vendors, suppliers and service providers that provide goods or services critical to the ongoing operation of the Debtors' business in an amount not to exceed \$12 million on an interim basis and \$20 million on a final basis; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Critical and Foreign Vendors Order**");
- (g) an interim order (i) authorizing, but not directing, the Rockport Group, in its sole discretion, to pay Covered Taxes and Fees, whether arising prior to, on or after the commencement of the Chapter 11 cases; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Taxes Order**");
- (h) an interim order (i) authorizing, but not directing, the Rockport Group to continue to renew its (a) Insurance Programs, including Premium Financing, and (b) Surety Bond Program and honour all obligations under the Insurance and Surety Bond Programs; (ii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to permit the Rockport Group's employees to proceed with any claims they may have under the Worker's Compensation Program; and (iii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Insurance Order**");
- (i) an interim order (i) authorizing the Rockport Group to (a) pay certain employee compensation and benefits, (b) maintain such benefits and other employee-related programs, and (c) pay the prepetition claims of independent contractors; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Wages Order**");
- (j) an order (i) authorizing, but not directing, the Rockport Group to (a) continue to administer certain Customer Programs and (b) honour or pay Customer Obligations; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general

disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the “**Customer Program Order**”);

- (k) an interim order (i) prohibiting the Rockport Group’s utility service providers from altering or discontinuing service; (ii) approving an adequate assurance deposit as adequate assurance of post-petition payment to the utilities; and (iii) establishing procedures for resolving any subsequent requests by the utilities for additional adequate assurance of payment (the “**Utilities Order**”);
- (l) an interim order authorizing the Rockport Group to continue to use its existing cash management system (the “**Cash Management System**”) and bank accounts; (ii) waiving certain bank account and related requirements of the Office of the United States Trustee for the District of Delaware; authorizing the Rockport Group to continue its existing deposit practices under the Cash Management System (subject to the Rockport Group’s implementation of certain reasonable changes to the Cash Management System); (iv) extending the time to comply with section 345(b) of the Bankruptcy Code; and (v) authorizing the continued performance of certain transactions between and among the Rockport Group and certain of its affiliates, subject to certain limitations set out therein (the “**Cash Management Order**”); and
- (m) an interim order, among other things, (i) approving post-petition financing; (ii) granting the liens and super-priority administrative expense claim status to CBC, as administrative and collateral agent for the DIP ABL Lenders (the “**Interim DIP Financing Order**”).

66. The Proposed Information Officer understands that Canadian parties/creditors were specifically identified and provided for in the various Orders (Warehouseman Liens, Critical Suppliers, Taxing Authorities, Wages Orders and Insurance Orders) and corresponding DIP budgets/cashflows.

67. Certain of the First Day Orders that may relevant to Canadian stakeholders are addressed further below.

#### **Foreign Representative Order**

68. The Foreign Representative Order authorizes Rockport Blocker to act as the Foreign Representative of the Rockport Group to, among other things, seek recognition of the Chapter 11 Proceedings in Canada. Pursuant to the Foreign Representative Order, the US Court requested the aid and assistance of the Canadian Court to recognize the Chapter 11 Proceedings as a “foreign main proceeding” and Rockport Blocker as a “foreign representative” under the CCAA.

## **Shipping and Warehousemen Order**

69. The Shipping and Warehousemen Order authorizes (but does not direct) the Rockport Group to pay all or a portion of certain prepetition shipping and warehousing claims and certain prepetition import charges. The Shipping and Warehousemen Order was made on an interim basis and will be subject to a further hearing and final order.
70. The Rockport Group relies on a network of common carriers, expeditors, consolidators, warehousemen and transportation service providers, and other related parties in carrying out its global business operations. As the Rockport Group sources substantially all of its inventory and other goods from foreign countries, the Rockport Group may be required to pay certain import charges, including but not limited to, customs duties, detention and demurrage fees, tariffs, excise taxes or other similar obligations on merchandise delivered from foreign countries. As a disruption in the Rockport Group's supply chain may cause harm to its business and impair its restructuring efforts, the Shippers and Warehousemen Order is required to ensure the continued supply of inventory and other goods to the Rockport Group.

## **Taxes Order**

71. The Taxes Order authorizes the Rockport Group to pay certain taxes whether arising prior to, on or after the Petition Date. In the ordinary course of the Rockport Group's operations it collects, withholds and incurs various taxes, including income taxes, sales and use taxes, employment and wage-related taxes, business taxes, property taxes and other taxes.
72. The Taxes Order applies to Canadian taxation authorities, including with respect to sales taxes. The Taxes Order was made on an interim basis and will be subject to a further hearing and final order.

## **Wages Order**

73. The Wages Order authorizes the Rockport Group to, among other things, pay prepetition wages and other amounts owed to its employees and claims of independent contractors, continue all employee benefit programs and to pay all withholding obligations as such obligations are due.
74. The Wages Order authorized Rockport Canada to continue to pay Rockport Canada's employees in the ordinary course. Pursuant to the Wages Order, any amounts owed to Rockport Canada employees, including amounts for vacation pay, expenses, and benefits are expected to be paid in the ordinary course. The Wages Order was made on an interim basis and will be subject to a further hearing and final order.



## Utilities Order

75. The Utilities Order approved adequate protection assurance for certain utilities providers, established procedures for resolving claims by utility providers and prohibited utility providers from terminating service solely on the basis the Rockport Group commenced the Chapter 11 Proceedings.
76. The Utilities Order includes certain Canadian utility providers. The Utilities Order was made on an interim basis and will be subject to a further hearing and final order.

## Cash Management Order

77. The Cash Management Order authorizes the Rockport Group to continue to operate its existing Cash Management System.
78. Subsequent to the Petition Date, Rockport Canada will continue to transfer funds to the Rockport Group on account of (i) merchandise purchased post-petition from the Rockport Group, as necessary for Rockport Canada's ongoing operations (paid on a COD basis); and (ii) post-petition back office services provided by the Rockport Group (paid in accordance with prior practice, as a mark-up on the cost of Merchandise supplied) (the "**Permitted Rockport Canada Intercompany Transactions**").
79. Other than the Permitted Rockport Canada Intercompany Transactions, Rockport Canada will not transfer funds to the Rockport Group on account of any prepetition intercompany transaction, unless otherwise ordered by the US Court.
80. The Proposed Information Officer notes that the current cashflows and budget in respect of the Canadian operations (as discussed below) reflect limited, if any, excess funds will be available in Rockport Canada until such time as the sales proceeds from the Stalking Horse Agreement (or higher or otherwise better offers) and/or liquidation sales are available.

## Interim DIP Financing Order

81. As at the Petition Date and based on the cash flow projections prepared by the Rockport Group (the "**DIP Cash Flow**"), which are attached as Exhibit "S" to the Kosturos Cdn Affidavit, the Rockport Group lacked sufficient liquidity to maintain normal course operations during the proposed sales process without access to additional financing.
82. In reviewing the DIP Cash Flow for Rockport Canada, the Proposed Information Officer noted the following:
  - (a) the DIP Cash Flow projects that Rockport Canada will experience a net cash outflow of approximately CAD\$170,000 between the Petition Date and July 14, 2018;

- (b) Rockport Canada is projected to make approximately CAD\$2.2 million in payments to Rockport US for Permitted Rockport Canada Intercompany Transactions. However, based on the information provided to the Proposed Information Officer, Rockport Canada is projected to receive Merchandise in excess of this amount over the same 9 week period; and
  - (c) the referenced cash outflow does not take into account professional fees related to these proceedings, all of which have been allocated to the cash flow of the US Debtors.
83. Notwithstanding that the DIP Cash Flow projects that Rockport Canada does not require additional funds to continue operating – assuming the prohibition on sweeps of excess funds in the Canadian Operations Accounts to the US Debtors and permission to continue using post-petition revenue generated from Canadian operations during these proceedings – it is the Proposed Information Officer’s view, due to the highly integrated nature of the Rockport Group business and the essential bank-office support functions carried out by Rockport US personnel on behalf of Rockport Canada, it would be extremely difficult for Rockport Canada to continue operations if the Rockport Group did not access additional capital.
84. The Interim DIP Financing Order (which is being sought on an interim basis, and will be subject to a further hearing and final order), should it be granted, among other things, provides the Rockport Group access to:
- (a) up to \$60 million under a DIP post-petition revolving credit facility (the “**DIP ABL Facility**”) pursuant to a senior secured superpriority DIP credit agreement (the “**DIP ABL Agreement**”) between certain of the Debtors, including Rockport Canada, and CBC (in such capacity the “**DIP ABL Lender**”); and
  - (b) up to \$20 million in new money (the “**DIP Note Facility**” and together with the DIP ABL Facility, the “**DIP Financing**”) under a senior secured post-petition DIP Note Purchase and Security Agreement (the “**DIP Note Agreement**”) between certain Rockport Group entities and the holders of the Prepetition Notes Facility (in such capacity the “**DIP Note Lenders**”).
85. The DIP Financing will provide the working capital necessary for the Rockport Group to continue its business until the conclusion of the proposed sales process. Rockport Canada is, however, only a party to the DIP ABL Agreement. Consistent with the Prepetition Notes Facility, Rockport Canada is not a party to the DIP Note Facility.
86. Similar to the Prepetition ABL Facility, while Rockport Canada is listed as a borrower under the DIP ABL Facility, it has no borrowing availability. Further, the obligations that Rockport Canada will undertake pursuant to the DIP ABL Facility correspond to its prepetition obligations – that is, Rockport Canada is a party to the DIP ABL Agreement and will be jointly and severally liable both as a borrower and as a guarantor of the obligations under that facility and security will be granted over Rockport Canada in such capacity.

87. The DIP ABL Facility contains a “roll-up” provision whereby following the US Court’s approval of the Interim DIP Financing Order, the Rockport Group intends to repay obligations owing under the Prepetition ABL Facility as a “creeping roll-up” by applying the collection of accounts receivable and other proceeds from the sale of the collateral in support thereof to satisfy the amounts due under the Prepetition ABL Facility and, in turn, free up borrowing availability under the DIP ABL Facility. Following the US Court’s approval of the final DIP Financing Order, the Rockport Group will use the proceeds from the next advance under the DIP ABL Facility to “roll-up” all remaining outstanding amounts due under the Prepetition ABL Facility.
88. As at the Petition Date, the Rockport Group (i) had no availability under the Prepetition ABL Facility; (ii) other than CBC, there are no other registered security interests against Rockport Canada; and (iii) other than the Permitted Rockport Canada Intercompany Transactions, Rockport Canada will not transfer any funds to the Rockport Group on account of any prepetition intercompany transaction. Accordingly, it does not appear that the “roll-up” and security provisions of the DIP ABL Agreement are detrimental to Rockport Canada’s creditors.
89. The DIP Note Facility that has been approved on an interim basis by the US Court does not provide for direct availability to Rockport Canada. The Proposed Information Officer notes that the Prepetition Note Facility, which forms a part of the DIP Note Facility, was not secured by Rockport Canada assets, and the Debtors are not seeking to secure the Canadian assets with any charges relating to the DIP Note Facility.

## **IX. PROPOSED ABL LIABILITY ALLOCATION**

90. In preparing for the filing, the Proposed Information Officer was advised that a term and condition of the granting of the DIP Note Facility to the Debtors was the determination of the allocation of amounts outstanding to CBC under the Prepetition ABL Facility as between the US Debtors and Rockport Canada, in order to determine potential available funds from Rockport Canada to support the obligation. The DIP Note Lenders required that an agreement be reached and approved by the US Court, and recognized by the Canadian Court, prior to the return of the final DIP Financing Order, scheduled for June 13, 2018.
91. The Proposed Information Officer was advised of the DIP Note Lenders requirement and participated in discussions with counsel for the DIP Note Lenders, the DIP ABL Lender and the Debtors relating to the manner in which this condition could be met or addressed by the respective Courts. On May 12, 2018, the parties agreed to seek the following paragraph in the Interim DIP Financing Order and Initial Recognition Order relating to this issue:

the amount of proceeds realized from the sale or liquidation of the ABL Collateral and/or the DIP ABL Collateral of Rockport Canada ULC which shall be paid to the ABL Lenders and/or the DIP ABL Lenders in partial satisfaction of the outstanding ABL Obligations (as determined immediately prior to the Petition Date) and/or DIP ABL Obligations shall be determined and agreed upon among (i) the Debtors, (ii) the ABL Lenders, and (iii) the Secured Noteholders, each acting reasonably (the "Allocation Agreement"), in advance of the hearing in respect of the Final Order (the "Final Order Hearing"). The Allocation

Agreement shall be placed before the Court for approval as part of the Final Order Hearing and thereafter the Canadian Court for recognition as part of the motion to recognize the Final Order. In the event that the foregoing parties have not reached the Allocation Agreement in advance of the Final Order Hearing, the issue shall be placed before the US Bankruptcy Court at the Final Order Hearing, and thereafter the Final Order shall be placed before the Canadian Court for recognition. Any Allocation Agreement or orders approving same shall be conditional upon and require the repayment in full at or prior to closing in cash of the ABL Obligations and/or DIP ABL Obligations. The granting of this Interim Order shall be without prejudice to future arguments in respect of the Allocation Agreement or any orders approving the same.

92. The Proposed Information Officer understood that discussions would continue between the Debtors, the DIP Note Lenders, and the DIP ABL Lender and any agreement reached between the parties would be disclosed to the other stakeholders and formal approval sought from the US Court and recognition by the Canadian Court.
93. The Proposed Information Officer notes the following term was granted by the US Court relating to the allocation issues:

No Marshaling: Application of Proceeds. The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral and/or the Prepetition Collateral, as the case may be, and all proceeds shall be received and applied in accordance with the DIP Documents, the Prepetition Financing Documents, and the Prepetition Intercreditor Agreement. Notwithstanding anything to the contrary herein, the amount of proceeds realized from the sale or liquidation of the ABL Collateral (as determined immediately prior to the Petition Date) and/or the DIP ABL Collateral of Rockport Canada ULC which shall be paid to the ABL Lenders and/or the DIP ABL Lenders in partial satisfaction of the outstanding ABL Obligations (as determined immediately prior to the Petition Date) and/or DIP ABL Obligations shall be determined and agreed upon among (i) the Debtors, (ii) the ABL Lenders, and (iii) the Secured Noteholders, each acting reasonably (the "Proposed ABL Liability Allocation"), in advance of the Final Hearing. The Proposed ABL Liability Allocation shall be placed before the Court for approval as part of the Final Hearing and thereafter the Canadian Court for recognition as part of the motion to recognize the Final Order. Any Proposed ABL Liability Allocation or orders approving the same shall be conditional upon and require the repayment in full at or prior to closing of any sale as contemplated by the Sale Motion in cash of the ABL Obligations and/or DIP ABL Obligations. The granting of this Interim Order shall be without prejudice to future arguments in respect of the Proposed ABL Liability Allocation or any orders approving the same.

94. In reviewing the Kostorus US Affidavit (at paras 101-102), the Proposed Information Officer learned that the Debtors, the Prepetition Noteholders and CBC had reached a tentative agreement (the "**Proposed ABL Liability Allocation**"), which appears to have been framed as a share of obligations under the Prepetition ABL Facility, versus the allocation of proceeds contemplated above. The Proposed Information Officer was not a party to those discussions and is not in a position at this time to comment on the terms thereof. The Proposed Information Officer will report further on this matter in return of the motion seeking recognition of the final DIP Financing Order and the US Court's approval of the Proposed ABL Liability Allocation, when and if obtained.

## **IX. PROPOSED CHARGES**

95. Pursuant to the proposed Supplemental Order, Rockport Canada is seeking an Administrative Charge and a DIP Lenders' Charge.

### **Administration Charge**

96. The draft Supplemental Order contemplates an Administration Charge in respect of the fees and disbursements of the Information Officer and its counsel in an amount not to exceed CAD\$300,000. The Administration Charge is required to protect the Information Officer and its counsel in the event that their reasonable fees and expenses are unpaid. The Proposed Information Officer considers the amount of the proposed Administration Charge to be reasonable and appropriate in the circumstances. The Administration Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on the Debtors' property in Canada, including the DIP Lenders' Charge.

### **DIP Lenders' Charge**

97. As noted above, the draft Supplemental Order contemplates the granting of the DIP Lenders' Charge to secure amounts owing under the proposed DIP ABL Facility. The DIP Lenders' Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on Rockport Canada's assets except for the Administration Charge.

## **X. PROPOSED INITIAL ACTIVITIES OF THE INFORMATION OFFICER**

98. The draft Supplemental Order provides that following its appointment, the initial activities of the Information Officer will include, *inter alia*:

- (a) publishing a notice of the Chapter 11 Proceedings and the CCAA Recognition Proceedings in the Globe and Mail, National Edition, as soon as practical following date of the Supplemental Order, if granted, once a week for two consecutive weeks (as required by the Foreign Representative pursuant to subsection 53(b) of the CCAA);
- (b) providing such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (c) reporting to the Canadian Court with respect to the status of these proceedings and the Chapter 11 Proceedings at such times and intervals as the Information Officer deems appropriate; which reports may include information relating to the property and the business of the Debtors or such other matters as may be relevant to these proceedings and the Proposed ABL Liability Allocation; and

- (d) establishing a website at <http://www.richter.ca/en/folder/insolvency-cases/r/rockport-canada> to make available copies of the Orders granted in the CCAA Recognition Proceedings, reports of the Information Officer, motion materials, and other materials as the Canadian Court may order or the Information Officer deems appropriate.

## **XI. PROPOSED INFORMATION OFFICER'S RECOMMENDATIONS**

99. The Proposed Information Officer is satisfied that the terms of the Initial Recognition Order relating to its proposed role as Information Officer are fair and reasonable, and consistent with the terms of appointments of information officers in other recognition proceedings under the CCAA.
100. Accordingly, the Proposed Information Officer respectfully recommends that the Canadian Court grant the relief requested by the Debtors in the Initial Recognition Order and the Supplemental Order.

All of which is respectfully submitted on this 16<sup>th</sup> day of May, 2018.

**Richter Advisory Group Inc.**  
**in its capacity as Proposed Information Officer of**  
**Rockport Canada ULC *et al***  
**and not in its personal capacity**



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Adam Sherman, MBA, CIRP, LIT



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Pritesh Patel, MBA, CFA, CIRP, LIT

## **APPENDIX B**

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

In re:

THE ROCKPORT COMPANY, LLC, et al.,  
Debtors.<sup>1</sup>

Chapter 11

Case No. 18-11145 (LSS)

(Jointly Administered)

**Related Docket Nos. 15, 60 & 76**

**OBJECTION AND RESERVATION OF RIGHTS OF RICHTER ADVISORY  
GROUP INC., IN ITS CAPACITY AS INFORMATION OFFICER, TO MOTION  
OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS**

**(I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION  
FINANCING ON A SUPER-PRIORITY, SENIOR SECURED BASES AND  
(B) USE CASH COLLATERAL, (II) GRANTING (A) LIENS AND SUPER-  
PRIORITY CLAIMS AND (B) ADEQUATE PROTECTION TO CERTAIN  
PREPETITION LENDERS, (III) MODIFYING THE AUTOMATIC STAY,  
(IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED  
RELIEF**

Richter Advisory Group Inc. (“Richter”), in its capacity as the information officer (“Information Officer”) in the foreign proceeding under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) of Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG1-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 (collectively, the “Debtors”), by and through its undersigned counsel, hereby

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<sup>1</sup> The Debtors and debtors in possession in these cases and the last four digits of their Employer Identification Numbers are: Rockport Blocker, LLC (5097), The Rockport Group Holdings, LLC (3025), TRG 1-P Holdings, LLC (4756), TRG Intermediate Holdings, LLC (8931), TRG Class D, LLC (4757), The Rockport Group LLC (5559), The Rockport Company, LLC (5456), Drydock Footwear, LLC (7708), DD Management Services LLC (8274), and Rockport Canada ULC (3548). The debtors’ mailing address is 1220 Washington Street, West Newton, Massachusetts 02465.



submits this objection and reservation of rights (the “Objection”) to the Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Super-Priority, Senior Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief (Docket No. 15) (the “DIP Motion”).<sup>2</sup> In support of its Objection, Richter respectfully states as follows:

### **PRELIMINARY STATEMENT**

1. The Information Officer supports the Debtors’ efforts to obtain financing that allows the businesses to continue through a value-maximizing sale process. Certain aspects of the currently proposed DIP Facilities may unfairly prejudice Canadian Creditors. The Information Officer does not dispute that Rockport Canada (as defined herein) may owe some obligation under the ABL Facility. However, Rockport Canada did not pledge any assets to the holders of the Prepetition Note Facility or the DIP Note Facility. Nonetheless, the DIP Note Agent and the Prepetition Noteholders through the Proposed ABL Liability Allocation (as defined herein), indirectly seek to encumber previously unencumbered assets of Rockport Canada. In addition, to date, the Information Officer has not received sufficient responses to the requests for information it has sent to the Debtors with respect to certain key provisions of the proposed DIP Facilities. Accordingly, any determination of allocation of debt or proceeds should be considered not in the context of the Final DIP Hearing (as defined herein), but rather after the Debtors have responded fully to all information requests of the Information Officer

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the DIP Motion and the Interim DIP Order, defined below.

and at the time when the Courts (as defined herein) determine allocation of the proceeds of any sale of the Debtors' assets. For these reasons, the Information Officer files the Objection.

## **BACKGROUND**

### **A. The Bankruptcy Cases**

2. On May 14, 2018 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§101-1532 (as amended, the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "US Court").

3. The Debtors continue to operate their businesses and manage their property as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in this case.

4. On the Petition Date, the Debtors filed the DIP Motion. Thereafter, on May 15, 2018, the US Court entered an Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Super-Priority, Senior Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief (Docket No. 60) (the "Interim DIP Order"). Under the Interim DIP Order, final hearing on the DIP Motion is scheduled for June 13, 2018 (the "Final DIP Hearing").

### **B. The Canadian Proceeding**

5. One of the Debtors, Rockport Canada ULC ("Rockport Canada"), is a British Columbia entity with operations and assets in Canada.

6. Accordingly, on May 16, 2018, Rockport Blocker, LLC (“Blocker”), in its capacity as Foreign Representative (defined below), applied for an order under ancillary proceedings (the “Ancillary Proceedings”) pursuant to section 46 of the CCAA with the Ontario Superior Court of Justice (the “Ontario Court” and together with the US Court, the “Courts”) seeking entry in the Ontario Court of an initial recognition order (the “Initial Recognition Order”). By the Initial Recognition Order, the Ontario Court approved Blocker as the foreign representative (the “Foreign Representative”), as defined in section 45 of the CCAA, in connection with the Debtors’ above-captioned cases (collectively, the “Bankruptcy Cases”). See Initial Recognition Order at ¶ 2, attached hereto as Exhibit A.

7. Also on May 16, 2018, the Ontario Court entered a Supplemental Order (Foreign Main Proceeding) (the “Supplemental Order”), attached hereto as Exhibit B. The Supplemental Order recognized certain orders entered by the US Court granting first day relief, except to the extent of any conflict between such orders and orders entered by the Ontario Court with respect to any property in Canada. See Supplemental Order at ¶ 4.

8. Under the Supplemental Order, Richter was appointed as an officer of the Ontario Court. In such capacity, Richter is required to report to the Ontario Court regarding the Bankruptcy Cases and matters relevant to the Ancillary Proceedings. To date, the Information Officer (as proposed information officer) has filed one such report, a copy of which is attached hereto as Exhibit C.

9. To aid in this endeavor, the Ontario Court ordered that as Information Officer, Richter would have full and complete access to the Debtors’

property, including books, records, data, and other financial documents of the Debtors to perform its duties. Id. at ¶ 12(d). The Debtors and Blocker were also ordered to keep the Information Officer advised of all material steps in these cases, to cooperate fully with the Information Officer, and to provide any assistance necessary to allow the Information Officer to perform its duties. Id. ¶ 13. The Supplemental Order expressly empowered the Information Officer to apply to any court for assistance in carrying out its duties. Id. ¶ 35. Preconditions required by the DIP Note Purchasers relating to potential allocation of value of the Canadian assets, are a material issue that may affect the Canadian estate and will be brought to the attention of the Ontario Court.

10. The Information Officer believes it is compelled to raise these issues through this Objection to inform the US Court of the potential ramifications of the requested relief on the Canadian estate. In considering the relief requested of the US Court, the US Court is encouraged to inform the Ontario Court of facts, issues, and rulings in the Bankruptcy Cases that relate to the Ancillary Proceedings. The Supplemental Order approved Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases, which would permit the US Court and Ontario Court to communicate during the course of the Bankruptcy Proceedings and the Ancillary Proceedings.

**C. The Debtors' Prepetition Indebtedness**

11. The Debtors had, as of the Petition Date, total outstanding liabilities and other obligations of approximately \$287 million as follows:

- a. \$53.425 million principle debt and \$3.55 million reserved for letter of credit purposes for a total of \$57 million outstanding under the Prepetition ABL Facility;

- b. \$188.3 million outstanding under the Prepetition Notes Facility;
- c. \$11.9 million outstanding under the Prepetition Subordinated Notes (unsecured); and
- d. \$29.6 million outstanding in trade debt.

First Day Declaration at ¶¶ 18, 21.

12. The only loan under which Rockport Canada is jointly and severally liable with the other Debtors is the ABL Facility. Rockport Canada was a borrower under the initial Prepetition ABL Facility. However, prior to the Petition Date the borrowing availability of Rockport Canada was reduced to zero. Rockport Canada was and remains a guarantor under the ABL Facility

13. Moreover, the Debtors structured their pre-petition borrowing such that Rockport Canada did not directly borrow from the Prepetition ABL Facility. Id. at ¶ 22. Rather, Rockport Canada received inventory purchased The Rockport Company, LLC (“TRC”). Id. The costs of inventory and certain administrative and operational activities were then billed to Rockport Canada and reflected on the books as an unsecured intercompany obligation of Rockport Canada. As such, as of February 2018, the books and records of Rockport Canada reflect a zero obligation to the ABL Lender, as borrower.

14. As of the Petition Date, the Debtors alleged that Rockport Canada owes approximately \$28.3 million to TRC and Drydock Footwear, LLC (“Drydock”) on account of unsecured intercompany obligations. Id. at n.13. The Information Officer understands that the Drydock component of the intercompany obligations were not related to ordinary course supply of inventory or services. It is unclear whether the costs

attributed to Rockport Canada reflected the reasonable value of goods and services provided.

15. Critically, Rockport Canada is neither a party to nor a guarantor of the Prepetition Notes. The assets of Rockport Canada were not secured in favor of the US Notes nor do the Prepetition Notes seek to secure the Canadian assets directly through the DIP Noteholder Facility.

**D. The Proposed DIP Facilities**

16. The Debtors propose to enter into DIP Facilities that are comprised of the DIP ABL Facility and the DIP Note Facility.

**a) ABL DIP Facility**

17. Specifically, a \$60 million DIP ABL Facility is to be used to repay the Prepetition ABL Obligations as a creeping roll-up by applying collected receivables and other proceeds of the Revolving Priority Collateral to the Prepetition ABL Facility and free up corresponding borrowing availability under the DIP ABL Facility. *Id.* at ¶¶ 94-95. Upon entry of the final order approving the DIP Motion, the Debtors propose that the proceeds of the next advance under the DIP ABL Credit Agreement will roll-up any remaining amounts outstanding under the Prepetition ABL Facility to satisfy all Prepetition ABL Obligations in full. *Id.* at ¶ 95.

18. Rockport Canada is a borrower and guarantor under the ABL DIP Facility and security interests will be granted under the ABL DIP Facility over the Canadian assets. However Rockport Canada will not be entitled to receive any funds from the ABL DIP Facility directly.

**b) DIP Note Facility**

19. Further, through a new money DIP Note Facility in the amount of twenty million dollars (\$20,000,000.00), the DIP Lenders will provide the Debtors ten million dollars (\$10,000,000.00) upon entry of the Interim DIP Order and the remaining ten million dollars (\$10,000,000.00) upon entry of a final order. Id. at ¶ 96. Finally, and critically, the DIP Note Facility permits the Secured Noteholders to roll up a total of forty million dollars (\$40,000,000.00) of Prepetition Notes upon entry of a final order. Id. Rockport Canada is not a borrower or guarantor under the DIP Note Facility and will not be entitled to receive directly any funds from the DIP Note Facilities.

20. The DIP Note Agent, on its behalf and on behalf of the DIP Note Purchasers, is seeking a first priority lien and security interest in all unencumbered assets of the Debtors, other than assets (x) constituting ABL Priority Collateral or Secured Notes Priority Collateral or (y) owned by Rockport Canada, along with certain junior liens and security interests and first priority priming liens on and security interests in certain assets, all of which exclude collateral owned by Rockport Canada. See DIP Motion at p. 24. The Rockport Canada collateral is specifically excluded from any liens and security interests granted to the DIP Note Agent. Moreover, the terms of the order entered by the US Court granting the Debtors authority to continue existing cash management programs (Docket No. 59) (the “Cash Management Order”) specifically provides that:

Except as set forth herein with respect to Intercompany Transactions between Rockport and Rockport Canada, the Debtors are authorized to continue performing Intercompany Transactions arising from or related to the operation of their business in the ordinary course in an aggregate amount not to exceed \$1,000,000 pending entry of a final order. With respect

to Intercompany Transactions as between Rockport and Rockport Canada, the Debtors are authorized to continue the Permitted Rockport Canada Intercompany Transactions

Cash Management Order ¶ 7. The underlying motion (Docket No. 13) (the “Cash Management Motion”) further states, “[o]ther than the Permitted Rockport Canada Intercompany Transactions, following the Petition Date, Rockport Canada will not transfer funds to Rockport on account of any prepetition Intercompany Transactions unless otherwise ordered by the Court. Cash Management Motion at ¶ 28.

21. However, as a precondition to the granting of the new money post-petition funds pursuant to the DIP Note Facility, the DIP Note Agent has required an allocation, essentially determining the extent to which the Canadian assets will be used to pay down a portion of the ABL Facility purportedly to apportion the joint and several liability of the Prepetition ABL Obligations among Rockport Canada and the remaining Debtors. The purpose of the allocation precondition appears to be to ensure the ABL Facility is required to look to non-US assets for partial recovery, leaving the US and other newly encumbered assets available to pay down the DIP Note Facility.

22. The nature and extent of the allocation precondition required by the DIP Note Agent evolved in the weeks leading up to the Petition Date, from a requirement that proceeds from all Canadian assets be available and applied to the ABL Facility, to a waiver of marshaling terms, to an attempt to estimate potential charges in the Canadian estate relating to potential Canadian creditor claims, to a timeline to determine an allocation agreement relating to allocation of proceeds, to the current allocation of debt precondition.

23. Immediately prior to the Petition Date, the Debtors, the ABL Lenders, and the Prepetition Noteholders, in consultation with the Information Officer,



agreed to certain language to reflect the Prepetition Notes allocation requirement that allocated proceeds. See Interim DIP Order at ¶ 40.

24. Thus, prior to the Petition Date, the Information Officer understood that (i) allocation of proceeds realized from any sale or liquidation of the collateral of the ABL Lenders and the DIP ABL Lenders would be resolved by the parties before any hearing on any final order approving the DIP Motion Proposed ABL Liability Allocation and such agreement would be placed before the Courts for approval or (ii) all allocation issues, whether of debt or of proceeds, would be addressed by the US Court and the Ontario Court at a later date and after all requested information had been received and considered and the parties were afforded sufficient time to consider such information and brief the issues.

25. However, immediately prior to the Petition Date, upon information and belief, the US Debtors and the US Noteholders determined that an allocation of debt in respect of the Canadian contribution to the ABL Facility only would be included in any order approving the DIP Facility. The US Debtors and US Noteholders suggest that the allocation of debt should be based on the net asset values set forth in the most recent Borrowing Base Certification (as of April 15, 2018) under the Prepetition ABL Facility. First Day Declaration at ¶ 102. Using this calculation, Rockport Canada's proposed allocable share of the Prepetition ABL Obligations would be 18.4% of the outstanding amount (the "Proposed ABL Liability Allocation"). Based on the outstanding ABL obligation of \$53.45 million as at the Petition Date, this would amount to \$9.84 million to be provided from the Canadian assets to pay down the ABL Facility. See DIP Motion, Ex. D.

26. While the Proposed ABL Liability Allocation addresses an allocation of debt, the Debtors and the DIP Note Agent did not agree to extend such allocation to proceeds that the Debtors, including Rockport Canada, would receive through a sale process. Instead the DIP Note Agent seeks to delay the determination of the allocation of proceeds to another day, without any information or assurance to the Courts about the potential adverse ramifications to the Canadian creditors of such a partial allocation determination.

27. Although the DIP Note Agent has pressed for an allocation of liability determination as soon as the Petition Date, the Information Officer has and continues to advocate for the delay of determining allocation issues until the necessary support, information, and analysis relating to the proposed allocation are available so that parties are making informed and equitable determinations. The Information Officer has not agreed to the proposed allocation methodology, and, indeed, as set forth herein, has expressed concerns about the significant and disparate impact such allocation could have on the Canadian creditors of Rockport Canada and the claims that Rockport Canada has or may have following any sale and payoff of the Prepetition ABL Obligations, including subrogation claims.

**E. The Information Requests**

28. In order to assess fully the impact that allocation of debt and proceeds may have on Canadian creditors, the Information Officer needs to evaluate the Debtors' analysis of various relevant issues including: (i) potential total proceeds in respect of Canadian assets, (ii) potential recoveries, including inventory to be sold through store closing sales, and (iii) rolled forward valuations of existing inventory, and accounts receivable assets available to the Canadian estate.

29. Accordingly, on May 22, 2018, consistent with the Supplemental Order, and at the invitation of the Debtors, the Information Officer requested information from the Debtors to aid in its assessment of the Proposed ABL Liability Allocation. Specifically, the Information Officer asked various questions to the Debtors with respect to whether such estimates were considered and analysis undertaken by the Debtors prior to agreeing to the Proposed ABL Liability Allocation and requested records and back-up to permit the Information Officer to undertake its own analysis in order to report to the Ontario Court and creditors on the reasonableness of such proposed allocation.

30. The responses provided by the Debtors, to date, have been provided on a without prejudice basis, and are incomplete. While some analysis was undertaken and estimates prepared, the responses thus far suggest that not all calculations that the Information Officer would have undertaken in arriving at the allocation determination were completed. Accordingly, the Information Officer has struggled, and continues to struggle to develop detailed analysis in order to review the Proposed ABL Liability Allocation.

31. The Information Officer also believes that estimating the potential pool of Canadian creditors seeking to share in the recovery of any proceeds from Rockport Canada is an important factor to consider in determining allocation issues. The Information Officer asked various questions to the Debtors with respect to whether such estimates were considered prior to agreeing to the Proposed ABL Liability Allocation and/or to provide necessary information so that the Information Officer could conduct its own estimates. The Debtors' responses suggest that the Debtors did not fully consider

the total estimated claims of Canadian creditors, and, therefore, any impact the Proposed ABL Liability Allocation might have on distributions to Canadian creditors.

32. Notably, the Proposed ABL Liability Allocation does not address the future allocation of proceeds generally, and what amount, if any, remains for the Canadian estate and creditors. Although the Debtors may suggest that a delay in determining the allocation of proceeds issue with full reservation of rights by all parties would not prejudice the parties, the Information Officer disagrees. The Proposed ABL Liability Allocation cannot be determined in a vacuum. The approval of the Proposed ABL Liability Allocation effectively sets a floor for the DIP Note Agent's ability to pre-determine the use of Canadian assets for the ABL Facility. If no other proceeds remain or are allocated to the Canadian estate in future allocation methods (which the DIP Note Agent may seek to have determined in a manner which favors a US based allocation thereby minimizing recovery to the Canadian estate generally) – it is the Canadian creditors who will have borne the entire risk and prejudice of the Proposed ABL Liability Allocation.

33. Further, in reviewing the Proposed ABL Liability Allocation agreement, it is unclear what, if any, resolution has been reached with respect to Rockport Canada's rights of subrogation for any amount of the ABL DIP Facility satisfied through assets of Rockport Canada. These subrogation rights of Rockport Canada may prove critical to creditor recoveries in the Canadian proceedings. The Debtors' incomplete response suggests that the parties either have not considered or have considered and not reached an agreement amongst themselves with respect to subrogation rights. Regardless, the issue remains a live issue for the parties and ultimately the Courts

to determine, on a complete record and legal briefing, in respect of the future subrogation rights of the Canadian estate following the implementation of any allocation agreement approved by the Courts. The Information Officer has filed this Objection, in part, to raise these issues with the Courts and prevent the entry of any final order on the DIP Motion precluding this later allocation determination.

### **OBJECTION**

#### **A. The Proposed ABL Liability Allocation Seeks Encumber Indirectly Unencumbered Assets.**

34. The Information Officer objects to any order that has the effect of an encumbrance, direct or indirect, on previously unencumbered assets of Rockport Canada. The formulation of a successful chapter 11 plan requires cooperation and risk-sharing by all parties in interest. However, by seeking approval of the Proposed ABL Liability Allocation at this stage in the Bankruptcy Cases, the Debtors and DIP Note Agent seek indirectly to encumber previously unencumbered assets, and, thereby, shift risk to the Canadian creditors.

35. Specifically, as noted above, the Prepetition Noteholders' liens do not encumber the Debtors' assets in Canada. When negotiating their liens in 2017 and again immediately prior to the Petition Date, the Prepetition Noteholders did not obtain liens on Canadian collateral. The Debtors and DIP Note Agent likely realize that they are unable to directly encumber previously unencumbered Canadian assets because the Ontario Superior Court will almost surely refuse to recognize such an order. See, e.g., In Matter of the Payless Holdings Inc., LLC, 2017 ONSC 2321 (Ontario Superior Court, April 12, 2017) (the Canadian court refused to recognize the a financing order entered in the United States because requires Payless Canada Group Entities to be guarantors and to

employ their assets as collateral for the indebtedness under the DIP ABL Facility, even though the Payless Canada Group Entities are not borrowers under the current credit facility or the DIP ABL Facility, and will not receive any advances under the DIP ABL Facility and the Payless Canada Group assets are currently unencumbered).

36. The Information Officer is concerned that the proposed allocation conditions of the DIP Note Agent permit the DIP Note Lenders to obtain indirectly what they are not entitled to directly, *i.e.*, first claims on the value of the Canadian assets from the hands of Canadian creditors.

37. Indeed, upon information and belief, through the proposed final order on the DIP Motion, the DIP Note Agent seeks to allocate a greater proportion of the obligations for the ABL DIP Facility to Rockport Canada than it otherwise might be entitled to do. The calculations underlying the Proposed ABL Liability Allocation support such a conclusion. For example,:

- a. the purported indirect benefits received by Rockport Canada for the ABL Prepetition Facility (and any ABL DIP Facility) is reflected and paid by Rockport Canada as an intercompany obligation. The Proposed ABL Liability Allocation nonetheless seeks to assign a greater share of the “obligation” for the joint and several liability on Rockport Canada, thus double counting the obligations that are reflected both in the ABL Prepetition Facility and any ABL DIP Facility and the intercompany records.
- b. The Proposed ABL Liability Allocation of 18.4% is premised on borrowing base calculations. However Rockport Canada had \$0 borrowing capability and, at best, received only indirect benefits, the value of which is presently undetermined and that may not equal the amount of “liability” assigned Rockport Canada through the Proposed ABL Liability Allocation.
- c. At a minimum, the Debtors appear not to have considered:
  - (i) the actual proceeds estimated to be available with respect to Canadian assets in calculating the Proposed ABL

Liability Allocation; (ii) the roll forward valuation of key assets such as inventory; (iii) accurate monetization values for accounts receivables; and (iv) the extent of competing creditors' claims as against the pool of aggregate recoveries.

- d. There are alternative methods that could have been used by the Debtors and DIP Note Agent to frame the initial allocation of debt such as i) allocation based on the actual manner in which financing was provided to the Canadian estate on an unsecured basis and therefore 0% would be allocated; ii) a comparison of the Canadian estate's revenue v. global revenues; iii) estimated liquidation valuations; and (iv) Canadian assets versus global assets all of which result in less of a burden on the Canadian estate and its creditors.
- e. Leaving the issue of allocation of proceeds to a future date perpetuates the ability to employ calculations that are disproportionately unfavorable to the Canadian creditors.
- f. The method for determining the allocation of costs of administration of the Bankruptcy Cases as against any sales proceeds and recoveries, is unclear and may disproportionately impact the Canadian creditors.

38. While the Information Officer understands that the continued funding is necessary to continue these Bankruptcy Cases under Bankruptcy Code chapter 11, the allocation precondition that requires a premature determination with potentially adverse and disparate impact on Canadian creditors is improper. The proposed allocation is fundamentally inequitable and unfairly prejudices the interests of the Canadian creditors to the benefit of the holders of the Prepetition Notes.

39. The well-established principles of international comity upon which cross-border cases such as these are built, and which the US Court and Ontario Court have great experience, should promote a more balanced approach amongst the estates.

40. Mindful of the Debtors' need for continued financing, the Information Officer has outlined a potential process by which the DIP Note Agent

allocation precondition may be met, while balancing the concerns of the Information Officer and Canadian creditors. Such potential alternative includes the following:

- a. For purposes of an overall resolution of the allocation issues, the Proposed ABL Liability Allocation figure of 18.4% of the ABL Debt (totaling \$9.838 million) would be recognized as a cap on liability for Rockport Canada;
- b. The parties would determine the value of potential proceeds and recoveries from Canadian assets (wholesale and retail inventory, accounts receivables, Canadian IP, Assigned Canadian Contracts, liabilities assumed by the Stalking Horse Bidder, any other assets, and cash on hand) (the “Canadian Recoveries”);
- c. The Canadian Recoveries (net agreed upon sales and restructuring costs reasonably attributable to the Canadian estate only) would be shared on a percentage basis that must be agreed upon by the parties, to a cap of \$9.838 million as outlined above;
- d. Continued observation of the restrictions on the use of intercompany transfers as provided in the Cash Management Order; and
- e. To avoid double recovery for financing received by the Canadian estate, for every dollar of ABL Facility satisfied from the Canadian estate, the intercompany claim held by the certain of the Debtors would correspondingly be reduced for purposes of future distributions with consideration of the actual economic value of such intercompany claim.

41. An overall allocation arrangement promotes judicial economy because resolution of allocation would also resolve the second allocation of proceeds motion, as well as subrogation claims by the Canadian estate, thereby avoiding any future uncertainty and potential litigation. Moreover the full resolution proposed by the Information Officer would facilitate transferring the Canadian estate (after the sale has closed and store closings are completed) to a Canadian insolvency proceeding for



resolution of Canadian creditor claims through a streamlined Canadian process that will permit an expedited termination of the Canadian estate.

**B. The US Court Should Adjourn The Final DIP Hearing.**

42. There is no reason that the Proposed ABL Liability Allocation must be determined in connection with the Final DIP Order. The issue of relative contribution of the US and Canadian estates towards the ABL Facility can and should be addressed by the Courts when all information is available. In light of the expedited timeline of these proceedings, with a sale closing date anticipated around July 27, 2018, and the store closing sales to be completed by the end of the same month, the timeline to have further and better information before the Courts is known and restricted.

43. Accordingly, unless and until all of the information requested by the Information Officer is provided and the Information Officer is afforded sufficient time to review such materials, the Final DIP Hearing should be adjourned. Alternatively, the Court should defer consideration of the Proposed ABL Liability Allocation until the issue of allocation of proceeds of the sale is before the Courts.

**RESERVATION OF RIGHTS**

44. Richter reserves all of Rockport Canada's rights with respect to future allocation of proceeds terms and rights of subrogation. Richter further reserves the right to seek discovery, revise, amend or supplement this Objection at any time, including once Richter receives the proposed Final Order and/or any supplemental information that has already been requested by the Information Officer.

WHEREFORE, Richter respectfully requests that the Court (i) modify any proposed Final or further Interim Order, as necessary to address the concerns and objections of Richter set forth herein; and (ii) grant Richter such further relief as the Court deems just and proper.

Dated: June 8, 2018  
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

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its capacity as Information Officer

# EXHIBIT A

Court File No *CW-18-597987-000*



**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**

**INITIAL RECOGNITION 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 Pre-Filing Report of Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**") dated May 16, 2018, each filed, and upon being provided with copies of the documents required by s.46 of the CCAA,

**AND UPON BEING ADVISED** by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) is being sought,

**AND UPON 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 for the lenders under the Senior Secured Super-Priority Debtor-in-Possession Revolving 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:

**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.

**FOREIGN REPRESENTATIVE**

2. **THIS COURT ORDERS AND DECLARES** that the Foreign Representative is the "foreign representative" as defined in section 45 of the CCAA of the Debtors in respect of the jointly administered insolvency proceedings (the "**Foreign Proceeding**") 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 in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**") under Chapter 11 of Title 11 of the United States Code.

**CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING**

3. **THIS COURT DECLARES** that the centre of its main interests for each of the Debtors is the United States of America, and that the Foreign Proceeding is hereby recognized as a "foreign main proceeding" as defined in section 45 of the CCAA.

#### **STAY OF PROCEEDINGS**

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:

- (a) all proceedings taken or that might be taken against any of the Debtors under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;
- (b) further proceedings in any action, suit or proceeding in Canada against any of the Debtors are restrained; and
- (c) the commencement of any action, suit or proceeding in Canada against any of the Debtors is prohibited.

#### **NO SALE OF PROPERTY**

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Debtors is prohibited from selling or otherwise disposing of:

- (a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and
- (b) any of its other property in Canada.

#### **GENERAL**

6. **THIS COURT ORDERS** that within 7 days from the date of this Order, or as soon as practicable thereafter, the Information Officer shall cause to be published a notice substantially in the form attached to this Order as Schedule "A", once a week for two consecutive weeks, in *The Globe and Mail* (National Edition).

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

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

9. **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 and the Foreign Representative 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.



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

MAY 16 2018

PER / PAR:



**Schedule "A"**

**Form of Newspaper Notice**



Court File No.

**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 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**

**NOTICE OF INITIAL RECOGNITION ORDER**

**PLEASE BE ADVISED** that this Notice is being published pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**"), granted on May 16, 2018 (the "**Initial Recognition Order**").

**PLEASE TAKE NOTICE** that on May 14, 2018, 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 (collectively, the "**Chapter 11 Debtors**") each filed voluntary petitions under chapter 11 of title 11 of the United States Code (collectively, the "**Chapter 11 Proceedings**") in United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**"). In connection with the Chapter 11 Proceedings, the U.S. Court has appointed Rockport Blocker, LLC ("**Rockport Blocker**") as the foreign representative of the Chapter 11 Debtors (the "**Foreign Representative**"). The Foreign Representative's address is 1220 Washington Street, West Newton, Massachusetts 02465. The Debtors carry on business in Canada through Rockport Canada ULC.

**PLEASE TAKE FURTHER NOTICE** that the Initial Recognition Order and a Supplemental Order (together, the "**Recognition Orders**") have been issued by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA Recognition Proceedings**"), and, among other things: (i) recognize the Chapter 11 Proceedings as a foreign main proceeding; (ii) recognize Rockport Blocker as the Foreign Representative of the Chapter 11 Debtors; (iii) recognize certain orders granted by the U.S. Court in the Chapter 11 Proceedings including the granting of an interim DIP financing order; (iv) stay claims against the Chapter 11 Debtors, their property and their directors and officers in Canada; (v) prohibit the

commencement of any such proceedings in Canada absent further order of the Canadian Court; and (vi) appoint Richter Advisory Group Inc. as the Information Officer with respect to the CCAA Recognition Proceedings.

**PLEASE TAKE FURTHER NOTICE** that counsel for the Foreign Representative is:

**Borden Ladner Gervais LLP**  
Bay Adelaide Centre, East Tower  
22 Adelaide St W, Toronto, ON  
Canada M5H 4E3  
Attention: Roger Jaipargas  
Phone: 416-367-6266  
Fax: 416-367-6749  
Email: [RJaipargas@blg.com](mailto:RJaipargas@blg.com)

**PLEASE TAKE FURTHER NOTICE** that persons who wish to receive a copy of the Recognition Orders or obtain any further information in respect thereof or in respect of the matters set forth in this Notice, should contact the Information Officer at the address below:

**Richter Advisory Group Inc. (solely in its capacity as Information Officer)**

Bay Wellington Tower  
181 Bay Street, Suite 3320, Toronto, ON  
Canada M5J 2T3  
Attention: Adam Sherman  
Phone: 416-642-4836  
Fax: 514-934-8603  
Email: [asherman@richter.ca](mailto:asherman@richter.ca)

**PLEASE TAKE FURTHER NOTICE** that the motions, orders and notices filed with the U.S. Court in the Chapter 11 Proceedings are available at <https://cases.primeclerk.com/rockport>

**Prime Clerk LLC**  
830 Third Avenue, 9<sup>th</sup> Floor  
New York, New York 10022  
Attention: Benjamin J. Steele  
Phone: 212-257-5490  
Email: [bsteele@primeclerk.com](mailto:bsteele@primeclerk.com)

**PLEASE FINALLY NOTE** that the Recognition Orders, and any other orders that may be granted by the Canadian Court, can be viewed at <http://www.richter.ca/en/folder/insolvency-cases/r/rockport-canada>

DATED AT TORONTO, ONTARIO this \_\_\_\_ day of May, 2018.

**Richter Advisory Group Inc.**  
**(solely in its capacity as Information Officer of the Chapter 11 Debtors**  
**and not in its personal or corporate capacity)**

Cv-18-597987-00CL

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

**INITIAL RECOGNITION ORDER**  
(Foreign Main Proceeding – May 16, 2018)

**BORDEN LADNER GERVAIS LLP**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto ON M5H 4E3  
Tel: 416-367-6000  
Fax: 416-367-6749

**Roger Jaipargas – LSO No. 43275C**

Tel: 416-367-6266  
rjaipargas@blg.com

**Alex MacFarlane – LSO No. 28133Q**

Tel: 416-367-6305  
amacfarlane@blg.com

Lawyers for 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

# EXHIBIT B

CV-18-597987-CCCL  
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:

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- (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**");

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- (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

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- (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:

- 11 -

- (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.

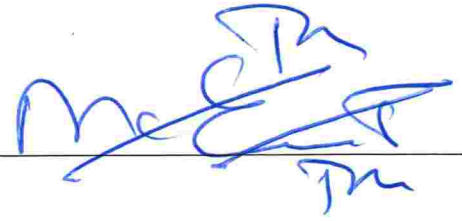
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**Schedule "A"**

**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 administrating 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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# EXHIBIT C

Court File No. \_\_\_\_\_

**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 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**

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

**REPORT OF THE PROPOSED INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**MAY 16, 2018**

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Court File No. \_\_\_\_\_

**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 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**

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

**REPORT OF THE PROPOSED INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**MAY 16, 2018**

## I. INTRODUCTION

1. On May 14, 2018 (the “**Petition Date**”), Rockport Blocker, LLC (“**Rockport Blocker**”), 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 (collectively, the “**US Debtors**”), and Rockport Canada ULC (“**Rockport Canada**” and together with the US Debtors, the “**Rockport Group**” or the “**Debtors**”), commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101-1532 (the “**Bankruptcy Code**”).
2. Also on the Petition Date, the Debtors filed various motions for interim and/or final orders (the “**First Day Motions**” and the orders granted by the US Court in respect thereof, the “**First Day Orders**”) in the Chapter 11 Proceedings to permit the Debtors to advance their reorganization. The First Day Orders included an order authorizing Rockport Blocker to act as the foreign representative (in such capacity, the “**Foreign Representative**”) of the Debtors for the within proceedings (the “**Foreign Representative Order**”).
3. On May 15, 2018, the US Court granted the Foreign Representative Order and other First Day Orders (as described below).
4. On May 15, 2018, Rockport Blocker, in its capacity as Foreign Representative, commenced an application before the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (R.S.C. 1985, c. C-36, as amended) (the “**CCAA**”) for:
  - (a) an initial recognition order (the “**Initial Recognition Order**”), *inter alia*: (i) declaring that Rockport Blocker is a “foreign representative” as defined in section 45 of the CCAA; (ii) declaring that the Chapter 11 Proceedings are recognized as a “foreign main proceeding” under the CCAA; and (iii) granting a stay of proceedings against the Rockport Group in Canada; and
  - (b) a supplemental order (the “**Supplemental Order**”), pursuant to section 49 of the CCAA, *inter alia*: (i) recognizing and giving full force and effect in Canada to certain of the First Day Orders; (ii) appointing Richter Advisory Group Inc. (“**Richter**” or the “**Proposed Information Officer**”) as the information officer (the “**Information Officer**”) in respect of these proceedings; (iii) staying any proceeding, rights or remedies against or in respect of the Rockport Group, the business and property of the Rockport Group, the directors and officers of the Rockport Group in Canada, and the Information Officer; (iv) restraining the right of any person or entity to, among other things, discontinue or terminate any supply of products or services required by the Rockport Group in Canada; (v) granting a super-priority charge over the Debtors’ property in Canada in favour of the Proposed

Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings, up to a maximum amount of \$300,000 (the “**Administration Charge**”); and (vi) granting a super-priority charge over the Debtors’ property in Canada in favour of the DIP ABL Lenders (as hereinafter defined) to secure obligations of the Rockport Group, including Rockport Canada, under the DIP ABL Facility (as hereinafter defined) (the “**DIP ABL Lenders’ Charge**”).

5. Other than these proceedings (the “**CCAA Recognition Proceedings**”) and the Chapter 11 Proceedings, there are currently no other foreign proceedings in respect of the Rockport Group of which the Proposed Information Officer is aware.
6. The primary purpose of the Chapter 11 Proceedings is to facilitate the Rockport Group’s entry into an asset purchase agreement to sell substantially all of the Debtors’ assets to CB Marathon Opco, LLC, an affiliate of Charlesbank Equity Fund IX, Limited Partnership (“**Charlesbank**”), or another higher or otherwise better bidder pursuant to section 363 of the Bankruptcy Code.

## II. PURPOSE OF REPORT

7. The purpose of this report of the Proposed Information Officer (the “**Pre-Filing Report**”) is to assist the Canadian Court in considering the Foreign Representative’s request for the Initial Recognition Order and the Supplemental Order, and to provide the Canadian Court with certain background information concerning the Rockport Group, including:
  - (a) Richter’s qualifications to act as Information Officer;
  - (b) the Rockport Group’s business and operations, including its organizational structure and financing facilities;
  - (c) Rockport Canada, the sole Canadian incorporated member of the Rockport Group;
  - (d) the Debtors’ centre of main interest;
  - (e) the events leading up to the Chapter 11 Proceedings and the CCAA Recognition Proceedings;
  - (f) the First Day Orders of the US Court that the Debtors are seeking to have recognized pursuant to section 46 of the CCAA;
  - (g) the Proposed ABL Liability Allocation (as hereinafter defined);

- (h) the proposed Administration Charge and the DIP ABL Lenders' Charge; and
- (i) the proposed initial activities of the Information Officer.

### III. TERMS OF REFERENCE

8. In preparing this Pre-Filing Report, the Proposed Information Officer has relied solely on information and documents provided by the Debtors and their advisors, including unaudited financial information, declarations and affidavits of the Debtors' executives and other information provided in the Chapter 11 Proceedings (collectively, the "**Information**"). In accordance with industry practice, except as otherwise described in the Pre-Filing 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.
9. Unless otherwise stated, all monetary amounts contained herein expressed in United States dollars, which is the Debtors' common reporting currency.
10. Capitalized terms not otherwise defined herein are as defined in the application materials, including the declaration of Paul Kosturos interim Chief Financial Officer of the Debtors in support of Debtors' Chapter 11 Petition and First Day Motions, sworn May 14, 2018 (the "**Kosturos US Declaration**") and the affidavit of Paul Kosturos, sworn May 15, 2018 (the "**Kosturos Cdn Affidavit**" and together with the Kosturos US Declaration the "**Kosturos Affidavits**") filed in support of the Foreign Representative's application. This Pre-Filing Report should be read in conjunction with the Kosturos Affidavits, as certain information contained in the Kosturos Affidavits has not been included herein in order to avoid unnecessary duplication.

### IV. RICHTER'S QUALIFICATION TO ACT AS INFORMATION OFFICER

11. Richter has significant experience in connection with proceedings under the CCAA, including acting as a Monitor or information officer in various cases.
12. Adam Sherman and Pritesh Patel, the individuals at Richter with primary carriage of this matter, are certified Chartered Insolvency and Restructuring Professionals and Licensed Insolvency Trustees. Further, Messrs. Sherman and Patel have acted in cross-border restructurings and CCAA matters of a similar nature in Canada.
13. Richter has consented to act as Information Officer should this Canadian Court approve the requested Supplemental Order.

## V. BACKGROUND

### Corporate Overview and Organizational Structure

14. The Proposed Information Officer understands that the Debtors, which were founded in 1971, are an integrated global designer, distributor and retailer of comfort footwear that operates in excess of fifty markets worldwide. The Debtors offer a wide assortment of men's and women's casual dress style shoes, boots, and sandals under the Rockport brand as well as their owned Aravon and Dunham brands.
15. The Debtors' operate a global, multi-channel business, organized by brand, geography and customer type, in the following market segments:
  - (a) **Wholesale Business** – the Debtors are a leading supplier of men's and women's footwear to well-known retailers across a variety of wholesale formats, including department stores, family retail outlets, internet retailers and independently-owned retailers. The Debtors' wholesale business accounts for approximately 57% of global sales.
  - (b) **Direct North American Retail Store Business** – The Debtors operate 8 full-price and 19 outlet stores in the United States and 14 full-price and 19 outlet stores in Canada.
  - (c) **Direct eCommerce Business** – the Debtors sell their footwear products directly through the following websites: <http://www.rockport.com> and <http://www.rockport.ca>.
  - (d) **International Business** – the Debtors have partnered with 22 distributors worldwide to sell their footwear products in 35 countries, including China, Indonesia, Egypt, South Africa, Mexico and Peru, without having to establish local operations. In addition, the Debtors' non-debtor foreign affiliates operate approximately 121 retail stores across the world.
16. The Rockport Group sources its inventory and other items related to its operations (collectively, the "**Merchandise**") from third-party manufacturers located primarily in China, Vietnam, India and Brazil. In addition, the Debtors rely on a global network of carriers, expeditors, consolidators, warehousemen and transportation service providers to transport, import and take delivery of the Merchandise on a worldwide basis.
17. In particular, the Debtors rely on warehouseman and logistics providers to (i) coordinate and process various import duties and related charges at ports or transportation centers around the world and (ii) transport and store Merchandise at the Debtors' warehousing and distribution centers located in the United States, Canada (in Brampton, Ontario) and internationally.

18. The Debtors' business in the United States is operated by The Rockport Company, LLC ("**Rockport US**") and the Debtors' Canadian business is operated by Rockport Canada, a British Columbia unlimited liability company. An organizational chart setting out the corporate structure of the Rockport Group is attached as Exhibit "P" to the Kosturos Cdn Affidavit.
19. Details of the Rockport Group, its incorporating jurisdictions and the location of its head offices are as follows:

<b>Debtor</b>	<b>Jurisdiction of Incorporation</b>	<b>Head Office</b>
Rockport Blocker, LLC	Delaware	West Newton, Massachusetts
The Rockport Group Holdings, LLC	Delaware	West Newton, Massachusetts
TRG 1-P Holdings, LLC	Delaware	West Newton, Massachusetts
TRG Intermediate Holdings, LLC	Delaware	West Newton, Massachusetts
TRG Class D, LLC	Delaware	West Newton, Massachusetts
The Rockport Group, LLC	Delaware	West Newton, Massachusetts
The Rockport Company, LLC	Delaware	West Newton, Massachusetts
Drydock Footwear, LLC	Delaware	West Newton, Massachusetts
DD Management Services LLC	Massachusetts	West Newton, Massachusetts
Rockport Canada ULC	British Columbia	West Newton, Massachusetts

20. Rockport Canada is the only Debtor incorporated in Canada.

#### **Capital Structure – Debt Obligations**

21. As at the Petition Date, the Debtors' consolidated long-term debt obligations totaled approximately \$257 million. The Debtors' consolidated long-term debt obligations outstanding as at the Petition Date are outlined in the below table and in the paragraphs that follow:

<b>Indebtedness</b>	<b>Principal Outstanding (USD\$ millions)</b>
Prepetition ABL Facility	57.0
Prepetition Notes Facility	188.3
Prepetition Subordinated Note	11.9
<b>Total</b>	<b>257.2</b>

22. In addition to the above long-term debt obligations, as at the Petition Date, the Debtors estimate that they have unsecured obligations owing to trade creditors totaling approximately \$29.6 million

### **Prepetition ABL Facility**

23. As noted in the Kosturos Affidavits, the Debtors have outstanding secured debt to various lenders pursuant to a revolving credit agreement, dated July 31, 2015 (as amended, supplemented, restated or otherwise modified from time to time, the “**Prepetition ABL Facility**”) among certain of the Debtors, including Rockport Canada, and Citizens Business Capital (“**CBC**”), as administrative agent and collateral agent for the lenders. The Prepetition ABL Facility provides for borrowings of up to \$60 million in aggregate principal revolving loan commitments and a sublimit of \$10 million for letters of credit.
24. Although Rockport Canada’s borrowing availability under the Prepetition ABL Facility has been reduced to zero, Rockport Canada is jointly and severally liable both as a borrower and as a guarantor of the Rockport Group’s obligations under the Prepetition ABL Facility and has provided security over all of its assets to secure such obligations (the “**CBC Security**”).
25. Prior to the Petition Date, the Prepetition ABL Facility was used to fund the Rockport Group’s daily operations and the Debtors made daily requests to CBC to transfer available funds under the Prepetition ABL Facility into the Debtors’ primary operating account. In turn, Rockport would distribute funds to entities/affiliates of the Rockport Group, as needed by way of intercompany transfers.
26. Although Rockport Canada has not borrowed any monies directly under the Prepetition ABL Facility (Rockport Canada has guaranteed all amounts owing under the Prepetition ABL Facility), its assets were included in the facility’s borrowing base and funds received under the facility were used to, among other things, purchase Merchandise sold by Rockport Canada. As such, Rockport Canada’s access to the funding provided to other Debtors under the Prepetition ABL Facility was critical to its ability to operate as a going concern prior to the Petition Date.
27. As at the Petition Date, approximately \$57 million (including issued/outstanding letters of credit totaling approximately \$3.5 million) was outstanding under the Prepetition ABL Facility.
28. The Proposed Information Officer has received an opinion from its independent legal counsel, Stikeman Elliott LLP, confirming that subject to the typical qualifications and assumptions, the CBC Security is valid and enforceable in the provinces of Ontario and Quebec. At present, the Proposed Information Officer has not obtained an opinion regarding the validity and enforceability of the CBC Security in other provinces where Rockport Canada has operations. The Proposed Information Officer does note that, with the exception of CBC, there are no other registered security interests against Rockport Canada in the provinces where Rockport Canada has operations.

### **Prepetition Notes Facility**

29. As at the Petition Date, the Debtors (excluding Rockport Canada) have outstanding secured debt in respect of the senior secured notes issued by certain of the Debtors in 2015 (and due in 2022) in the original principal amount of \$130 million (the “**Initial Prepetition Notes**”). Prior to the Petition Date, approximately \$41 million in additional senior secured notes (the “**Additional Prepetition Notes**” and together with the Initial Prepetition Notes, the “**Prepetition Notes Facility**”) were issued to the holders (the “**Prepetition Noteholders**”) of the Initial Prepetition Notes. The Additional Prepetition Notes are senior in right of payment to the Initial Prepetition Notes. The Rockport Group (excluding Rockport Canada) has pledged all of its assets to secure the Debtors’ obligations under the Prepetition Notes Facility (the “**Notes Security**”). Pursuant to an Intercreditor Agreement dated July 31, 2015 between CBC and the Cortland Capital Market Services LLC (in its capacity as agent under the Prepetition Notes Facility), the CBC Security ranks in priority to the Notes Security in respect of the Revolving Priority Collateral (as defined therein) and the Notes Security ranks in priority to the CBC Security in relation to the Notes Priority Collateral (as defined therein) in relation to the same assets. As noted above, the Notes Security does not include the Rockport Canada assets.
30. As at the Petition Date, approximately \$188.3 million was outstanding under the Prepetition Notes Facility.
31. The Proposed Information Officer understands that the Prepetition Notes Facility was used to provide the Debtors with additional liquidity and to fund day-to-day operations.

### **Prepetition Subordinate Notes**

32. As at the Petition Date, the Debtors (excluding Rockport Canada) have outstanding obligations pursuant to certain promissory notes issued by certain of the Debtors in 2015 in favour of Reebok International Ltd. (the “**Prepetition Subordinated Notes**”). As at the Petition Date, approximately \$11.9 million was outstanding under the Prepetition Subordinated Notes.
33. The Prepetition Subordinated Notes are unsecured and, pursuant to an agreement dated July 31, 2015, subordinated to the Prepetition ABL Facility and the Prepetition Notes Facility.

### **Overview of Rockport Canada's Business**

34. Rockport Canada is an indirect wholly-owned subsidiary of Rockport US. Although Rockport Canada's registered office is located in Vancouver, British Columbia, the Proposed Information Officer understands that all material decisions regarding Rockport Canada and its business operations are made by Rockport US personnel in the United States.



35. Rockport Canada's operations include 14 retail (i.e. full-price) stores and 19 outlet stores, which are located in Alberta (6), British Columbia (3), Manitoba (2), Nova Scotia (1), Ontario (16), Prince Edward Island (1) and Quebec (4). All of Rockport Canada's retail/outlet locations are leased.
36. Rockport Canada operates a warehouse and distribution facility located in Brampton, Ontario, which is leased by Expeditors International of Washington, Inc. ("**Expeditors**"). Expeditors coordinates and processes import duties and arranges for transport of the Rockport Group's inventory, including the inventory of Rockport Canada in the Brampton warehouse.

#### **Financial Position of Rockport Canada**

37. The Proposed Information Officer understands that Rockport Canada does not independently report its financial results. Rockport Canada's financial reporting is included as part of consolidated reporting for the Rockport Group.
38. As at February 28, 2018 (the date of the most recent internal unaudited financial information for Rockport Canada), Rockport Canada had assets with a book value of approximately CAD\$40.9 million and total liabilities of approximately CAD\$36.5 million.
39. As previously noted (although not reflected in the above internal unaudited financials), Rockport Canada is jointly and severally liable for all amounts owing under the Prepetition ABL Facility. As at the Petition Date, approximately \$57 million was outstanding under the Prepetition ABL Facility.
40. In addition, as at February 28, 2018, Rockport Canada's assets include approximately CAD\$24.3 million of inventory (on-hand and in-transit). As a result of Rockport Canada's dependence on the Rockport Group for corporate, managerial and other support functions, including sourcing and procurement of inventory, Rockport Canada's Merchandise is acquired by the Rockport Group such that Rockport Canada does not have significant third-party accounts payable. As at February 28, 2018, Rockport Canada's outstanding intercompany obligations to other Rockport Group entities represented approximately 90% of Rockport Canada's total indebtedness or approximately CAD\$32.6 million.
41. As at the Petition Date, the Proposed Information Officer understands that Rockport Canada has approximately CAD\$1.1 million of cash on hand.

### **Employees of Rockport Canada**

42. As at the Petition Date, Rockport Canada had 220 employees (4 salespersons and 216 retail employees). The Rockport Canada employees are not represented by a union and Rockport Canada does not sponsor any pension plans for its employees.
43. Rockport Canada maintains compensation and benefits programs for its employees, including an RRSP program. Pursuant to the RRSP program, the Rockport Group contributes an amount equal to 7.5% of a participating employee's earnings provided that the participating employee contributes at least 2.5% of his or her earnings. As at the Petition Date, Rockport Canada owes approximately \$140,000 in amounts due to its employees under its compensation and benefits programs. The Wages Order (as hereinafter defined) provides for the ongoing payment of wages and benefits to all employees of the Rockport Group.

### **Rockport Canada's Cash Management System**

44. The Rockport Group uses an integrated, centralized cash management system operated by the treasury team in the United States to collect, transfer and disburse funds generated by the Rockport Group (the "**Cash Management System**").
45. Rockport Canada maintains several bank accounts in Canada (HSBC Bank of Canada) denominated in both Canadian and US dollars (the "**Canadian Operations Accounts**").
46. Notwithstanding that the Canadian Operations Accounts largely operate as a self-contained cash management system within the broader Cash Management System of the Rockport Group, the cash management system of Rockport Canada is dependent upon the Rockport Group for all treasury and related services – no Rockport Canada employees have access to the Canadian Operating Accounts (other than to request deposit slips for the operating account).
47. Prior to the Petition Date, excess cash from the Canadian Operations Accounts was periodically transferred to accounts maintained by Rockport US in partial satisfaction of Rockport Canada's intercompany obligations to the US Debtors for supplied Merchandise. During the course of these proceedings, the Proposed Information Officer understands that Rockport US will cease the practice of sweeping excess cash from the Canadian Operations Accounts such that all funds generated from Rockport Canada's operations throughout these proceedings will remain available to Rockport Canada.
48. Further details regarding the Cash Management System, including Rockport Canada's cash management system, are provided in the Kosturos Affidavits.

## VI. CENTRE OF MAIN INTEREST

49. The Rockport Group operates a highly integrated business managed out of the United States where the Debtors maintain their head office. Although Rockport Canada's registered office is in Vancouver, British Columbia, the Proposed Information Officer understands:

- (a) all material decisions regarding the Rockport Canada business and its operations are managed by Rockport Group personnel located in the United States. In particular, all of Rockport Canada's treasury and financial decisions, including borrowing and pricing decisions are made at the Debtors' head office located in West Newton, Massachusetts (the "**US Head Office**");
- (b) the Rockport Group's human resources, legal, accounting, information technology, marketing and communications functions are primarily administered from the US Head Office;
- (c) Rockport Canada does not have any human resources personnel. Human resource matters for Rockport Canada are managed by the US Head Office;
- (d) there are no management personnel employed directly by Rockport Canada or located in Canada. Rockport Canada does, however, employ store managers and area managers to oversee day-to-day operations of Rockport Canada stores. The area managers oversee the posting of jobs and identifying staffing needs, but they cannot make decisions on hiring or terminating employees without the approval of the US Head Office;
- (e) other than the retail employees located at Rockport Canada stores across Canada, there are no customer service personnel employed by Rockport Canada. All customer service matters are managed by the US Head Office (other than in-store service);
- (f) all of Rockport Canada's accounts payable and accounts receivable are managed from the US Head Office;
- (g) Rockport Canada does not have any information technology personnel. All technology decisions and issues are managed by the US Head Office. Further, the Rockport Group's e-commerce sites are managed in the United States;
- (h) although Rockport Canada's inventory is distributed from a warehouse located in Brampton, Ontario, all decisions regarding inventory management are made at the US Head Office, which forecasts inventory needs and places orders on behalf of Rockport Canada;
- (i) all strategic decisions for Rockport Canada, including asset management, capital expenditure and planning decisions are made by the US Head Office;

- (j) Rockport Canada's sole director is Robert Infantino, a resident of West Newton, Massachusetts;
- (k) Rockport Canada's officers are Robert Infantino, Karla Jarvis, Michael Smith and Georgina Wraight, each of whom are residents of West Newton, Massachusetts; and
- (l) the Prepetition ABL Facility is a credit facility for the benefit of the Rockport Group, including Rockport Canada;

50. Based on the foregoing, the Proposed Information Officer believes it is reasonable to conclude that the Debtors' (including Rockport Canada) "centre of main interest" is in the United States.

## **VII. EVENTS LEADING TO THE CHAPTER 11 PROCEEDINGS AND CCAA RECOGNITION PROCEEDINGS**

51. The Proposed Information Officer understands that over the past several years, the Rockport Group has faced economic headwinds and operational challenges that significantly and adversely impacted the operating performance of the Debtors' business, including:
- (a) a costly and time consuming separation from the logistics and information technology networks of the former owners of the Rockport division of the Debtors' business;
  - (b) disruptive and costly supply chain interruptions; and
  - (c) the poor performance of certain retail locations.
52. In December 2017, the Rockport Group retained Houlihan Lokey, Inc. ("**Houlihan**"), an investment bank with experience in mergers and acquisitions, recapitalization and financial restructurings, to explore a potential sale of the Rockport Group's assets.
53. As part of this effort, Houlihan commenced a robust marketing process for the sale of all, or certain of the Rockport Group's assets and contacted 110 potential strategic and financial acquirers regarding the opportunity (the "**Potential Interested Parties**"). Approximately 60 Potential Interested Parties executed a non-disclosure agreement to review certain confidential business and financial information and access a data room containing preliminary diligence materials. 10 parties later submitted initial, non-binding indications of interest by the submission deadline of February 6, 2018, of which 7 were granted access to a data room containing additional confidential business and financial information and 6 met with senior management of the Rockport Group in person to review the opportunity and ask any questions in connection therewith.
54. On or before March 29, 2018, 3 parties submitted final letters of intent and a further verbal bid was received on April 4, 2018.

## The Transaction

55. After reviewing and carefully considering the bids received, the Rockport Group determined, in consultation with its advisors, that Charlesbank had submitted the highest or otherwise best offer, pursuant to which Charlesbank agreed to acquire substantially all of the Rockport Group's assets (other than the Rockport Group's North American retail assets) for a purchase price of (i) \$150,000,000 in cash (the "**Base Cash Amount**") subject to certain working capital adjustments; (ii) a warrant to purchase up to 5% of the common equity of the Purchaser (as defined in the Stalking Horse Agreement (as defined below)), at an exercise price equal to 2.5 times the price of the equity invested by the Equity Commitment Party (as defined in the Stalking Horse Agreement) in Parent Holdco (as defined in the Stalking Horse Agreement) as of the Closing Date (as defined in the Stalking Horse Agreement); and (iii) the assumption of certain liabilities.
56. Following good faith, arm's length negotiations between the parties and in consultation with their advisors and key stakeholders, the Rockport Group and Charlesbank entered into an Asset Purchase Agreement, dated as of May 13, 2018 (the "**Stalking Horse Agreement**"), pursuant to which Charlesbank will acquire the Purchased Assets (as defined in the Stalking Horse Agreement), subject to higher or otherwise better offers.
57. Under the terms of the Stalking Horse Agreement, the Rockport Group's North American retail assets (i.e. retail leases and related inventory in the US and Canada) are currently identified as excluded assets. Charlesbank is still considering whether it is interested in acquiring any portion of the Rockport Group's North American retail assets. The Stalking Horse Agreement provides that, for a period of 25 days following the Petition Date, the Rockport Group will not sell or otherwise dispose of any Inventory (as defined in the Stalking Horse Agreement) other than in the ordinary course of business (the "**No Liquidation Period**").
58. Although Charlesbank is contemplating acquiring a portion of the North American retail assets, the Proposed Information Officer understands that, based on the Rockport Group's discussions with Charlesbank, the Rockport Group is of the view that Charlesbank does not intend to acquire all or substantially all of the North American retail assets.
59. As part of the initial materials filed with the US Court, the Rockport Group has filed a motion seeking the approval of the US Court to conduct store closing sales for the Rockport Group's North American retail business, subject to the ability to remove any retail location from the relief granted to the extent necessary to comply with the Stalking Horse Agreement or otherwise maximize value in connection with the sale process. Draft sales guidelines governing the conduct of any North American retail store closures (the "**Sale Guidelines**") were negotiated and attached as a schedule to the Stalking Horse Agreement, and filed with the store closing sales motion. The Proposed Information Officer understands that the motion, if required, will be returnable on June 5, 2018. The Proposed Information Officer understands the US Debtors anticipate self-liquidating any retail stores not included in the Stalking Horse Agreement

(or higher or otherwise better offer identified through the sale process), with the assistance of a consultant to be identified by the Debtors.

60. In respect of the Stalking Horse Agreement and related sales process, the Rockport Group has filed with the US Court a motion seeking the US Court's approval of the bidding procedures designed to maximize the value received for the Rockport Group's assets (the "**Bidding Procedures Order**"), returnable on June 5, 2018. The Bidding Procedures Order, among other things:
- (a) seeks to establish bidding and auction procedures in connection with the sale of the Rockport Group's assets;
  - (b) seeks approval of the proposed bid protections, including the payment of a break-up fee in an amount equal to 3% of the Base Cash Amount (i.e. \$4.5 million), pursuant to the Stalking Horse Agreement;
  - (c) seeks reimbursement of certain expenses incurred by Charlesbank (up to \$2 million), in accordance with the Stalking Horse Agreement;
  - (d) schedules an auction and sets a date and time for the sale hearing; and
  - (e) establishes procedures for notice and to determine cure amounts for contracts and leases to be assumed and assigned in connection with any sale transaction.
61. The anticipated Bidding Procedures Order will also authorize, subject to the results of the auction, entry of an order to (a) approve and authorize a sale to the winning bidder; (b) authorize the assumption and assignment of certain contracts and leases; and (c) authorize the Rockport Group to enter into a transition services agreement, as contemplated by the Stalking Horse Agreement.
62. The anticipated timeline pursuant to the Bidding Procedures Order is:

Date	Activity
on or before June 5, 2018	Hearing to consider approval of the "Bidding Procedures" and entry of the "Bidding Procedures Order"
June 27, 2018 at 4:00 pm (EST)	Sale Objection Deadline
June 29, 2018 at 5:00 pm (EST)	Bid Deadline
July 3, 2018 at 5:00 pm (EST)	Deadline for Rockport Group to notify "Potential Bidders" of their status as "Qualified Bidders"
July 10, 2018 at 10:00 am (EST)	Auction to be held at the offices of Richard, Layton & Finger, P.A. (if necessary)
July 11, 2018	Target date for the Rockport Group to file with the US Court the "Notice of Auction Results"
July 13, 2018	Proposed date of the "Sale Hearing" to consider approval of the sale and entry of the "Sale Order"
on or after July 27, 2018	Closing Date (unless the "Successful Bidder" agrees to waive the 14-day stay of the "Sale Order")

63. The Proposed Information Officer has been in contact with Houlihan regarding the marketing process noted above. The Proposed Information Officer was also provided with and reviewed the confidential information memorandum provided by Houlihan to prospective purchasers, which contained certain limited information on the Rockport Group's operations, including Rockport Canada's operations, to assist with preliminary due diligence. Houlihan also informed the Proposed Information Officer of the identity of the Interested Parties and confirmed that the opportunity was presented to 1 Canadian strategic and 1 Canadian financial buyer, both of which declined the opportunity. Houlihan further advised that additional Canadian parties would not likely be contacted as part of the sales process, as the Rockport Group's assets were being marketed as a whole (as per the Stalking Horse Agreement) and the only likely Canadian buyers had already passed on the opportunity and it was unlikely that a buyer interested in Canadian only operations would be considered.
64. The Proposed Information Officer will seek additional information from the Rockport Group and Houlihan in respect of any expressions of interest received, as part of the proposed sales process, in respect of the Canadian operations.

### VIII. FIRST DAY ORDERS OF THE US COURT FOR WHICH RECOGNITION IS SOUGHT

65. The Foreign Representative is seeking recognition of the following First Day Orders that have been entered by the US Court in the Chapter 11 Proceedings, each of which is attached as an Exhibit to the Kosturos Cdn Affidavit:
- (a) an order directing the joint administration of the Chapter 11 cases of the Rockport Group in the US Proceedings (the "**Joint Administration Order**");
  - (b) an order appointing Prime Clerk LLC as claims and noticing agent in the Chapter 11 Proceedings (the "**Claims Agent Order**"). Pursuant to the Claims Agent Order, Prime Clerk is fully responsible for the distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Chapter 11 Proceedings;
  - (c) an order confirming the enforcement and applicability of the protections pursuant to sections 362, 365, 525 and 541(c) of the Bankruptcy Code (the "**Automatic Stay Order**"). The Automatic Stay Order enforced and restated the automatic stay provisions of the US Code and is appropriate and necessary for the Rockport Group to continue operations while it pursues its restructuring efforts;
  - (d) an order recognizing Rockport Blocker as the foreign representative of the Rockport Group in Canada (the "**Foreign Representative Order**");
  - (e) an interim order (i) authorizing, but not directing, the Rockport Group, in its sole discretion, to pay (a) all or a portion of the shipping and warehousing claims and (b) certain import charges; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the

Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Shipping and Warehousemen Order**");

- (f) an interim order (i) authorizing, but not directing, the Rockport Group to pay prepetition obligations of certain (a) vendors, suppliers, service providers and similar entities that provide goods or services critical to the ongoing operation of the Debtors' business in an amount not to exceed \$2 million on an interim and final basis; and (b) foreign vendors, suppliers and service providers that provide goods or services critical to the ongoing operation of the Debtors' business in an amount not to exceed \$12 million on an interim basis and \$20 million on a final basis; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Critical and Foreign Vendors Order**");
- (g) an interim order (i) authorizing, but not directing, the Rockport Group, in its sole discretion, to pay Covered Taxes and Fees, whether arising prior to, on or after the commencement of the Chapter 11 cases; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Taxes Order**");
- (h) an interim order (i) authorizing, but not directing, the Rockport Group to continue to renew its (a) Insurance Programs, including Premium Financing, and (b) Surety Bond Program and honour all obligations under the Insurance and Surety Bond Programs; (ii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to permit the Rockport Group's employees to proceed with any claims they may have under the Worker's Compensation Program; and (iii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Insurance Order**");
- (i) an interim order (i) authorizing the Rockport Group to (a) pay certain employee compensation and benefits, (b) maintain such benefits and other employee-related programs, and (c) pay the prepetition claims of independent contractors; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the "**Wages Order**");
- (j) an order (i) authorizing, but not directing, the Rockport Group to (a) continue to administer certain Customer Programs and (b) honour or pay Customer Obligations; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general



disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the “**Customer Program Order**”);

- (k) an interim order (i) prohibiting the Rockport Group’s utility service providers from altering or discontinuing service; (ii) approving an adequate assurance deposit as adequate assurance of post-petition payment to the utilities; and (iii) establishing procedures for resolving any subsequent requests by the utilities for additional adequate assurance of payment (the “**Utilities Order**”);
- (l) an interim order authorizing the Rockport Group to continue to use its existing cash management system (the “**Cash Management System**”) and bank accounts; (ii) waiving certain bank account and related requirements of the Office of the United States Trustee for the District of Delaware; authorizing the Rockport Group to continue its existing deposit practices under the Cash Management System (subject to the Rockport Group’s implementation of certain reasonable changes to the Cash Management System); (iv) extending the time to comply with section 345(b) of the Bankruptcy Code; and (v) authorizing the continued performance of certain transactions between and among the Rockport Group and certain of its affiliates, subject to certain limitations set out therein (the “**Cash Management Order**”); and
- (m) an interim order, among other things, (i) approving post-petition financing; (ii) granting the liens and super-priority administrative expense claim status to CBC, as administrative and collateral agent for the DIP ABL Lenders (the “**Interim DIP Financing Order**”).

66. The Proposed Information Officer understands that Canadian parties/creditors were specifically identified and provided for in the various Orders (Warehouseman Liens, Critical Suppliers, Taxing Authorities, Wages Orders and Insurance Orders) and corresponding DIP budgets/cashflows.

67. Certain of the First Day Orders that may relevant to Canadian stakeholders are addressed further below.

#### **Foreign Representative Order**

68. The Foreign Representative Order authorizes Rockport Blocker to act as the Foreign Representative of the Rockport Group to, among other things, seek recognition of the Chapter 11 Proceedings in Canada. Pursuant to the Foreign Representative Order, the US Court requested the aid and assistance of the Canadian Court to recognize the Chapter 11 Proceedings as a “foreign main proceeding” and Rockport Blocker as a “foreign representative” under the CCAA.

### **Shipping and Warehousemen Order**

69. The Shipping and Warehousemen Order authorizes (but does not direct) the Rockport Group to pay all or a portion of certain prepetition shipping and warehousing claims and certain prepetition import charges. The Shipping and Warehousemen Order was made on an interim basis and will be subject to a further hearing and final order.
70. The Rockport Group relies on a network of common carriers, expeditors, consolidators, warehousemen and transportation service providers, and other related parties in carrying out its global business operations. As the Rockport Group sources substantially all of its inventory and other goods from foreign countries, the Rockport Group may be required to pay certain import charges, including but not limited to, customs duties, detention and demurrage fees, tariffs, excise taxes or other similar obligations on merchandise delivered from foreign countries. As a disruption in the Rockport Group's supply chain may cause harm to its business and impair its restructuring efforts, the Shippers and Warehousemen Order is required to ensure the continued supply of inventory and other goods to the Rockport Group.

### **Taxes Order**

71. The Taxes Order authorizes the Rockport Group to pay certain taxes whether arising prior to, on or after the Petition Date. In the ordinary course of the Rockport Group's operations it collects, withholds and incurs various taxes, including income taxes, sales and use taxes, employment and wage-related taxes, business taxes, property taxes and other taxes.
72. The Taxes Order applies to Canadian taxation authorities, including with respect to sales taxes. The Taxes Order was made on an interim basis and will be subject to a further hearing and final order.

### **Wages Order**

73. The Wages Order authorizes the Rockport Group to, among other things, pay prepetition wages and other amounts owed to its employees and claims of independent contractors, continue all employee benefit programs and to pay all withholding obligations as such obligations are due.
74. The Wages Order authorized Rockport Canada to continue to pay Rockport Canada's employees in the ordinary course. Pursuant to the Wages Order, any amounts owed to Rockport Canada employees, including amounts for vacation pay, expenses, and benefits are expected to be paid in the ordinary course. The Wages Order was made on an interim basis and will be subject to a further hearing and final order.

### Utilities Order

75. The Utilities Order approved adequate protection assurance for certain utilities providers, established procedures for resolving claims by utility providers and prohibited utility providers from terminating service solely on the basis the Rockport Group commenced the Chapter 11 Proceedings.
76. The Utilities Order includes certain Canadian utility providers. The Utilities Order was made on an interim basis and will be subject to a further hearing and final order.

### Cash Management Order

77. The Cash Management Order authorizes the Rockport Group to continue to operate its existing Cash Management System.
78. Subsequent to the Petition Date, Rockport Canada will continue to transfer funds to the Rockport Group on account of (i) merchandise purchased post-petition from the Rockport Group, as necessary for Rockport Canada's ongoing operations (paid on a COD basis); and (ii) post-petition back office services provided by the Rockport Group (paid in accordance with prior practice, as a mark-up on the cost of Merchandise supplied) (the "**Permitted Rockport Canada Intercompany Transactions**").
79. Other than the Permitted Rockport Canada Intercompany Transactions, Rockport Canada will not transfer funds to the Rockport Group on account of any prepetition intercompany transaction, unless otherwise ordered by the US Court.
80. The Proposed Information Officer notes that the current cashflows and budget in respect of the Canadian operations (as discussed below) reflect limited, if any, excess funds will be available in Rockport Canada until such time as the sales proceeds from the Stalking Horse Agreement (or higher or otherwise better offers) and/or liquidation sales are available.

### Interim DIP Financing Order

81. As at the Petition Date and based on the cash flow projections prepared by the Rockport Group (the "**DIP Cash Flow**"), which are attached as Exhibit "S" to the Kosturos Cdn Affidavit, the Rockport Group lacked sufficient liquidity to maintain normal course operations during the proposed sales process without access to additional financing.
82. In reviewing the DIP Cash Flow for Rockport Canada, the Proposed Information Officer noted the following:
  - (a) the DIP Cash Flow projects that Rockport Canada will experience a net cash outflow of approximately CAD\$170,000 between the Petition Date and July 14, 2018;

- (b) Rockport Canada is projected to make approximately CAD\$2.2 million in payments to Rockport US for Permitted Rockport Canada Intercompany Transactions. However, based on the information provided to the Proposed Information Officer, Rockport Canada is projected to receive Merchandise in excess of this amount over the same 9 week period; and
  - (c) the referenced cash outflow does not take into account professional fees related to these proceedings, all of which have been allocated to the cash flow of the US Debtors.
83. Notwithstanding that the DIP Cash Flow projects that Rockport Canada does not require additional funds to continue operating – assuming the prohibition on sweeps of excess funds in the Canadian Operations Accounts to the US Debtors and permission to continue using post-petition revenue generated from Canadian operations during these proceedings – it is the Proposed Information Officer’s view, due to the highly integrated nature of the Rockport Group business and the essential bank-office support functions carried out by Rockport US personnel on behalf of Rockport Canada, it would be extremely difficult for Rockport Canada to continue operations if the Rockport Group did not access additional capital.
84. The Interim DIP Financing Order (which is being sought on an interim basis, and will be subject to a further hearing and final order), should it be granted, among other things, provides the Rockport Group access to:
- (a) up to \$60 million under a DIP post-petition revolving credit facility (the “**DIP ABL Facility**”) pursuant to a senior secured superpriority DIP credit agreement (the “**DIP ABL Agreement**”) between certain of the Debtors, including Rockport Canada, and CBC (in such capacity the “**DIP ABL Lender**”); and
  - (b) up to \$20 million in new money (the “**DIP Note Facility**” and together with the DIP ABL Facility, the “**DIP Financing**”) under a senior secured post-petition DIP Note Purchase and Security Agreement (the “**DIP Note Agreement**”) between certain Rockport Group entities and the holders of the Prepetition Notes Facility (in such capacity the “**DIP Note Lenders**”).
85. The DIP Financing will provide the working capital necessary for the Rockport Group to continue its business until the conclusion of the proposed sales process. Rockport Canada is, however, only a party to the DIP ABL Agreement. Consistent with the Prepetition Notes Facility, Rockport Canada is not a party to the DIP Note Facility.
86. Similar to the Prepetition ABL Facility, while Rockport Canada is listed as a borrower under the DIP ABL Facility, it has no borrowing availability. Further, the obligations that Rockport Canada will undertake pursuant to the DIP ABL Facility correspond to its prepetition obligations – that is, Rockport Canada is a party to the DIP ABL Agreement and will be jointly and severally liable both as a borrower and as a guarantor of the obligations under that facility and security will be granted over Rockport Canada in such capacity.

87. The DIP ABL Facility contains a “roll-up” provision whereby following the US Court’s approval of the Interim DIP Financing Order, the Rockport Group intends to repay obligations owing under the Prepetition ABL Facility as a “creeping roll-up” by applying the collection of accounts receivable and other proceeds from the sale of the collateral in support thereof to satisfy the amounts due under the Prepetition ABL Facility and, in turn, free up borrowing availability under the DIP ABL Facility. Following the US Court’s approval of the final DIP Financing Order, the Rockport Group will use the proceeds from the next advance under the DIP ABL Facility to “roll-up” all remaining outstanding amounts due under the Prepetition ABL Facility.
88. As at the Petition Date, the Rockport Group (i) had no availability under the Prepetition ABL Facility; (ii) other than CBC, there are no other registered security interests against Rockport Canada; and (iii) other than the Permitted Rockport Canada Intercompany Transactions, Rockport Canada will not transfer any funds to the Rockport Group on account of any prepetition intercompany transaction. Accordingly, it does not appear that the “roll-up” and security provisions of the DIP ABL Agreement are detrimental to Rockport Canada’s creditors.
89. The DIP Note Facility that has been approved on an interim basis by the US Court does not provide for direct availability to Rockport Canada. The Proposed Information Officer notes that the Prepetition Note Facility, which forms a part of the DIP Note Facility, was not secured by Rockport Canada assets, and the Debtors are not seeking to secure the Canadian assets with any charges relating to the DIP Note Facility.

## **IX. PROPOSED ABL LIABILITY ALLOCATION**

90. In preparing for the filing, the Proposed Information Officer was advised that a term and condition of the granting of the DIP Note Facility to the Debtors was the determination of the allocation of amounts outstanding to CBC under the Prepetition ABL Facility as between the US Debtors and Rockport Canada, in order to determine potential available funds from Rockport Canada to support the obligation. The DIP Note Lenders required that an agreement be reached and approved by the US Court, and recognized by the Canadian Court, prior to the return of the final DIP Financing Order, scheduled for June 13, 2018.
91. The Proposed Information Officer was advised of the DIP Note Lenders requirement and participated in discussions with counsel for the DIP Note Lenders, the DIP ABL Lender and the Debtors relating to the manner in which this condition could be met or addressed by the respective Courts. On May 12, 2018, the parties agreed to seek the following paragraph in the Interim DIP Financing Order and Initial Recognition Order relating to this issue:

the amount of proceeds realized from the sale or liquidation of the ABL Collateral and/or the DIP ABL Collateral of Rockport Canada ULC which shall be paid to the ABL Lenders and/or the DIP ABL Lenders in partial satisfaction of the outstanding ABL Obligations (as determined immediately prior to the Petition Date) and/or DIP ABL Obligations shall be determined and agreed upon among (i) the Debtors, (ii) the ABL Lenders, and (iii) the Secured Noteholders, each acting reasonably (the "Allocation Agreement"), in advance of the hearing in respect of the Final Order (the "Final Order Hearing"). The Allocation

Agreement shall be placed before the Court for approval as part of the Final Order Hearing and thereafter the Canadian Court for recognition as part of the motion to recognize the Final Order. In the event that the foregoing parties have not reached the Allocation Agreement in advance of the Final Order Hearing, the issue shall be placed before the US Bankruptcy Court at the Final Order Hearing, and thereafter the Final Order shall be placed before the Canadian Court for recognition. Any Allocation Agreement or orders approving same shall be conditional upon and require the repayment in full at or prior to closing in cash of the ABL Obligations and/or DIP ABL Obligations. The granting of this Interim Order shall be without prejudice to future arguments in respect of the Allocation Agreement or any orders approving the same.

92. The Proposed Information Officer understood that discussions would continue between the Debtors, the DIP Note Lenders, and the DIP ABL Lender and any agreement reached between the parties would be disclosed to the other stakeholders and formal approval sought from the US Court and recognition by the Canadian Court.
93. The Proposed Information Officer notes the following term was granted by the US Court relating to the allocation issues:

No Marshaling: Application of Proceeds. The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral and/or the Prepetition Collateral, as the case may be, and all proceeds shall be received and applied in accordance with the DIP Documents, the Prepetition Financing Documents, and the Prepetition Intercreditor Agreement. Notwithstanding anything to the contrary herein, the amount of proceeds realized from the sale or liquidation of the ABL Collateral (as determined immediately prior to the Petition Date) and/or the DIP ABL Collateral of Rockport Canada ULC which shall be paid to the ABL Lenders and/or the DIP ABL Lenders in partial satisfaction of the outstanding ABL Obligations (as determined immediately prior to the Petition Date) and/or DIP ABL Obligations shall be determined and agreed upon among (i) the Debtors, (ii) the ABL Lenders, and (iii) the Secured Noteholders, each acting reasonably (the "Proposed ABL Liability Allocation"), in advance of the Final Hearing. The Proposed ABL Liability Allocation shall be placed before the Court for approval as part of the Final Hearing and thereafter the Canadian Court for recognition as part of the motion to recognize the Final Order. Any Proposed ABL Liability Allocation or orders approving the same shall be conditional upon and require the repayment in full at or prior to closing of any sale as contemplated by the Sale Motion in cash of the ABL Obligations and/or DIP ABL Obligations. The granting of this Interim Order shall be without prejudice to future arguments in respect of the Proposed ABL Liability Allocation or any orders approving the same.

94. In reviewing the Kostorus US Affidavit (at paras 101-102), the Proposed Information Officer learned that the Debtors, the Prepetition Noteholders and CBC had reached a tentative agreement (the "**Proposed ABL Liability Allocation**"), which appears to have been framed as a share of obligations under the Prepetition ABL Facility, versus the allocation of proceeds contemplated above. The Proposed Information Officer was not a party to those discussions and is not in a position at this time to comment on the terms thereof. The Proposed Information Officer will report further on this matter in return of the motion seeking recognition of the final DIP Financing Order and the US Court's approval of the Proposed ABL Liability Allocation, when and if obtained.

## **IX. PROPOSED CHARGES**

95. Pursuant to the proposed Supplemental Order, Rockport Canada is seeking an Administrative Charge and a DIP Lenders' Charge.

### **Administration Charge**

96. The draft Supplemental Order contemplates an Administration Charge in respect of the fees and disbursements of the Information Officer and its counsel in an amount not to exceed CAD\$300,000. The Administration Charge is required to protect the Information Officer and its counsel in the event that their reasonable fees and expenses are unpaid. The Proposed Information Officer considers the amount of the proposed Administration Charge to be reasonable and appropriate in the circumstances. The Administration Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on the Debtors' property in Canada, including the DIP Lenders' Charge.

### **DIP Lenders' Charge**

97. As noted above, the draft Supplemental Order contemplates the granting of the DIP Lenders' Charge to secure amounts owing under the proposed DIP ABL Facility. The DIP Lenders' Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on Rockport Canada's assets except for the Administration Charge.

## **X. PROPOSED INITIAL ACTIVITIES OF THE INFORMATION OFFICER**

98. The draft Supplemental Order provides that following its appointment, the initial activities of the Information Officer will include, *inter alia*:

- (a) publishing a notice of the Chapter 11 Proceedings and the CCAA Recognition Proceedings in the Globe and Mail, National Edition, as soon as practical following date of the Supplemental Order, if granted, once a week for two consecutive weeks (as required by the Foreign Representative pursuant to subsection 53(b) of the CCAA);
- (b) providing such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (c) reporting to the Canadian Court with respect to the status of these proceedings and the Chapter 11 Proceedings at such times and intervals as the Information Officer deems appropriate; which reports may include information relating to the property and the business of the Debtors or such other matters as may be relevant to these proceedings and the Proposed ABL Liability Allocation; and

- (d) establishing a website at <http://www.richter.ca/en/folder/insolvency-cases/r/rockport-canada> to make available copies of the Orders granted in the CCAA Recognition Proceedings, reports of the Information Officer, motion materials, and other materials as the Canadian Court may order or the Information Officer deems appropriate.

## **XI. PROPOSED INFORMATION OFFICER'S RECOMMENDATIONS**

99. The Proposed Information Officer is satisfied that the terms of the Initial Recognition Order relating to its proposed role as Information Officer are fair and reasonable, and consistent with the terms of appointments of information officers in other recognition proceedings under the CCAA.
100. Accordingly, the Proposed Information Officer respectfully recommends that the Canadian Court grant the relief requested by the Debtors in the Initial Recognition Order and the Supplemental Order.

All of which is respectfully submitted on this 16<sup>th</sup> day of May, 2018.

**Richter Advisory Group Inc.**  
**in its capacity as Proposed Information Officer of**  
**Rockport Canada ULC *et al***  
**and not in its personal capacity**



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Adam Sherman, MBA, CIRP, LIT



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Pritesh Patel, MBA, CFA, CIRP, LIT



**CERTIFICATE OF SERVICE**

I, Chadd P. Fitzgerald, certify that I am not less than 18 years of age, and that on June 8, 2018, a copy of the foregoing document was electronically filed by CM/ECF, and I caused copies to be served upon the following parties as set forth below:

**By First Class Mail**

The Rockport Company, LLC  
Attn: Paul Kosturos  
1220 Washington Street  
West Newton, MA 02465

**By Hand Delivery**

Mark D. Collins, Esquire  
Richards, Layton & Finger, P.A.  
920 N. King Street  
Wilmington, DE 19801

**By First Class Mail**

Donald E. Rothman, Esquire  
Riemer & Braunstein LLP  
3 Center Plaza, 6<sup>th</sup> Floor  
Boston, MA 02018

**By Hand Delivery**

Greg Taylor, Esquire  
Ashby & Geddes  
500 Delaware Avenue, 8<sup>th</sup> Floor  
Wilmington, DE 19801

**By First Class Mail**

Joshua Spencer, Esquire  
Holland & Knight LLP  
131 South Dearborn Street, 30<sup>th</sup> Floor  
Chicago, IL 60603

**By Hand Delivery**

Bradford J. Sandler, Esquire  
James E. O'Neill, Esquire  
Pachulski Stang Ziehl & Jones LLP  
919 North Market Street, 17<sup>th</sup> Floor  
Wilmington, DE 19801

**By First Class Mail**

My Chi To, Esquire  
Daniel E. Stroik, Esquire  
Debevoise & Plimpton LLP  
919 Third Avenue  
New York, NY 10022

**By Hand Delivery**

Brya M. Keilson, Esquire  
Office of the U.S. Trustee  
844 King Street, Suite 2207  
Wilmington, DE 19801

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: June 8, 2018

/s/ Chadd P. Fitzgerald

Chadd P. Fitzgerald

## **APPENDIX C**

## U.S. House approves rollback of banking rules

Lawmakers vote to advance a measure that is the biggest overhaul since Dodd-Frank

ELIZABETH DEKHEIMER

The U.S. House has approved a sweeping overhaul of bank regulations, sending to President Donald Trump a bill that will give him a chance to make good on his vow to "do a big number" on the Dodd-Frank law.

Lawmakers voted on Tuesday

to advance a measure that is the product of years of financial-industry lobbying to soften post-crisis rules and sensitive negotiations in Capitol Hill to attract bipartisan support needed to get it through the narrowly-divided Senate.

The legislation would be the most significant overhaul of banking oversight to become law since Dodd-Frank was enacted in 2010 and may represent Congress's last shot at dialling back Wall Street regulation before midterm elections in November of this year.

House leaders agreed to vote

on the compromise bill that Senate Republicans negotiated with moderate Democrats in exchange for a promise that a broader set of House-passed rollbacks will get a vote later this year.

Senate Democrats who backed the plan sponsored by banking committee chairman Mike Crapo, an Idaho Republican, have said they will oppose further changes.

The legislation gives smaller banks relief from post-crisis rules that they've decried as burdensome and costly.

It raises to US\$50-billion

assets from US\$50-billion the threshold for banks to face stricter Federal Reserve oversight as systemically important financial institutions. That would free companies such as American Express Co. and SunTrust Banks Inc. from higher compliance costs associated with being considered too big to fail.

It could also spark a wave of deal making among regional firms that have been reluctant to cross that US\$50-billion threshold.

Even if the bill is signed into law, the Federal Reserve will ultimately determine how much re-

lief regional firms get - and how soon. While losing the SIFI label frees them from some stricter oversight and annual stress tests mandated by Dodd-Frank, banks with more than US\$50-billion in assets are still subject to other rules including the Fed's annual Comprehensive Capital Analysis and Review.

If the Fed does decide to make changes in response to the legislation, the process that could take months, even a year, according to Jared Selberg, an analyst at Cowen Inc.

BLOOMBERG NEWS

## Maersk: Container volumes at Port of Halifax increased to record volumes in 2017

FROM B1

New York-Rotterdam rates rose by 9 per cent.

Soren Skov, chief executive officer of Maersk, told Reuters the company's freight volumes would be hurt if trade talks failed between China and the United States.

In Canada, new trade agreements and demand for imports and exports have fostered a strong business climate. Jack Mahoney, president of Maersk Line Canada, said by phone. "Canada specifically is a positive story. It is amongst the fastest-growing markets for container trading across the Americas. Free-trade agreements will only act as favourable winds."

A trade agreement between Canada and the 28-country European Union, came into effect in September and will eliminate almost all tariffs on goods. Canada in March signed on to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), a free-trade agreement that covers 11 countries, including Japan and Malaysia.

"Since the tariffs went away, there is more moving," Mr. Mahoney said. "With [CPTPP] in play, we expect that to also be favourable in both directions for trade between east Canada and Asia."

Container volumes at the Port of Halifax rose by 16 per cent to record volumes in 2017, as increasingly larger ships began calling on the deep-water port. But the share of freight to and from Europe rose by just one percentage point to 37 per cent, as accounts for 49 per cent of Halifax's containerized trade.

Lane Farguson, a spokesman for the Port of Halifax, said it is



A shipping container is hoisted away at a terminal in Halifax in 2016. ANDREW VAUGHAN/THE CANADIAN PRESS

too early to attribute any rise in European trade to the new free-trade agreement. "We are seeing growth across all the regions served by the Port of Halifax," he said. "What I can say is that [free trade with Europe] creates new opportunities and potential for growth, which is good news for key industries in Atlantic Canada such as seafood and agri-food."

The growing volumes of imports and exports are driving expansions at most major sea ports.

The Port of Halifax is spending \$50-million to boost its capacity for boxes and refrigerated containers, and replacing three cranes. Montreal is spending \$750-million to build a new box terminal on the south shore of the St. Lawrence river. Dubai's DP World last year expanded its box port in Prince Rupert, boosting the Pacific port's capacity by

about 50 per cent.

The ports of Vancouver and Prince Rupert are seeing growth that exceeds 12 per cent in the first three months of the year, said Fadi Chamoun, a Bank of Montreal analyst. The growth is driving freight volumes for the railways, as well, he said, pointing to research that says U.S. importers are stocking up on Asian goods ahead of expected new tariffs. Canada's West Coast ports are gateways for high volumes of goods destined for U.S. markets.

The new Maersk service begins in July, and offers connections to the Middle East, Africa and Asia after ports in Spain. Mr. Mahoney said the decision to add the second ship is driven by a strong domestic economy and demand from exporters of everything from seafood to machinery.

## SNC-Lavalin: Class-action settlement marks a 'significant overhang put to rest,' analyst says

FROM B1

In addition to the class-action settlement, the company struck an agreement with Public Services and Procurement Canada in 2015 giving it the right to do business with the government. It also signed a compliance deal with the elections watchdog in 2016 committing SNC to take internal steps to prevent illegal donations.

And in 2017, it reached an agreement to pay restitution to seven Quebec municipalities for obtaining contracts through questionable means.

SNC shares inched up 0.1 per cent in Toronto trading Tuesday afternoon, to \$52.28. They've gained about 40 per cent since Mr. Bruce took over as CEO in October, 2015.

The lawsuits were filed on behalf of SNC investors after the stock plunged in 2012 following the company's announcement that it had launched an investiga-

tion into \$50-million of undocumented payments and warned that its annual earnings would be lower than expected. Two years later, Switzerland's Federal Crime Court would find former SNC executive Riyadh Ben Aissa guilty of bribing the playboy son of deposed Libyan dictator Moammar Gadhafi in order to secure lucrative construction projects.

Canadian prosecutors charged SNC-Lavalin itself with corruption and fraud three years ago in the Libya matter. The company wants to strike a formal settlement with the government to resolve the charges.

Investors allege in the class-action suits that the company made false and misleading statements about the adequacy of its internal controls and about the compliance of management with the company's code of ethics and business conduct.

The plaintiffs allege that these misrepresentations caused the price of SNC securities to stay in-

flated, only to crash later when the irregularities were disclosed.

The settlement still has to be approved by the courts.

Given that the plaintiffs were initially seeking damages totalling more than \$4-billion, the result is "palatable" for SNC-Lavalin and should be seen favourably by the company and its current investors, Laurentian Bank Securities analyst Mona Nazir said in a note.

"The deal marks a 'significant overhang put to rest,'" she added. SNC-Lavalin has said its board of directors was not aware of the improper actions of certain senior managers in Libya. The company has overhauled both its board and senior executive team in recent years and says it has reinforced its ethics and compliance procedures, making them among the most rigorous in the industry.

SNC-Lavalin Group (SNCL) CLOSE: \$55.28, UP 4¢

## Eldorado: Rio Tinto, First Quantum Minerals have higher market capitalizations but pay CEOs less

FROM B1

Eldorado declined to comment for this story.

Mackenzie's Mr. Gervais said he struggled with the "sheer magnitude" of Mr. Burns's compensation, considering both Eldorado's underperformance and how his pay compared with that earned by executives at some of the world's biggest mining companies.

Jean-Sébastien Jacques, the CEO of Rio Tinto PLC, for example, earned US\$4.4-million in 2017

for running a mining company with a market capitalization of US\$10.6-billion.

Eldorado's market value is \$1-billion.

Mr. Gervais also pointed to well-regarded Canadian base-metal producer First Quantum Minerals Ltd., which has a \$1-billion market value. It paid its CEO Philip Pascat \$3.8-million last year.

Barrick Gold Corp., the world's biggest gold company by production, drew criticism when chairman John Thornton joined the

company in 2012, and was paid a signing bonus of US\$8.9-million and earned US\$7-million in total compensation.

The company lost a number of say-on-pay votes at subsequent annual general meetings but eventually acknowledged shareholder concerns and cut Mr. Thornton's compensation significantly. Mr. Thornton was paid US\$7.7-million last year, 9.4 per cent less than in 2016.

ELDORADO GOLD (ELD) CLOSE: \$1.41, UP 12¢

LEGALS

Court File No. CV-18-597987-00CL

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 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

NOTICE OF INITIAL RECOGNITION ORDER

PLEASE BE ADVISED that this Notice is being published pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court"), granted on May 16, 2018 (the "Initial Recognition Order").

PLEASE TAKE NOTICE that on May 14, 2018, 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 (collectively, the "Chapter 11 Debtors") each filed voluntary petitions under chapter 11 of title 11 of the United States Code (collectively, the "Chapter 11 Proceedings") in United States Bankruptcy Court for the District of Delaware (the "U.S. Court"). In connection with the Chapter 11 Proceedings, the U.S. Court has appointed Rockport Blocker, LLC ("Rockport Blocker") as the foreign representative of the Chapter 11 Debtors (the "Foreign Representative"). The Foreign Representative's address is 1220 Washington Street, West Newton, Massachusetts 02465. The Debtors carry on business in Canada through Rockport Canada ULC.

PLEASE TAKE FURTHER NOTICE that the Initial Recognition Order and a Supplemental Order (together, the "Recognition Orders") have been issued by the Canadian Court under Part IV of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 (the "CCAA Recognition Proceedings"), and, among other things: (i) recognize the Chapter 11 Proceedings as a foreign main proceeding; (ii) recognize Rockport Blocker as the Foreign Representative of the Chapter 11 Debtors; (iii) recognize certain orders granted by the U.S. Court in the Chapter 11 Proceedings including the granting of an interim DIP financing order; (iv) stay claims against the Chapter 11 Debtors, their property and their directors and officers in Canada; (v) prohibit the commencement of any such proceedings in Canada absent further order of the Canadian Court; and (vi) appoint Richter Advisory Group Inc. as the Information Officer with respect to the CCAA Recognition Proceedings.

PLEASE TAKE FURTHER NOTICE that counsel for the Foreign Representative is:

**Borden Ladner Gervais LLP**  
Bay Adelaide Centre, East Tower  
22 Adelaide St W, Toronto, ON  
Canada M5H 4E3  
Attention: Roger Jaipargas  
Phone: 416-367-6266  
Fax: 416-367-6749  
Email: RJaipargas@bgl.com

PLEASE TAKE FURTHER NOTICE that persons who wish to receive a copy of the Recognition Orders or obtain any further information in respect thereof or in respect of the matters set forth in this Notice, should contact the Information Officer at the address below:

**Richter Advisory Group Inc. (solely in its capacity as Information Officer)**  
Bay Wellington Tower  
181 Bay Street, Suite 3320, Toronto, ON  
Canada M5J 2T3  
Attention: Adam Sherman  
Phone: 416-642-4836  
Fax: 514-934-8603  
Email: asherman@richter.ca

PLEASE TAKE FURTHER NOTICE that the motions, orders and notices filed with the U.S. Court in the Chapter 11 Proceedings are available at <https://cases.primerclerk.com/rockport>

**Prime Clerk LLC**  
830 Third Avenue, 9th Floor  
New York, New York 10022  
Attention: Benjamin J. Steele  
Phone: 212-257-5490  
Email: bsteele@primeclerk.com

PLEASE FINALLY NOTE that the Recognition Orders, and any other orders that may be granted by the Canadian Court, can be viewed at <http://www.richter.ca/Folder/Insolvency-Cases/R/Rockport-Canada>

DATED AT TORONTO, ONTARIO, this 17th day of May 2018.

**Richter Advisory Group Inc.**  
(solely in its capacity as Information Officer of the Chapter 11 Debtors and not in its personal or corporate capacity)

**RICHTER**  
Richter Advisory Group Inc.  
Bay Wellington Tower  
181 Bay St., Suite 3320  
Toronto, ON M5J 2T3

DIVIDENDS

**AST** DIVIDEND/DISTRIBUTION INFORMATION  
The following dividends/distributions have been declared.

Company	Issue	Record Date	Payable Date	Rate
Chorus Aviation Inc.	Voting and Variable Voting Shares	May 31, 2018	June 18, 2018	\$0.04 CAD

BUSINESS TO BUSINESS

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78 REPORT ON BUSINESS

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BUSINESS CLASSIFIED

TO PLACE AN AD CALL: 1-866-999-9237  
EMAIL: ADVERTISING@GLOBEANDMAIL.COM

Court File No. QV-18-597907-0002

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 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

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Borden Ladner Gervais LLP  
Bay Adelaide Centre, East Tower  
22 Adelaide St. W., Toronto, ON  
Canada M5H 4E3  
Attention: Roger Jajargas  
Phone: 416-367-4266  
Fax: 416-367-6749  
Email: Rjajargas@blg.com

PLEASE TAKE FURTHER NOTICE that persons who wish to receive a copy of the Recognition Orders or obtain any further information in respect thereof or in respect of the matters set forth in this Notice, should contact the Information Officer at the address below:

Richter Advisory Group Inc. (solely in its capacity as Information Officer)  
Bay Wellington Tower  
181 Bay Street, Suite 3320, Toronto, ON  
Canada M5J 2T3  
Attention: Adam Sherman  
Phone: 416-642-4636  
Fax: 514-934-8603  
Email: asherman@richter.ca

PLEASE TAKE FURTHER NOTICE that the motions, orders and notices filed with the U.S. Court in the Chapter 11 Proceedings are available at <https://cases.primerclear.com/rockport>

Prime Clerk LLC  
830 Third Avenue, 9th Floor  
New York, New York 10022  
Attention: Benjamin J. Steale  
Phone: 212-257-5490  
Email: bsteeale@primerclear.com

PLEASE FINALLY NOTE that the Recognition Orders, and any other orders that may be granted by the Canadian Court, can be viewed at <http://www.richter.ca/older/newsagency/Cases/Rockport-Canada>

DATED AT TORONTO, ONTARIO, this 17th day of May 2018.  
Richter Advisory Group Inc.  
(solely in its capacity as Information Officer of the Chapter 11 Debtors and not in its personal or corporate capacity)

**RICHTER**  
Richter Advisory Group Inc.  
Bay Wellington Tower  
181 Bay St., Suite 3320  
Toronto, ON M5J 2T3

BUSINESS TO BUSINESS

**Franco Nevada**  
Second Quarter Dividend  
NOTICE IS HEREBY GIVEN that, effective as of May 9, 2018, the Board of Directors of Franco Nevada Corporation has declared a quarterly dividend of US\$0.24 per Common Share payable on June 20, 2018 to shareholders of record at the close of business on June 14, 2018 (the "Record Date").

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Strength in Latin American units helps Scotiabank top second-quarter forecasts

International operations' profit rises 14 per cent to \$675-million over past three months on solid loan and deposit growth

**JAMES BRADSHAW**  
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TORONTO

Bank of Nova Scotia's expanding international footprint fuelled larger second-quarter profit as Canada's third-largest lender continues to grab share in key Latin American markets.

Strong loan and deposit growth helped push profit from international operations 14 per cent higher to \$675-million in the three months ended April 30, but the bank also benefited from adjustments to align the reporting periods of certain units.

Scotiabank has focused its international footprint on hot key countries—Mexico, Peru, Chile and Colombia, which it collectively calls the "Pacific Alliance"—and has been deploying significant capital to build its presence.

This fiscal year alone, the bank has struck a US\$2.2-billion deal to buy control of a Chilean bank and made acquisitions in Peru and Colombia, which should give it added muscle over the deals it closed later this year. Latin America remains a key plank in Scotia's strategy, offering the potential for more rapid growth than the bank expects from its more mature Canadian banking arm.

"We have lots of levers to continue to grow in these markets, and we do see Pacific Alliance as the stronger growth area for Scotia bank going forward," said Sean McCrackin, Scotia's chief financial officer.

Scotiabank reported a 12 per cent common equity Tier 1 (CE1) capital ratio—the highest among its peers.

But Mr. McCrackin expects that ratio will be an important measure of the bank's health, to settle around a per cent once pending deals have closed.

For the quarter that ended April 30, Scotia bank reported profit of \$2.2 billion, or \$1.70 a share, compared with \$2.06 billion, or \$1.60 a share, in the same quarter last year.

Adjusted for certain items, the bank earned \$2.75 per share, four cents ahead of the consensus estimate, among analysts, according to Bloomberg LP.

Revenue was nearly \$24 billion, up from

about \$20-billion a year earlier, and the bank held its quarterly dividend steady at 82 cents a share.

The core Canadian banking division grew 9 per cent to \$3 billion, compared with a year ago, although the bank said underlying growth was closer to 7 per cent after adjusting for one-time items.

The division benefited from higher margins amid rising interest rates and lower-than-expected loan losses.

National Bank Financial Inc. analyst Gabriel Deshaie, assessed Scotia's second-quarter results as "solid but unimpressive," noting that growth in Canadian banking operations was "low relative to peers."

Canadian banking head James O'Sullivan acknowledged that expenses "were elevated" in the second quarter, and that the bank is continuing its efforts to bring costs down and smooth out variations from quarter to quarter.

The bank plans to continue automating processes as customers do more banking digitally, slash IT technology costs through the use of cloud computing and use its global reach to gain buying power on everything from technology to office materials.

"[There are] lots of different levers for us to continue to pull in terms of driving a more productive bank," Mr. McCrackin said.

The bank also reported solid mortgage growth of 6 per cent, compared with a year earlier.

Concerns about slowing mortgage growth have dogged Canada's big banks at large, as new regulations requiring tougher stress testing on some home loans are beginning to take a bite out of some consumers' capacity to borrow.

But Mr. McCrackin noted that even if Scotia's mortgage growth slows by one percentage point, the bank loses only \$5 million in profits for the year, or one cent a share.

"It really doesn't move the dial that much," he said.

Profit from the bank's capital markets arm fell 12 per cent year-over-year, leaving a raw blurbish on an otherwise smooth period. But that division "had some elevated gains last year, so [the comparison] was a little bit tougher this quarter," Mr. McCrackin said.

Scotiabank's share price dipped after the bank released its results, falling 15 per cent by midday on the Toronto Stock Exchange, on an otherwise tough day for global markets.

**BANK OF NOVA SCOTIA (BNS)**  
TSX:BN 874.96, 000919-02-00

U.S. cannabis company MedMen trades lower after debut listing in Canada

**CHRISTINA PELLEGRINI**

Another American cannabis company is listing its shares in Canada, sparking investor interest in U.S. pot stocks at a time when many listed marijuana producers already enjoy steep valuations.

The latest to go public is MedMen Enterprises Inc., the cannabis grower that is known to its dispensaries in California, Nevada and New York State that try to emulate the look and feel of Apple stores. Its shares began trading on Tuesday on the Canadian Securities Exchange (CSE), a stock market that has allowed cannabis firms doing business in the United States to be listed even though the drug is illegal under federal U.S. law.

MedMen operates in states that have legalized cannabis in some form, which is enough to satisfy the CSE, but not TMX Group Ltd., Canada's largest operator of stock markets. Canadian investors have invested in U.S. operators to diversify their holdings and access a segment of the North American market that can sell a broader suite of higher-margin products, such as e-cigarettes and vape pens.

Shares of MedMen closed at \$4.85, a 10 per cent lower than where they opened on Tuesday. Los Angeles-based MedMen has been trying to make a name for itself by opening dispensaries in high-traffic spots, such as on Fifth Avenue in New York and in Beverly Hills, Calif. That is a deliberate strategy, says Adam Bierman, chief executive officer of MedMen. He wants his stores to be seen there in order to build a strong brand.

MedMen is now looking to expand into other states, such as Florida and New Jersey, and pursue a retail strategy in Canadian provinces where privately run stores are permitted, such as in Alberta, via a joint venture with Cronos Group Inc.

To fuel its growth, MedMen raised US\$100-million based on a US\$160-million valuation, an offering that was led by Canadian investment banks Cormark Securities Inc. and Canaccord Genuity Corp. Mr. Bierman said his goal is to eventually run MedMen, which today has 800 employees, into a company worth as much as US\$500-million.

"The way you build a US\$250 [billion] in US\$100-million company in this industry is you build the strongest brand first in the most im-

portant marijuana markets that exist on the globe today," he said on Tuesday by phone.

"New York City matters. Fifth Avenue matters. Beverly Hills, California, matters. Las Vegas, Nevada, matters. Exporting that brand to MedMen Paris, or MedMen Tel Aviv, or MedMen Toronto, that's not the hard part."

In the last six months to Dec. 31, financial records show MedMen booked just US\$2.6 million in sales and a loss of US\$6-million, it is disclosed. Mr. Bierman says most of MedMen's revenue in the near term will be generated by its dispensaries in California, which legally blessed the sale and use of recreational cannabis in January.

At MedMen, nearly all of the voting rights will be held by Mr. Bierman and company president Andrew Modlin, with each own nearly one million supervoting shares that are entitled to 1000 votes apiece. The rest of the shares are ranked lower, are entitled to one vote each and have no say in the event that a takeover bid for the supervoting shares is made.

Both Mr. Bierman and Mr. Modlin will earn a base yearly salary of US\$1-million and will be granted a US\$25-million cash bonus when MedMen exceeds an enterprise valuation of US\$2-billion. Both of them are also entitled to receive US\$50-million worth of units that can be converted into the lower-ranked shares and another US\$30-million in units that will vest monthly over the next two years, at which point they can also be converted into lower-ranked shares.

When asked about their salaries and the supervoting shares, Mr. Bierman said: "At the end of the day, we are where we are because Andrew and I have put together the systems, the processes and the people that we've needed to execute. It's about Andrew and I making sure that we can continue to make the best decisions for the long term of this company."

The CSE says it has 375 listings. Seventy-six are in the cannabis sector and account for more than 10 per cent of the \$2.3-billion market capitalization of companies listed on the exchange. New York-based Acree Holdings and Illinois-based Green Thumb Industries LLC are among several U.S. cannabis companies that are eyeing a first listing on the CSE.

**MEDMEN ENTERPRISES (MHHM)**  
TSX:ME 41.55, 000919-02-00