

Court File No. CV15-11146-00CL

**THANE INTERNATIONAL, INC., THANE DIRECT, INC., THANE DIRECT
COMPANY, THANE DIRECT MARKETING INC., WEST COAST DIRECT
MARKETING, INC., THANE DIRECT CANADA INC. AND
TDG, INC.**

SUPPLEMENTARY REPORT TO THE REPORT OF THE PROPOSED RECEIVER

OCTOBER 22, 2015

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

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**THANE INTERNATIONAL, INC., THANE DIRECT, INC., THANE DIRECT COMPANY, THANE DIRECT
MARKETING INC., WEST COAST DIRECT MARKETING, INC., THANE DIRECT CANADA INC. AND
TDG, INC.**

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended, and under section 101 of the
Courts of Justice Act, R.S.O. 1990, c. C.43**

**REPORT OF RICHTER ADVISORY GROUP INC.
IN ITS CAPACITY AS PROPOSED RECEIVER OF
THANE INTERNATIONAL, INC., THANE DIRECT, INC., THANE DIRECT COMPANY, THANE DIRECT
MARKETING INC., WEST COAST DIRECT MARKETING, INC., THANE DIRECT CANADA INC., AND
TDG, INC.**

OCTOBER 22, 2015

TABLE OF CONTENTS

I.	INTRODUCTION	4
II.	PURPOSE OF REPORT	4
III.	QUALIFICATIONS	4
IV.	BACKGROUND	5
V.	RECOMMENDATION	7

I. INTRODUCTION

1. Richter Advisory Group Inc. ("**Richter**") understands that an application has been made to the Ontario Superior Court of Justice (Commercial List) (the "**Court**") by the agent, Bank of Montreal, (the "**Agent**"), for the syndicate of lenders including the Bank of Montreal, HSBC Bank Canada and the National Bank of Canada (collectively, the "**Lenders**"), for an order (the "**Receivership Order**") appointing Richter as a receiver to exercise the powers and duties set out in the Receivership Order, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. C.43, as amended (the "**Receiver**"), without security, of all the assets, properties and undertakings (the "**Property**") of Thane Direct Company, Thane Direct Canada Inc. and Thane Direct Marketing Inc. (collectively, the "**Canadian Debtors**"), Thane International, Inc., West Coast Direct Marketing, Inc., TDG, Inc. and Thane Direct, Inc. (collectively, the "**U.S. Debtors**", and together with the Canadian Debtors, "**Thane**" or the "**Company**").
2. In its capacity as the proposed Receiver of Thane (the "**Proposed Receiver**"), Richter has served and filed its Report of the Proposed Receiver dated October 19, 2015 (the "**Report**"), which Report supports the Agent's application for the approval of the contemplated Transaction between the Receiver and 9472541 Canada Inc., 9472550 Canada Inc., 635427, Inc. and 652134 Limited (collectively, the "**Purchasers**"), as described in the Report.

II. PURPOSE OF REPORT

3. The purpose of this supplementary report (the "**Supplementary Report**") is to:
 - a) Update the Court with respect to the composition of Thane's outstanding trade payables;
 - b) Provide the Court with an overview of outstanding litigation actions or claims against the Canadian Debtors and/or the U.S. Debtors that will not be assumed by the Purchasers as part of the Transaction; and
 - c) Recommend that, in the event this Court appoints Richter as Receiver, the Court issue an order permitting the Receiver to dispense with service of the notice under section 245(1) of the BIA to those creditors whose claims will be assumed by the Purchasers on closing of the Transaction.

III. QUALIFICATIONS

4. In preparing this Supplementary Report, Richter has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and discussions with management and legal counsel to the Company. Richter has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and accordingly, Richter expresses no opinion or other form of assurance with respect to the information contained in this Supplementary Report. An examination of the Company's financial

forecasts in accordance with the *Canadian Institute of Chartered Accountants Handbook* has not been performed. Future-oriented financial information relied upon in this Supplementary Report is based on management's assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material. Richter expresses no opinion or other form of assurance with respect to the accuracy or completeness of any financial information contained herein.

5. Unless otherwise noted, all monetary amounts contained in this Report are expressed in United States dollars ("USD").

IV. BACKGROUND

6. Reference is made to the Report of the Proposed Receiver dated October 19, 2015. All capitalized terms used in this Supplementary Report but not otherwise defined have the meanings given to them in the Report.

Unsecured Trade Creditors

7. Subsequent to the release of the Report, the Company advised the Proposed Receiver that certain of its payables were misclassified between legal entities as at October 13, 2015. As a result, the table referenced in paragraph 57 of the Report should be adjusted as follows:

Thane International, Inc.		
Trade Payables by Geography		
As at October 13, 2015		
Canada	\$	1,794,920
United States	\$	187,995
South America	\$	1,956,585
Australia	\$	4,043,290
United Kingdom	\$	466,523
Other	\$	2,089,149
Total	\$	10,538,462

8. Accordingly, paragraph 58 of the Report should be revised to reflect that approximately \$2 million of the \$10 million in trade payables relates to the Canadian Debtors and/or the U.S. Debtors. The Proposed Receiver understands the balances for Canada and the United States relates to approximately 150 and 10 creditors, respectively.

Pending Litigation Actions or Claims

9. As referenced at paragraph 72 of the Report, any existing litigation claims or actions commenced against the Canadian Debtors and/or the U.S. Debtors will remain outstanding and be subject to the stay of proceedings, in the event the Court grants the Receivership Order.

10. Based on information provided to the Proposed Receiver subsequent to the release of the Report, below is a summary of the claims and/or actions that would be impacted:
- a) *Canada Competition Bureau v. Thane Canada* – In early 2015, the Canada Competition Bureau (“CCB”) began an inquiry into Thane Canada's television and online advertising of the AbTronic X2 EMS fitness belt. The CCB has indicated that it will seek undertakings, imposition of a compliance program, and the assessment of an administrative monetary penalty. The CCB has not suggested the amount of this monetary penalty or the proposed terms of an expected consent agreement.
 - b) *Corporativo Mufar, S. DE R.L. DE C.V., et al. v. Thane International, Inc. and Thane Direct, Inc.* - On August 7, 2013 Corporativo Mufar, S. DE R.L. DE C.V., et al. (“Mufar”) filed a Notice of Arbitration and Statement of Claim with the International Centre for Dispute Resolution in New York against Thane International, Inc., Thane Direct, Inc., Operadora Ainoa S.A.P.I. de C.V. and its Managing Director (collectively, “Respondents”) seeking unspecified damages for the Respondents' alleged breach of a non-compete and confidentiality agreement. The Respondents filed a Statement of Defense and Counterclaims on September 16, 2013. Before an arbitrator was selected, the parties agreed to submit the matter to mediation, which took place in October 2014. The matter did not settle, and neither party has since taken any further steps in the arbitration.

Section 245(1) Notice

11. Pursuant to section 245(1) of the BIA, a receiver shall, as soon as possible and not later than ten days after its appointment, send notice of its appointment to all known creditors of the Company (the “245 Notice”).
12. As referenced at paragraphs 58, 70 and 71 of the Report, it is the Purchasers intention to assume substantially all of the trade payables of Thane on Closing (the “Assumed Creditors”), other than the following:
- a) Claims of Thane employees not assumed by the Purchasers;
 - b) Creditors who are parties to Excluded Contracts;
 - c) Certain non-priority tax liabilities of Thane; and
 - d) Any claims or liabilities in connection with the outstanding litigation detailed in paragraph 8 of the Supplementary Report.
13. Subsequent to the release of the Report, the Purchasers have requested that the Receiver not the send the 245 Notice to the Assumed Creditors as the claims of these creditors will be satisfied by the Purchasers and notices could disrupt existing business relationships and have a detrimental effect on the business the Purchasers intend to acquire. Further, dispensing of the requirement to provide the 245 Notice to these creditors would reduce the administrative time and expense of doing so. Accordingly, the 245 Notice would only be sent to those creditors whose claims are not assumed by the Purchasers, namely those parties referred to in paragraph 10 above.

14. The Proposed Receiver is supportive of the Purchasers' request not to send the 245 Notice to the Assumed Creditors as it is reasonable under the circumstances and this will result in a reduction of administrative time and costs.

V. RECOMMENDATION

15. The Proposed Receiver recommends that this Court issue an order dispensing with service of the 245 Notice to the Assumed Creditors.

All of which is respectfully submitted on the 22nd day of October, 2015.

Richter Advisory Group Inc.
as the Proposed Receiver of
Thane Direct Company, Thane Direct Canada Inc.,
Thane Direct Marketing Inc., Thane International, Inc.,
West Coast Direct Marketing, Inc., TDG, Inc.
and Thane Direct, Inc. and not in its personal capacity



Paul van Eyk, CA-CIRP, CA-IFA
Senior Vice-President



Pritesh Patel, CIRP, CFA, MBA
Vice-President

B E T W E E N:

BANK OF MONTREAL
Plaintiff

- and -

THANE INTERNATIONAL INC., et. al.
Defendant

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

**SUPPLEMENTARY REPORT OF THE
PROPOSED RECEIVER, RICHTER
ADVISORY GROUP INC.**

BORDEN LADNER GERVAIS LLP

Barristers and Solicitors
Scotia Plaza, 40 King Street West
Toronto, Ontario
M5H 3Y4

Roger Jaipargas

Tel: (416) 367-6266

Fax: (416) 361-7067

(LSUC #43275C)

Rachael Belanger

Tel: (416) 367-6485

Fax: (416) 682-2811

(LSUC # 67674B)

Lawyers for Richter Advisory Group Inc.,
proposed Receiver of Thane International,
Inc., et. al.

TOR01: 6091403: v2