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**THIRD REPORT OF RICHTER ADVISORY GROUP INC.,
IN ITS CAPACITY AS MONITOR OF
ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.**

October 23, 2018

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.**

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IN ITS CAPACITY AS MONITOR OF
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OCTOBER 23, 2018

I. INTRODUCTION

1. On August 10, 2018 (the "**Filing Date**"), the Ontario Superior Court of Justice (Commercial List) (the "**Court**") issued an order (the "**Initial Order**") granting Aralez Pharmaceuticals Inc. ("**API**") and Aralez Pharmaceuticals Canada Inc. ("**Aralez Canada**" and together with API, the "**Companies**") protection pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), and appointing Richter Advisory Group Inc. ("**Richter**") as Monitor of the Companies in the CCAA proceedings (the "**Monitor**"). The Initial Order provided the Companies with a stay of proceedings until September 7, 2018 (the "**Stay Period**"). The Companies' CCAA proceedings are referred to herein as the "**CCAA Proceedings**".
2. Also on the Filing Date, Aralez Pharmaceuticals Management Inc., Aralez Pharmaceuticals R&D Inc., Aralez Pharmaceuticals U.S. Inc., POZEN Inc., Halton Laboratories LLC, Aralez Pharmaceuticals Holdings Limited and Aralez Pharmaceuticals Trading DAC (collectively, the "**Chapter 11 Entities**", and with the Companies, collectively the "**Aralez Entities**") each filed voluntary petitions with the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Court**") for relief under title 11 of the United States Bankruptcy Code, 11 U.S.C § 101-1532 (the "**Chapter 11 Proceedings**" and together with the CCAA proceedings, the "**Restructuring Proceedings**").
3. On September 5, 2018, the Court issued the Amended and Restated Initial Order (the "**Amended Initial Order**"), which incorporated certain amendments to the Initial Order granted on August 10, 2018. On September 5, 2018, the Court also issued an order extending the stay of proceedings in respect of the Companies to November 14, 2018.
4. On October 10, 2018, the Court granted orders (the "**October 10 Orders**") approving, among other things:
 - (i) the proposed sales process (the "**Sales Process**"), including the bidding procedures (the "**Bidding Procedures**") and bid protections to be used in connection with the Sales Process;
 - (ii) the share purchase agreement dated September 18, 2018, between the Companies and Nuvo Pharmaceuticals Inc. for the sale of all of the shares of Aralez Canada (the "**Canadian Assets**"), which would serve as a stalking horse bid as part of the Sales Process;
 - (iii) the procedure (the "**Claims Process**") to solicit claims against the Companies and any of the Companies' current and former directors and officers; and
 - (iv) an extension of the stay of proceedings in respect of the Companies to December 7, 2018.
5. Richter, in its capacities as Proposed Monitor and Monitor, has previously provided this Court with three reports (the "**Prior Reports**"). The Prior Reports, the Amended Initial Order and copies of other material documents

pertaining to the CCAA Proceedings are available on the Monitor's website at <http://insolvency.richter.ca/A/Aralez-Pharmaceuticals>.

II. PURPOSE OF REPORT

6. The purpose of this report of the Monitor (the "**Third Report**") is to provide information to the Court pertaining to:
 - (i) an overview of the activities of the Companies and the Monitor since October 5, 2018, the date of the Monitor's second report to the Court (the "**Second Report**");
 - (ii) the Companies' reported receipts and disbursements for the period from September 29, 2018, to October 19, 2018, including a comparison of reported to forecast results;
 - (iii) the proposed cross-border insolvency protocol (the "**Cross-Border Protocol**") to provide coordination and cooperation between the Court and the U.S. Court overseeing the Chapter 11 Proceedings, and the Monitor's recommendation thereon.

III. TERMS OF REFERENCE

7. In preparing this Third Report, the Monitor has relied solely on information and documents provided by the Aralez Entities and their advisors, including unaudited financial information, declarations and affidavits of the Companies' executives and other information from the Companies' financial advisor, Alvarez & Marsal Canada Inc. ("**A&M Canada**") (collectively, the "**Information**"). In accordance with industry practice, Richter has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants of Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
8. Unless otherwise stated, all monetary amounts noted herein are expressed in United States dollars, which is the Companies' common reporting currency.
9. Capitalized terms used but not defined in this Third Report are defined in the Cross-Border Protocol, or the Affidavit of Mr. Adrian Adams sworn October 19, 2018 (the "**October 19 Adams Affidavit**") filed in support of the herein motion. This Third Report should be read in conjunction with the October 19 Adams Affidavit, as certain information contained in the October 19 Adams Affidavit has not been included herein in order to avoid unnecessary duplication.

IV. ACTIVITIES OF THE COMPANIES

10. Since the Filing Date, the Companies, with the assistance of its advisors and the Monitor, have been managing their operations in the normal course and working to stabilize the business as a result of the CCAA Proceedings. The Companies' primary focus, in addition to the activities listed below, has been to prepare and implement the Sales Process, in coordination with the Chapter 11 Entities, and the Claims Process.
11. As outlined in the October 19 Adams Affidavit, the additional activities of the Companies, with the support of their financial and legal advisors, since the date of the Second Report have included:
 - (i) managing key relationships with customers and suppliers, in particular, managing post-filing supply agreements and the continued availability of products;
 - (ii) working with A&M Canada, in consultation with the Monitor, in managing their cash flows and making payments to creditors in accordance with the Amended Initial Order;
 - (iii) providing information and cash-flow reporting to Deerfield Private Design Fund III, LP., and Deerfield Partners, L.P., as lenders (collectively, "**Deerfield**") and Deerfield Management Company L.P., as administrative agent (together with Deerfield, the "**DIP Lender**") as required pursuant to the terms of the debtor-in-possession credit agreement dated August 10, 2018;
 - (iv) working with the Chapter 11 Entities to advance the Sales Process;
 - (v) working with the Monitor to implement and advance the Claims Process;
 - (vi) working with the Chapter 11 Entities to develop key employee retention and incentive plans for employees and executives (the "**KEIP/KERP Plans**") that are critical to maintaining the going concern value of the Aralez Entities, including preparing to return to the Court for approval thereof; and
 - (vii) negotiating the terms of the Cross-Border Protocol, principally with the Official Committee of Unsecured Creditors (the "**UCC**") appointed in the Chapter 11 Proceedings.

V. ACTIVITIES OF THE MONITOR

12. Since the date of the Second Report, the Monitor's activities have included:
 - (i) monitoring of the Companies' cash flows and reviewing analyses on variances to the Companies' cash flow forecast;
 - (ii) approving the payment of certain pre-filing obligations of the Companies pursuant to the terms of the Amended Initial Order;
 - (iii) attending at Court in connection with the October 10 Orders;

- (iv) attending at the Companies' premises and meeting with the Companies' management to discuss the Companies' operations and the CCAA Proceedings;
- (v) arranging for notice of the Claims Process to be published in the October 16, 2018, edition of the Globe and Mail, as required pursuant to the Amended Initial Order;
- (vi) sending a notice, within three days of the issuance of the October 10 Orders, of the Claims Process to all known creditors with claims against the Companies. Notice of the Claims Process, including a blank copy of the proof of claim, instruction order and order approving the Claims Process, were posted to the Monitor's website;
- (vii) corresponding and communicating extensively with the Companies and their advisors with respect to the Canadian Assets and the Sales Process, and with respect to other potential sale transactions;
- (viii) corresponding with the Companies, their legal counsel, A&M Canada, and the DIP Lender in connection with, among other things, the KEIP/KERP Plans and the Cross-Border Protocol;
- (ix) corresponding and communicating with the DIP Lender and its legal counsel;
- (x) corresponding and communicating with the proposed counsel to the UCC;
- (xi) corresponding and communicating with the Monitor's legal counsel, Torys LLP ("**Torys**");
- (xii) responding to calls and enquiries from creditors and other stakeholders regarding the CCAA Proceedings;
- (xiii) preparing this Third Report; and
- (xiv) otherwise monitoring and assisting the Companies in the performance of its activities summarized in Part IV above.

VI. CASH RECEIPTS AND DISBURSEMENTS FROM SEPTEMBER 28, 2018 TO OCTOBER 19, 2018

13. The Companies' consolidated cash flow projection for the period from September 29, 2018, to December 7, 2018 (the "**September 29 Cash Flow Forecast**"), was filed with the Court in support of the Companies' application returnable October 10, 2018, seeking, *inter alia*, an extension of the Stay Period.
14. The Companies have continued to provide the Monitor with their co-operation and access to their premises, books and records. The Monitor has implemented procedures for monitoring the Companies' receipts and disbursements on a weekly basis. The Monitor, with the assistance of A&M Canada, has also worked with the

Companies to prepare forecast to actual variance analyses with respect to their weekly cash flows as compared to the September 29 Cash Flow Forecast.

15. A comparison of the Companies' actual cash receipts and disbursements as compared to the September 29 Cash Flow Forecast for the three week period ending October 19, 2018, is summarized as follows:

Aralez Pharmaceuticals Inc. and Aralez Pharmaceuticals Canada Inc. Cash Flow Variance Analysis For the Period September 29, 2018 - October 19, 2018			
<i>(C\$ in Millions)</i>	Forecast	Actual	Variance
OPERATING RECEIPTS			
Net Sales Receipts	\$1.6	\$1.9	\$0.3
Net Operating Receipts	\$1.6	\$1.9	\$0.3
OPERATING DISBURSEMENTS			
Inventory Purchases	(\$0.5)	(\$0.5)	-
Royalty Payments	(0.1)	0.0	0.1
Payroll Related Expenses	(0.2)	(0.2)	-
Operating Expenses	(1.1)	(0.7)	0.4
Rent	(0.0)	(0.0)	-
API Operating Expenses	(0.7)	(0.1)	0.7
Total Operating Disbursements	(\$2.7)	(\$1.6)	\$1.1
NET OPERATING CASH FLOW	(\$1.1)	\$0.3	\$1.4
NON-OPERATING DISBURSEMENTS			
Professional Fees	(\$1.5)	(\$1.0)	0.5
Total Non-Operating Disbursements	(\$1.5)	(\$1.0)	\$0.5
Net Operating and Non-Operating Cash Flow	(\$2.6)	(\$0.7)	\$1.9
DIP Drawdown	\$0.0	\$0.0	\$0.0
Total Net Cash Flow	(\$2.6)	(\$0.7)	\$1.9
CASH BALANCE			
Beginning Balance	\$6.2	\$6.2	\$0.0
Total Net Cash Flow	(2.6)	(0.7)	1.9
Ending Balance	\$3.6	\$5.5	\$1.9

16. As reflected in the summary table above, the Companies reported a net cash outflow of approximately CAD\$0.7 million over the three week period, and the Companies had a cash balance of approximately CAD\$5.5 million, as at October 19, 2018. The actual cash balance was approximately CAD\$1.9 million higher than forecast.
17. The favourable cash flow variance of approximately CAD\$1.9 million principally relates to:
- (i) timing differences primarily due to lower than forecasted operating expenses for the Companies; and
 - (ii) timing differences associated with lower than projected disbursements for professional fees. The Monitor understands that these favourable variances will reverse in the coming weeks.

18. In accordance with the Amended Initial Order, any payments made by the Companies for expenses incurred prior to the Filing Date were made in consultation with the Monitor and the DIP Lender. These expenses were determined by the Companies to be necessary for the continued operation of the business or essential for the preservation of value for the Sales Process. As at October 19, 2018, the Companies have made approximately CAD\$1.1 million in payments relating to expenses incurred prior to the Filing Date.

VII. THE CROSS-BORDER PROTOCOL

19. The Aralez Entities operate a global business with assets and operations in multiple countries. As detailed in the October 19 Adams Affidavit, the Aralez Entities proposed the Cross-Border Protocol to facilitate the coordination and efficient administration of the restructuring proceedings of the Companies and the Chapter 11 Entities without divesting or diminishing the Court's or the U.S. Court's respective jurisdiction over the subject matter of the CCAA Proceedings or the Chapter 11 Proceedings. The Companies proposed the Cross-Border Protocol to address issues that may arise given the global footprint of the Aralez Entities and the fact that the Sales Process will closely involve and require coordination among the Court and the U.S. Court. A copy of the Cross-Border Protocol is attached as Exhibit "C" to the October 19 Adams Affidavit.
20. The Cross-Border Protocol, as more fully described in the October 19 Adams Affidavit, is summarized as follows:
 - (i) principal purpose is to: (a) coordinate the Restructuring Proceedings to avoid, if possible, conflicting or duplicative rulings by the Court and U.S. Court; (b) provide sufficient notice of key issues in the Restructuring Proceedings to all interested parties; (c) protect and preserve the substantive rights of all interested parties to the Restructuring Proceedings; and (d) preserve the jurisdictional integrity of the Court and the U.S. Court;
 - (ii) provides for court-to-court communication and joint hearings, if required and appropriate in the circumstances;
 - (iii) provides for the recognition of stays of proceedings granted by the Court and the U.S. Court, and vice versa;
 - (iv) provides for the retention and compensation of the professionals involved in both proceedings, and confirms that the Canadian advisors and representatives, including the Monitor and its legal counsel, shall not be required to have their fees and disbursements approved by the U.S. Court; and
 - (v) sets out the notice procedures for all motions and applications made in the Restructuring Proceedings to matters addressed by the Cross-Border Protocol.

21. Approval of a previous version of the Cross-Border Protocol was sought by the Companies at the comeback hearing held by the Court on September 5, 2018. However, the Companies did not proceed with the motion to approve the Cross-Border Protocol at that time in order to negotiate certain comments that were raised by the UCC, including comments related to consultative rights and standing in the CCAA Proceedings. The substantial changes incorporated into the final version of the proposed Cross-Border Protocol include:
- (i) any cross-border claims protocol to be approved by the Court and the U.S. Court shall be developed in consultation with the UCC;
 - (ii) as the UCC is a consultation party pursuant to the Bidding Procedures, the UCC will be required to execute confidentiality agreements prior to receiving confidential information in connection with the Canadian Assets as part of the Sales Process; and
 - (iii) the U.S. Representatives, which include the UCC, have the right to appear and be heard by the Court if they are determined to be an interested party for a particular issue in the CCAA Proceedings (though no determination has been made presently as to whether or in what circumstances the UCC may be an interested party in the CCAA Proceedings – should an issue arise, that determination may be made in the future).
22. The Monitor understands that the Cross-Border Protocol is supported by, *inter alia*, Deerfield, the DIP Lender and the UCC. The Monitor's counsel, Torys, has reviewed the proposed Cross-Border Protocol and has advised that it is consistent with the protocols established in other recent cross-border cases. The Monitor understands that an application for approval of the Cross-Border Protocol has been filed by the Chapter 11 Entities and is scheduled to be heard by the U.S. Court on October 30, 2018.

VIII. MONITOR'S CONCLUSION AND RECOMMENDATIONS

23. For the reasons set out in this Third Report, the Monitor is of the view that the relief requested by the Companies is both appropriate and reasonable and as such, the Monitor recommends that this Court make an order approving the Cross-Border Protocol.

All of which is respectfully submitted this 23rd day of October, 2018.

**Richter Advisory Group Inc.
In its capacity as Monitor of
Aralez Pharmaceuticals Inc. and
Aralez Pharmaceuticals Canada Inc. and not
in its personal or corporate capacity**

Per:



**Paul van Eyk,
CPA, CA-IFA, CIRP, LIT, Fellow of INSOL
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Vice President**

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ARALEZ PHARMACEUTICALS INC. AND ARALEZ PHARMACEUTICALS CANADA INC.

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

THIRD REPORT OF THE MONITOR

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