

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE )  
JUSTICE )  
PENNY )

WEDNESDAY, THE 2<sup>ND</sup>  
DAY OF AUGUST, 2017

Estate/Court File No. 33-2276663

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FUEL  
INDUSTRIES INC., A CORPORATION WITH A HEAD OFFICE IN THE CITY OF  
OTTAWA IN THE PROVINCE OF ONTARIO

Applicant

Estate/Court File No. 33-2276664

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FUEL  
TECHNOLOGIES INC., A CORPORATION WITH A HEAD OFFICE IN THE CITY OF  
OTTAWA IN THE PROVINCE OF ONTARIO

Applicant

ADMINISTRATION ORDER

THIS MOTION, made by Fuel Industries Inc. and Fuel Technologies Inc. (the "Fuel Companies") for an Order approving the administrative consolidation of the Fuel Companies' Proposal Proceedings (as hereinafter defined), approving the Debtor-in-Possession Term Sheet (the "DIP Term Sheet") between the Fuel Companies and Chou Associates Management Inc. (the "DIP Lender"), implementing the interim financing facility (the "DIP Facility") in the principal amount of \$350,000, and granting a super-priority charge against the Fuel Companies' Property, as defined herein, in favour of the DIP Lender (the "DIP Charge") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michel Burns, sworn July 31, 2017 and the Exhibits thereto (the "Burns" Affidavit") and the Report of Richter Advisory Group Inc. dated August 1, 2017 in its capacity as Proposal Trustee of the Applicants (the "First Report") and on hearing the submissions of counsel for the Fuel Companies, counsel for the Proposal Trustee, counsel

for the DIP Lender and counsel for 2587485 Ontario Ltd., no one appearing for any other party although duly served as appears from the affidavits of service of Sara-Ann Van Allen, Amanda Campbell and Antoinette De Pinto, filed:

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record herein and the First Report is hereby abridged and validated so that this motion is properly returnable today and that service, including the form, manner and time that such service was actually effected on all parties, is hereby validated, and where such service was not effected such service is hereby dispensed with.

### **ADMINISTRATIVE CONSOLIDATION**

2. **THIS COURT ORDERS** that the proposal proceedings of Fuel Industries (Estate Number 33-2276663) and Fuel Technologies Inc. (Estate Number 33-2276664) (collectively, the "**Proposal Proceedings**") are hereby administratively consolidated and the Proposal Proceedings are hereby authorized and directed to continue under the following joint title of proceedings, *nunc pro tunc*:

Estate/Court File No. 33-2276663  
Estate/Court File No.33-2276664

### **IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FUEL INDUSTRIES INC. AND FUEL TECHNOLOGIES INC., CORPORATIONS WITH A HEAD OFFICE IN THE CITY OF OTTAWA IN THE PROVINCE OF ONTARIO**

3. **THIS COURT ORDERS** that all materials filed in these proceedings should reference only one of the Court File numbers in paragraph 2, above.

### **DIP FINANCING**

4. **THIS COURT ORDERS** that the Fuel Companies are hereby authorized and empowered to obtain and borrow under one or more credit facilities (collectively, the "**DIP**

Facility”) granted by the DIP Lender to be used for the purposes described in the DIP term sheet attached as Exhibit “LL” to the Burns Affidavit (the “**DIP Term Sheet**”), provided that the borrowings under the DIP Facility shall not exceed the amount specified in the DIP Term Sheet, unless permitted by further Order of this Court.

5. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Term Sheet.

6. **THIS COURT ORDERS** that the Fuel Companies are authorized and empowered to execute and deliver such mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as may be reasonably required by the DIP Lender, and the Fuel Companies are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

#### **DIP CHARGE**

7. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”), which shall not exceed an aggregate amount of \$350,000 on the Fuel Companies’ current and future properties, assets and undertakings of every nature and kind whatsoever and wherever situated, including all proceeds thereof, (collectively, the “**Property**”). The DIP Charge shall not secure an obligation that exists before this Order is made.

8. **THIS COURT ORDERS** that the filing, registration or perfection of the DIP Charge shall not be required, and that the DIP Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the DIP Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

9. **THIS COURT ORDERS** that the DIP Charge shall constitute a charge on all the Property and shall rank in priority to all other security interests, trusts, deemed trusts, liens, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any individual, firm, corporation, governmental body or agency or any other entities (all of the foregoing, collectively “**Persons**” and each being a “**Person**”).

10. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein or as may be approved by this Court, the Fuel Companies shall not grant any Encumbrances over any Property that ranks in priority to, or *pari passu* with, the DIP Charge, unless the Fuel Companies also obtain the prior written consent of the Proposal Trustee, the DIP Lender, or through further Order of this Court.

11. **THIS COURT ORDERS** that the DIP Charge, the DIP Term Sheet and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder 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) (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (iii) the filing or deemed filing of any assignment 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 the Fuel Companies, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the DIP Charge nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet, or the Definitive Documents shall create or be deemed to constitute a breach by the Fuel Companies of any Agreement to which they are a party;
- (b) the DIP Lender shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Fuel Companies

entering into the DIP Term Sheet, the creation of the DIP Charge, or the execution, delivery or performance of the Definitive Documents; and

- (c) the payments made by the Fuel Companies pursuant to this Order, the DIP Term Sheet or the Definitive Documents, and the granting of the DIP Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

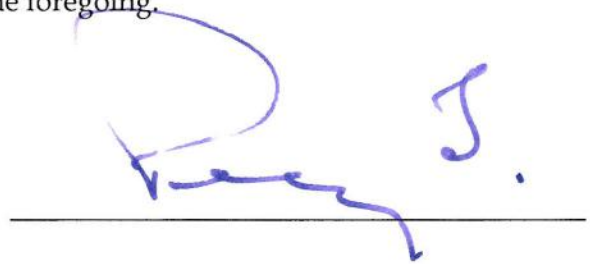
12. **THIS COURT ORDERS** that, notwithstanding any other provisions of this Order or the BIA (including sections 69 and 69.1):

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Term Sheet or the Definitive Documents, the DIP Lender, upon three (3) business days' notice to the Fuel Companies and to the Proposal Trustee, may exercise any and all of its rights and remedies against the Fuel Companies or the Property under or pursuant to the DIP Term Sheet, the Definitive Documents and the DIP Charge, including, without limitation, to cease making advances to the Fuel Companies and set off and/or consolidate any amounts owing by the DIP Lender to the Fuel Companies against the obligations of the Fuel Companies to the DIP Lender under the DIP Term Sheet, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Fuel Companies and for the appointment of a trustee in bankruptcy of the Fuel Companies; and

(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Fuel Companies or the Property.

13. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by the Fuel Companies under the BIA with respect to any advances made pursuant to the DIP Term Sheet or the Definitive Documents.

14. **THIS COURT ORDERS** that: (a) pending expiry of the time for filing a notice of appeal or application for leave to appeal in respect of this Order and the disposition of any motions to review, rescind or vary this Order, applications for leave to appeal or appeals from this Order (collectively, "**Challenges**"), the Fuel Companies are authorized to borrow funds under the DIP Facility in accordance with the DIP Term Sheet; (b) irrespective of the disposition of any Challenges, the DIP Lender shall have the benefit of the DIP Charge and all other provisions of this Order in respect of all amounts so advanced; and (c) this Order is subject to provisional execution to the extent necessary to give effect to the foregoing.



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

AUG 02 2017

PER / PAR:



A handwritten signature in blue ink, appearing to be 'ML', is written next to the 'PER / PAR:' label.

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FUEL INDUSTRIES  
INC. AND FUEL TECHNOLOGIES INC., CORPORATIONS WITH A HEAD OFFICE IN THE CITY OF  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**  
Proceeding commenced at Toronto

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**ADMINISTRATION ORDER**

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**DENTONS CANADA LLP**  
Barristers & Solicitors  
77 King Street West #400  
Toronto, ON M5K 0A1

**Sara Van Allen- LSUC # 56016C**  
Tel: (416) 863-4402  
Fax: (416) 863 4592  
E-mail: [sara.vanallen@dentons.com](mailto:sara.vanallen@dentons.com)

Lawyers for the Applicants