

**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**

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

**JULY 19, 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. 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 certain of the First Day Orders.

6. On June 5, 2018, the US Court granted an order (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**").
7. On June 12, 2018 and June 13, 2018, the US Court entered various orders sought by the Debtors at their "second day hearings" (the "**Second Day Orders**").
8. On June 14, 2018, the Canadian Court granted an order which recognized and gave full force and effect in Canada to (i) the Bidding Procedures Order and (ii) the following Second Day Orders:
  - (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;
  - (h) an Order Authorizing the Employment and Retention of Prime Clerk LLC as Administrative Advisor *nunc pro tunc* to the Petition Date;
  - (i) 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;
  - (j) an Order (I) Authorizing the Debtors to (A) Conduct 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**”);
  - (k) an Order (I) Authorizing the Retention and Employment of HYPERAMS, LLC as Liquidation Consultant *nunc pro tunc* to May 25, 2018 and (II) Modifying Certain Reporting Requirements under the Local Rules; and
  - (l) an Order Authorizing the Debtors to (A) Retain Alvarez & Marsal North America, LLC 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 and Josh Jacobs as Interim Chief Operating Officer for the Debtors *nunc pro tunc* to the Petition Date.
9. 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, excluding the Debtors’ North American retail assets (the “**Purchased 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.
10. This report is the Information Officer’s second report (the “**Second Report**”) to the Canadian Court. The Information Officer’s first report (the “**First Report**”) dated June 14, 2018 was filed with the Canadian Court to provide, among other things, an update with respect to the Debtors’ Chapter 11 Proceedings, an update on matters relating to Rockport Canada, and other matters relevant to the Canadian Court’s determination of the Foreign Representative’s request for recognition of the Bidding Procedures Order and certain of the Second Day Orders. Richter, in its capacity as proposed Information Officer, also 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. Copies of the First Report and the Pre-Filing Report are attached (without appendices) hereto as Appendices “A” and “B”, respectively.

## II. PURPOSE OF REPORT

11. The purpose of this Second Report of the Information Officer is to provide the Canadian Court with information concerning:
  - (a) the motion of the Foreign Representative returnable July 20, 2018, for recognition in Canada of the Final DIP Financing Order, the Houlihan Retention Order, the Sale Order and the Intercompany Payment Order (each 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

12. In preparing this Second 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 Second 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.
13. Unless otherwise stated, all monetary amounts contained herein expressed in United States dollars, which is the Debtors' common reporting currency.
14. 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 Prime Clerk LLC, the claims and noticing agent in the Chapter 11 Proceedings, which includes copies of the US Court materials and orders, notices and additional information in respect of the Chapter 11 Proceedings.
15. Capitalized terms not otherwise defined herein are as defined in the application materials, including the Stalking Horse Agreement, and the affidavit of Paul Kosturos, interim Chief Financial Officer of the Debtors, sworn July 19, 2018 (the

“**July 19 Kosturos Affidavit**”) filed in support of the Foreign Representative’s motion. This Second Report should be read in conjunction with the July 19 Kosturos Affidavit, as certain information contained in the July 19 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**

##### **Final DIP Financing Order**

16. Pursuant to the First Day Orders and the Supplemental Order, the Debtors received interim approval (the “**Interim DIP Financing Order**”) for 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 notes (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 (the “**Prepetition Notes**”) issued to the Debtors prior to the Petition Date (the “**Prepetition Noteholders**” or the “**DIP Note Lenders**”).
17. As noted in the Pre-Filing Report, the Debtors had outstanding secured debt of approximately \$57 million (\$53.4 million in principle debt and \$3.6 million reserved for letters of credit) 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 CBC, as administrative agent and collateral agent for the lenders. 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 the ABL DIP Facility, and provided security over all of its assets to secure such obligations. However, Rockport Canada has no direct borrowing availability under the ABL DIP Facility.
18. Pursuant to the DIP Note Agreement, the DIP Note Facility permitted the Debtors to draw up to \$10 million upon entry of the Interim DIP Financing Order and the remaining \$10 million upon entry of a final order. Rockport Canada is not an obligor, and will not be entitled to receive directly any funds, under the DIP Note Facility. Further, the assets of Rockport Canada are specifically excluded from any liens and security interests granted to the DIP Note Lenders under the DIP Note Facility.
19. As a precondition to the granting of the DIP Note Facility to the Debtors, the DIP Note Lenders required an allocation of amounts outstanding under the Prepetition ABL Facility as between the US Debtors and Rockport Canada to

determine the extent to which the Canadian assets would be used to pay down a portion of the Prepetition ABL Facility purportedly to apportion the joint and several liability of the obligations under the Prepetition ABL Facility. As noted in the Pre-Filing Report, the Debtors, Prepetition Noteholders and CBC reached an agreement prior to the Petition Date that allocation of debt should be based on the net asset values set forth in the Debtors borrowing base certificate under the Prepetition ABL Facility as at April 15, 2018. Using this calculation, Rockport Canada's proposed allocable share of the obligations under the Prepetition ABL Facility would be 18.4% of the outstanding amount (the "**Proposed ABL Liability Allocation**").

20. 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 "**Proposed DIP Financing Order**"). The Proposed DIP Financing Order included the Proposed ABL Liability Allocation.
21. The Debtors received the following responses/objections in respect of the motion for the Proposed 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 Official Committee of Unsecured Creditors of the Debtors (the "**UCC**"), which was filed with the US Court (the "**UCC Objection**") 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 as an exhibit to the July 19 Kosturos Affidavit.
22. Other than the IO Objection, all comments or objections were resolved as between the parties prior to the hearing for the Proposed DIP Financing Order. At the hearing, the UCC noted it had withdrawn the UCC Objection as an agreement (the "**UCC Compromise**") had been reached with the Debtors to fund a \$2.5 million wind-down reserve (plus funds sufficient to cover budgeted expenses incurred but not paid prior to closing) (the "**Wind-Down Reserve**") to be used to pay the professional fees and other administrative costs incurred by the Debtors after the closing of the Sale Transaction to confirm a plan of liquidation for the Debtors. Upon confirmation of a plan of liquidation, any unused amount in the Wind-Down Reserve would be available for the benefit of the general unsecured creditors of the Debtors. The Proposed DIP Financing Order did not reflect or document the UCC Compromise as the agreement was reached immediately prior to the hearing.
23. As detailed in the IO Objection, the Information Officer expressed its concerns with, among other things, that the Proposed ABL Liability Allocation permitted 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) in that any dollar that was transferred from Rockport Canada to pay down the Prepetition ABL Facility would result in excess funds from the US Debtors being made available to pay down the subsequent ranking Prepetition Notes and the Prepetition Noteholders.

24. At the June 13 hearing, the US Court also raised certain concerns with respect to, among other things, the Proposed ABL Liability and its potential impact on the unsecured creditors of Rockport Canada, and a general concern in respect of how a decision would be viewed by the Canadian Court. As noted in the First Report, the US Court reserved judgement on the matter. On June 18, 2018, the US Court announced its decision and advised it was not willing to resolve the Proposed ABL Liability Allocation issue at that time on the basis of the summary nature of the motion and materials before the US Court and, therefore would not grant the Proposed DIP Financing Order. However, as noted in its reasons accompanying the decision, the US Court indicated that it would enter the Proposed DIP Financing Order, subject to certain revisions being made to remove the Proposed ABL Liability Allocation and address the UCC Compromise.
25. Since June 18, 2018, discussions have been ongoing among the Debtors, the DIP Note Lenders, the DIP ABL Agent, the UCC and other stakeholders, including the Information Officer, with respect to revisions to the Proposed DIP Financing Order. As a result of these discussions, the Debtors revised the Proposed DIP Financing Order (the “**Final DIP Financing Order**”) and, on June 29, 2018, the US Court entered the Final DIP Financing Order, a copy of which is attached as an exhibit to the July 19 Kosturos Affidavit.
26. The Final DIP Financing Order incorporates certain key negotiated changes to the Proposed DIP Financing Order, as follows:
  - (a) the Wind-Down Reserve pursuant to the UCC Compromise, as set forth in the supplement to the Final DIP Financing Order, and as further described in the July 19 Kosturos Affidavit. While the UCC Agreement provided for a resolution and withdrawal of the UCC Objection, it does not limit the potential recovery of creditors of Rockport Canada should further assets be available to the creditors pending the conclusion of the Stalking Horse Agreement, the Store Closing Sales (as liquidation sales and other monetization of Rockport Canada assets;
  - (b) any further advances by the DIP Note Lenders is conditional upon the resolution of the Proposed ABL Liability Allocation (the “**Agreed ABL Liability Allocation**”); and
  - (c) a reservation of rights (at paragraph 52) negotiated by and with the Information Officer, on behalf of the unsecured creditors of Rockport Canada, such that the Final DIP Financing Order shall be without prejudice to the allocation of proceeds from Sale Transaction among the Debtors, the allocation of costs of the Chapter 11 Proceedings among the Debtors, and the treatment of any claims against Rockport Canada.

27. Upon entry of the Final DIP Financing Order:
- (a) the Debtors are authorized to use the proceeds of the next advance under the DIP ABL Facility to roll-up any amounts outstanding under the Prepetition ABL Facility to satisfy, in full, all outstanding obligations of the Debtors under the Prepetition ABL Facility; and
  - (b) the DIP Note Agreement permits the DIP Note Lenders to roll-up a total of \$20 million of Prepetition Notes in connection with the \$10 million advanced under the DIP Note Facility subsequent to the granting of the Interim DIP Financing Order.
28. The Foreign Representative seeks recognition of the Final DIP Financing Order from the Canadian Court to ensure the DIP Financing remains available, and that the Debtors can continue to meet their obligations and continue their efforts to facilitate the Sale Transaction and the Debtors' restructuring.

### **Houlihan Retention Order**

29. On June 13, 2018, the US Court heard the Debtors motion for an Order Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code (A) Authorizing the Employment and Retention of Houlihan Lokey Capital, Inc. ("**Houlihan Lokey**") as Financial Advisor and Investment Banker to the Debtors, *nunc pro tunc* to the Petition Date, (B) Waiving Certain Time-Keeping Requirements Pursuant to Local Rule 2016-2(h) and (C) Granting Related Relief (the "**Houlihan Retention Order**").
30. The Houlihan Retention Order authorized the Debtors to retain the services of Houlihan Lokey to act as financial advisor and investment banker to the Debtors in connection with the postpetition sales process. Houlihan Lokey has been advising the Debtors since December 2017, and during this time, Houlihan Lokey has developed a background and experience regarding the Debtors and their current situation.
31. Pursuant to the terms of an engagement letter between Houlihan Lokey and the Debtors, dated December 11, 2017, Houlihan Lokey would be compensated based on a monthly advisory fee of \$125,000 plus an additional fee that is contingent upon the occurrence of a specified type of transaction, such as but not limited to: (i) a "sale transaction fee" of \$1.7 million plus a percentage of incremental bands of transaction value greater than \$150 million; or (ii) a "restructuring transaction fee" of \$1.5 million for either an in-court or out-of-court restructuring.
32. Prior to the Petition Date, Houlihan Lokey was paid a monthly advisory fee of \$125,000 for each month between December 2017 and April 2018.
33. Prior to the objection deadline, the Debtors received certain informal comments from the Office of the United States Trustee for the District of Delaware (the "**US Trustee**"), as well as a limited objection from the UCC on the basis that the "sale transaction fee" must not include the value of any assets not transferred or assumed by the Stalking Horse

Bidder (or higher or otherwise better offer). The Information Officer understands the Debtors resolved the objection with the UCC prior to the hearing. At the hearing, the US Court indicated that it would enter the proposed order, subject to certain revisions to resolve the comments from the US Trustee.

34. The Debtors revised the original form of order and, on July 5, 2018, the US Court entered the Houlihan Retention Order, a copy of which is attached as an exhibit to the July 19 Kosturos Affidavit.
35. In the Debtors' view, the recognition of the Houlihan Retention Order in Canada is appropriate, as Houlihan has been working with the Debtors in connection with the Debtors' restructuring and marketing efforts, and has been providing services to all Debtors in connection with their role, all of which would potentially affect Rockport Canada and Canadian creditors. The Information Officer notes that pursuant to paragraph 52 of the Final DIP Financing Order, all parties have reserved their rights in respect of the allocation of costs of the Chapter 11 Proceedings among the Debtors and Rockport Canada.

### **Sale Order**

36. As detailed in the Pre-Filing Report, Houlihan Lokey commenced a robust marketing process prior to the Petition Date for the sale of all, or certain of the Debtors' assets and contacted 110 potential strategic and financial acquirers regarding the opportunity. This marketing process culminated in the Stalking Horse Agreement pursuant to which the Stalking Horse Bidder would acquire the Purchased Assets (subject to higher or otherwise better offers) for a purchase price of (i) \$150,000,000 in cash subject to certain working capital adjustments; (ii) a warrant to purchase up to 5% of the common equity of the Purchaser, at an exercise price equal to 2.5 times the price of the equity invested by the Equity Commitment Party in Parent Holdco as of the Closing Date (as defined in the Stalking Horse Agreement); and (iii) the assumption of certain liabilities.
37. The Bidding Procedures Order, which was granted by the US Court on June 5, 2018 and recognized by the Canadian Court on June 14, 2018, sought to establish rules for potential interested parties to bid on the Purchased Assets and to participate in an auction, should any bidders, in addition to Stalking Horse Bidder, submit a "Qualified Bid". Pursuant to the Bidding Procedures Order, the Debtors' established a bid deadline of June 29, 2018 (the "**Bid Deadline**") and scheduled an auction date of July 10, 2018.
38. The Bidding Procedures Order also established procedures for notice and to determine cure amounts for contracts and leases to be assumed and assigned in connection with any sale transaction (the "**Assignment and Assumption Procedures**"). In accordance with the Bidding Procedures Order, the Debtors filed with the US Court a Potential Assumption and Assignment Notice and Contracts List, including supplements thereto (the "**Potential Assignment Notices**"), identifying the contracts and leases that may be assumed and assigned in connection with the Sale Transaction, and the cure cost with respect to each listed contract and lease.

39. In accordance with the Assignment and Assumption Procedures, the Debtors may, up until two days before the closing of the Sale Transaction, add or remove a contract or lease listed on the Potential Assignment Notices, provided that if a contract or lease is added or a cure cost amount modified, additional notice would be provided to the applicable counterparty to enable that counterparty to object.
40. The Assignment and Assumption Procedures are similar to those typically undertaken in Canadian proceedings. All contractual counterparties were provided with adequate notice of the potential assignment and the suggested cure cost amount, and had an opportunity to object to the same. As at July 3, 2018, there are approximately 12 Canadian non-lease contracts listed on the Potential Assignment Notices. Confirmation of whether or not these agreements will be assigned will be provided by the Purchaser (as defined hereinafter) approximately 2 days prior to the closing of the Sale Transaction.
41. Since the Petition Date, the Debtors and their advisors engaged in the following activities relating to the sale process in respect of the Debtors' assets:
- (a) on May 14, 2018, the motion for the Bidding Procedures Order was served on the 110 strategic and financial acquirers Houlihan Lokey initially contacted regarding the potential sale of the Debtors' assets;
  - (b) Houlihan Lokey received interest regarding the Debtors' assets from 14 potential buyers. This group is composed of 6 potential financial buyers and 8 potential strategic buyers; and
  - (c) of these 14 potential buyers, 10 had expressed interest in the Debtors' assets during the prepetition marketing process. In addition, of these 14 potential buyers, 9 accessed the data room and 4 submitted question lists and/or other inquiries to Houlihan Lokey.
42. The Information Officer understands that the Debtors did not receive any "Qualified Bids" for the Debtors' Assets by the Bid Deadline (other than the Qualified Bid of the Stalking Horse Bidder) and, on July 6, 2018, the Debtors' filed notice of (I) Cancellation of the Auction and (II) Designation of the Stalking Horse Bidder as the "Successful Bidder" (hereinafter referred to as the "**Purchaser**"). The notice also designated the Stalking Horse Agreement as the "Successful Bid" (hereinafter referred to as the "**Asset Purchase Agreement**").
43. On July 11, 2018, the Purchaser filed the Declaration of Joshua Klevens, a Managing Director of Charlesbank, in Support of Findings of Good Faith and Adequate Assurance of Future Performance (the "**Klevens Affidavit**"). The Klevens Affidavit sets out the financial wherewithal, willingness and ability of the Purchaser to perform under the Purchased Contracts assigned to it pursuant to the Asset Purchase Agreement. A copy of the Klevens Affidavit is attached hereto as Appendix "C".
44. As noted in the Pre-Filing Report and the First Report, the Stalking Horse Agreement provided for a period of 25 days following the Petition Date by which time the Purchaser was to elect to acquire any of the Debtor's North American

retail locations. The Purchaser elected not to do so and, as such, the Debtors' North American retail assets, which include inventory located at the retail locations, retail leases and furniture, fixtures and equipment, are excluded from the Asset Purchase Agreement.

45. Pursuant to the Store Closing Order and the US Sales Guidelines (or Canadian Landlord Agreement, as applicable), the Debtors commenced liquidation sales (the "**Store Closing Sales**") at all 60 retail locations in North America (the "**Closing Stores**"), including the 33 located in Canada, on or about June 15, 2018. The Information Officer understands that the Debtors anticipate concluding the Store Closing Sales at the Closing Stores on or before July 31, 2018, with all retail inventory being sold or removed from the Closing Stores prior to that date. Further, consistent with the completion of the Store Closing Sales, the Debtors will seek authority to reject the underlying leases for each of the Closing Stores effective July 31, 2018 (or such later date as the Debtors unequivocally surrender possession of the Closing Store to the respective landlord) pursuant to the upcoming Lease Rejection Motion (as defined hereinafter), as described later in this Second Report. The Information Officer is not aware of any significant issues that have arisen during the course of the Store Closing Sales involving the Canadian retail locations.
46. On July 16, 2018, the US Court heard the Debtors' motion for entry of 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; 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 "**Sale Motion**").
47. The Debtors received the following responses/objections in respect of the Sale Motion:
  - (a) objections/reservation of rights by certain counterparties to contracts or leases included on the Potential Assignment Notices (collectively, the "**Counterparty Objections**"), certain of which were moot, as the underlying contracts or leases are not being assumed and assigned to the Purchaser;
  - (b) limited objection by Expeditors International of Washington, Inc. ("**Expeditors**") to Debtors' Notice of Potential Assumption and Assignment of Executory Contracts or Unexpired Leases and Cure Costs;
  - (c) objection filed by adidas AG and its subsidiary Reebok International Ltd. (the "**Adidas Objection**");
  - (d) objection filed by the Local Texas Tax Authorities regarding ad valorem taxes totalling for \$7,500 owed on the Debtors' personal property for the 2018 tax year; and
  - (e) a reservation of rights filed by the Information Officer (the "**IO Reservation of Rights**"), a copy of which is attached hereto as Appendix "D".

48. The Debtors and the Purchaser decided to adjourn the hearing on the Expeditors' objection to a subsequent hearing (consistent with the discretion granted to such parties under the Bid Procedures Order). The Information Officer understands that there has been an agreement reached on the Expeditors' agreement being assumed and assigned to the Purchaser, but not in respect of the disputed cure costs under the contract. The Expeditors' asserted cure amounts are disputed by the Debtors and involve complex issues that will need to be set for a separate evidentiary hearing. At the hearing, Expeditors and the Debtors agreed to put the disputed cure amount of approximately \$900,000 into a segregated escrow account for the benefit of Expeditors should it be correct in its assertion on the cure dispute.
49. The Information Officer understands the Debtors resolved the objection filed by the Local Texas Tax Authorities prior to the hearing by agreeing to escrow \$7,500 relating to the Local Texas Tax Authorities asserted claim.
50. The Information Officer did not object generally to the relief requested in the Sale Motion. However, the Information Officer filed the IO Reservation of Rights seeking clarification and reconciliation of the terms contained in proposed order (the "**Proposed Sale Order**") approving the Sale Motion in order to reflect the agreed upon reservation of rights language contained in paragraph 52 of the Final DIP Financing Order.
51. The Adidas Objection with respect to the Sale Order (as defined hereinafter) was resolved at the hearing. The alleged liabilities of any Acquired Company will be determined in the Adversary Proceeding (as defined hereinafter), as outlined in further detail below.
52. The US Court granted the relief sought by the Debtors in the Sale Motion which contemplated, *inter alia*, the following:
  - (a) authorizing and approving the sale (the "**Sale Transaction**") of the Purchased Assets to the Purchaser pursuant to the Asset Purchase Agreement, free and clear of all liens, claims, interests and encumbrances, except certain permitted encumbrances as determined by the Debtors and the Purchaser; and
  - (b) authorizing the assumption and assignment of the Contracts and Leases in connection with the Sale Transaction.
53. At the hearing, the Debtors noted they would revise the Proposed Sale Order to address the issues discussed at the hearing, and file a final form of order with the US Court as soon as possible. Since July 16, 2018, discussions have been ongoing among the Debtors, the DIP Note Lenders, the DIP ABL Agent, and other stakeholders, including the Information Officer, with respect to revisions to the Proposed Sale Order.
54. On July 18, 2018, the US Court entered 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 Order**”). The Sale Order is attached as an exhibit to the July 19 Kosturos Affidavit.

55. As detailed in the July 19 Kosturos Affidavit, the Sale Order, in addition to approving the Sale Transaction, provides for certain distributions (the “**Proposed Distributions**”) to be made to the DIP ABL Agent and the DIP Note Lenders upon closing of the Sale Transaction. The Information Officer notes that the quantum of the Proposed Distributions will need to be finalized immediately prior to the closing of the Sale Transaction, and remains subject to the reservation of rights negotiated by and with the Information Officer with respect to the allocation of debt, proceeds and costs, pursuant to paragraphs 28 and 29 of the Sale Order, as set out below:

**Application of Sale Proceeds.**

28. All sale proceeds shall be promptly paid at closing on any such sale to (x) in the case of proceeds of ABL Priority Collateral, to the DIP ABL Agent for application to the DIP ABL Obligations and (y) in the case of proceeds of Secured Notes Priority Collateral, the DIP Note Purchasers for application in accordance with the DIP Note Purchase Agreement; provided, however, that the sale proceeds shall first be used to pay the Break-Up Fee and Expense Reimbursement to the extent that such amounts have been triggered and are required to be paid pursuant to the terms of the Bidding Procedures Order. Notwithstanding anything to the contrary herein, the payment or distribution of the sale proceeds to the DIP ABL Agent for application to the DIP ABL Obligations shall be deemed to have been made in accordance with the Agreed ABL Liability Allocation, as contemplated under Paragraphs 39 and 52 of the *Final Order (I) Authorizing the Debtors (A) to 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* [Docket No. 320] (the “Final DIP Order”), and shall be without prejudice to the rights of the Secured Note Parties, the DIP Note Parties, the Information Officer and the Committee under the Final DIP Order. For greater certainty, the balance of the sales proceeds shall be held pending further order of this Court, including in respect of the final allocation of proceeds and costs in respect of Rockport Canada ULC (“Rockport Canada”).

29. For greater certainty, any initial payments or distributions paid from the sales proceeds shall remain subject to final reconciliation based on entry of a final order by this Court or agreement by the parties with respect to the allocation of debt, proceeds, and costs with respect to Rockport Canada; provided, however, that any further reconciliation with regards to payments or distributions made to the DIP ABL Agent for application to the DIP ABL Obligations shall be limited to a determination of an appropriate allocation of debt, proceeds and costs as between Rockport and Rockport Canada and shall not in any way affect or unwind the payment of sale proceeds to the DIP ABL Agent. Notwithstanding anything to the contrary herein, the reservation of rights found in Paragraph 52 of the Final DIP Order, entered on June 29, 2018, remains in full force and effect. For greater certainty, the balance of the sales proceeds shall be held pending further order of this Court, including in respect of the final allocation of proceeds and costs with respect to Rockport Canada.

56. The Foreign Representative seeks recognition of the Sale Order to assist with implementing a key aspect of the Debtors’ restructuring proceedings. Accordingly, in an effort to recognize the coordination of these proceedings in the U.S. and Canada, it is appropriate and necessary to recognize the Sale Order.

## Intercompany Payment Order

57. During the week of July 9, 2018, the Debtors advised the Information Officer of certain liquidity issues the Debtors were going to experience in the coming days. The liquidity issues had arisen due to (i) additional reserves being taken by the DIP ABL Lenders and (ii) a contraction in the Debtors' collateral base due to the conversion of Rockport Canada's inventory into cash in Canada, which was not recognized by the DIP ABL Lenders as part of the Debtors' borrowing base calculations.
58. Pursuant to the Final Cash Management Order, cash generated by Rockport Canada was to be ring-fenced in Canada and not transferred to the US Debtors 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.
59. As a result of the above noted factors, the Debtors' availability under the DIP ABL Facility was decreasing and would continue to decrease, providing the Debtors with little to no liquidity to meet ongoing obligations of the US Debtors including, payroll, rent, operating expenses, etc.
60. On or about July 14, 2018, the Debtors and its advisors engaged with the Information Officer to commence discussions with respect to modifying the ring-fencing provisions of the Final Cash Management Order in order to allow the US Debtors to transfer excess cash that had accumulated in Canada to assist with funding the ongoing liquidity needs of the US Debtors. On July 16, 2018, the Debtors advised the US Court of the liquidity constraints and the ongoing discussions among the stakeholders with respect to a solution to address this issue. The Debtors advised the US Court that it would be seeking a stipulation (the "**Intercompany Transfer Stipulation**") modifying the Final Cash Management Order to permit intercompany transfers between Rockport Canada and The Rockport Company, LLC.
61. The Information Officer was advised that the Debtors were facing a liquidity crisis and no further financing would be made available unless and until the majority of the ring-fenced funds held by Rockport Canada were released and made available to pay down the DIP ABL Facility. The Information Officer was further advised that the timelines and conditions to the DIP Financing and Asset Purchase Agreement could be in jeopardy if the Sale Order and Intercompany Payment Transfer (as defined hereinafter) were not entered on or before July 18, 2018. To avoid the situation as described by the Debtors and DIP Note Lenders, the Information Officer agreed to the Intercompany Transfer Stipulation.
62. The key terms of the Intercompany Transfer Stipulation, as more fully described in the July 19 Kosturos Affidavit, are follows:

- (a) Rockport Canada shall transfer \$4.5 million (the “**Initial Intercompany Transfer**”) to The Rockport Company, LLC for the purpose of repaying the Debtors’ obligations under the DIP ABL Facility;
  - (b) the Initial Intercompany Transfer, and any subsequent transfers agreed to among the parties and made in accordance with the Intercompany Transfer Stipulation (collectively “**Intercompany Transfers**”), shall be accorded superpriority administrative expense priority under Section 507(b) of the Bankruptcy Code;
  - (c) effective upon the Initial Intercompany Transfer, the DIP Note Lenders agree to waive the Agreed ABL Liability Allocation condition precedent prior to any further advances under the DIP Note Facility, which would then permit the second tranche of the DIP Note Facility (\$10 million) to be available to the Debtors (subject to the satisfaction of the remaining terms of the DIP Note Facility);
  - (d) should Rockport Canada experience a shortfall in funding to meet its ongoing obligations as a result of the Intercompany Transfers, The Rockport Company, LLC Rockport shall refund such portion of the Rockport Canada Intercompany Transfers as required for Rockport Canada to satisfy its operational and Chapter 11 expenses; and
  - (e) the reservation of rights language in paragraph 52 of the Final DIP Financing Order, paragraphs 28 and 29 of the Sale Order, remains in full force and effect, and the Intercompany Transfers shall have no effect on, or in any way prejudice the allocation of debt, proceeds and costs among the Debtors and Rockport Canada.
63. On July 18, 2018, the US Court entered an order approving the Intercompany Transfer Stipulation (the “**Intercompany Payment Order**”), a copy of which is attached as an exhibit to the July 19 Kosturos Affidavit.
64. The Foreign Representative seeks recognition of the Intercompany Payment Order in an effort to coordinate these proceedings in the U.S. and Canada.
65. The Information Officer notes that while the Agreed ABL Liability Allocation condition precedent relating to any further advances under the DIP Note Facility has been waived, the overall allocation of debt, proceeds and Chapter 11 costs in respect of Rockport Canada remain to be resolved or determined. The Information Officer has been discussing a potential resolution of the overall allocation issues with the Debtors, the DIP Note Lenders and DIP ABL Lender. However, should a resolution not be arrived at, the parties will need to address the manner in which the final allocation of these issues are to be determined.

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

### Adidas Objection

66. As noted above, on June 28, 2018, Adidas and Reebok filed the Adidas Objection in connection with the Sale Motion. Adidas and Reebok sold the Rockport business to Relay Intermediate, LLC (now known as The Rockport Group, LLC) in 2015 (the “**2015 Transaction**”).
67. On July 10, 2018, the Debtors filed an emergency complaint (in the “**Debtors’ Complaint**”) for declaratory judgement against Adidas and Reebok (the “**Adversary Proceeding**”). Contemporaneously with the complaint, the Debtors filed a motion to expedite the Adversary Proceeding.
68. The Information Officer understands the dispute among the parties relates to which Debtor entities, if any, are liable to Adidas and Reebok pursuant to certain agreements entered into among the parties in connection with the 2015 Transaction. As noted in the Debtors’ Complaint, Adidas and Reebok contend all of the Debtors are "jointly and severally" liable for all amounts owed, which they assert is no less than \$54 million.
69. Adidas and Reebok objected to the motion to expedite the Adversary Proceeding and, on July 11, 2018 and July 16, 2018, the US Court held hearings to consider the parties’ arguments related thereto. Following the July 16, 2018 hearing, the parties conferred and reached agreement on the terms of an Order Expediting Adversary Proceeding, which was filed on the US docket under certification of counsel. The Order Expediting Adversary Proceeding sets out the schedule for discovery and establishes trial dates with the US Court for August 8 and August 9, 2018. A copy of the Order Expediting Adversary Proceeding is attached hereto as Appendix “E”.
70. As a result of the Adidas Objection, the Purchaser issued a prospective notice of breach of the Asset Purchase Agreement, which prompted the Debtors to file the Adversary Proceeding, as the issues raised by Adidas and Reebok jeopardizes the Debtors' pending Sale Transaction, and the significant value that has been created for parties with an interest in this restructuring.
71. The Information Officer has sought to be updated by the Debtors in respect of the Adversary Proceeding and will report further to the Canadian Court in respect of the Adversary Proceeding, and the potential impact on the creditors of Rockport Canada, if any, as information becomes available.
72. The Asset Purchase Agreement provides that the Sale Transaction must be closed on or before August 13, 2018.

## Upcoming Matters in the Chapter 11 Proceedings

73. The US Court has scheduled a hearing date of July 26, 2018 in respect of the following:
- (a) Omnibus Motion of Debtors for Entry of Order (I) Authorizing Rejection of Certain Unexpired Leases of Nonresidential Real Property, (II) Authorizing Abandonment of Certain Property in Connection Therewith and (II) Granting Related Relief (the “**Lease Rejection Motion**”);
  - (b) Motion of Debtors for Entry of an Order Establishing Bar Dates and Related Procedures for Filing Proofs of Claims (Including for Administrative Expense Claims Arising Under Section 503(b)(9) of the Bankruptcy Code) and Approving the Form and Manner of Notice Thereof (the “**Bar Date Motion**”); and
  - (c) Motion of Debtors for Entry of an Order Approving Stipulations with (I) IC SPG at Edmonton LP, and (II) 90287939 Quebec Inc. cob as DAMA Construction, Regarding Lease of Non-Residential Real Property Located at Edmonton International Airport, Unit 438 (the “**Edmonton Lease Stipulation**”).
74. The Information Officer will report further to the Canadian Court in respect of the Lease Rejection Motion, the Bar Date Motion and the Edmonton Lease Stipulation as part the Foreign Representative’s motion for an order seeking recognition of any orders granted by the US Court in connection therewith.

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

75. 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 eight (8) weeks ended July 7, 2018, Rockport Canada had total cash receipts of approximately CAD\$14.5 million (as compared to forecast cash receipts of CAD\$10.3 million) and total cash disbursements of CAD\$6.1 million (as compared to forecast cash disbursements of \$6.8 million), for a net cash inflow of CAD\$8.4 million (as compared to forecast net cash inflow of CAD\$3.6 million) over the period. Based on the Information provided to the Information Officer, Rockport Canada had made approximately CAD\$2.5 million in Permitted Rockport Canada Intercompany Transactions (as defined in the Final Cash Management Order) over the eight week period ending July 7, 2018.
76. As at July 13, 2018, the Information Officer understands that Rockport Canada had approximately CAD\$8.2 million of cash on hand. The Information Officer notes that the CAD\$8.2 million cash balance does not take into account the Initial Intercompany Transfer (\$4.5 million, or approximately CAD\$5.8 million), which will significantly reduce this balance. However based on the Information received and reviewed to date, the Information Officer understands Rockport Canada will continue to have sufficient liquidity to meet its ongoing obligations up to the closing of the Sale Transaction.

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

77. The activities of Richter or the Information Officer since the First Report include:

- (a) responding to creditor inquiries regarding the Chapter 11 Proceedings and CCAA Recognition Proceedings;
- (b) 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 proceedings;
- (c) communicating with Canada Revenue Agency in connection with the sales tax accounts for Rockport Canada;
- (d) reviewing materials filed by various parties in the Chapter 11 Proceedings in connection with the Houlihan Retention Order, the Final DIP Financing Order and the Sale Order;
- (e) attending before the Canadian Court in connection with recognition of the Bidding Procedures Order and certain of the Second Day Orders;
- (f) reviewing materials provided by the Debtors in connection with the Proposed ABL Liability Allocation, including preparing and presenting resolutions to the Debtors and the DIP Note Lenders in connection with same;
- (g) reviewing materials provided by the Debtors in connection with the Intercompany Transfer Stipulation;
- (h) preparing the IO Reservation of Rights; and
- (i) preparing this Second Report.

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

78. Based on the Information received and reviewed to date, the Information Officer is of the view that it is reasonable to recognize the Houlihan Retention Order, the Final DIP Financing Order, the Sale Order and the Intercompany Payment Order, and respectfully recommends that this Court grant the recognition orders sought by the Foreign Representative.

All of which is respectfully submitted on this 19<sup>th</sup> day of July, 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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**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:

<b>Date</b>	<b>Activity</b>
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**

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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**APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS  
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**FIRST REPORT OF THE INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**JUNE 14, 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). 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 C**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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	: Chapter 11
In re:	:
	: Case No. 18-11145 (LSS)
THE ROCKPORT COMPANY, LLC, <i>et al.</i> ,	:
	: Jointly Administered
Debtors. <sup>1</sup>	:
	:
-----	x

**DECLARATION OF JOSHUA KLEVENS  
IN SUPPORT OF FINDINGS OF GOOD FAITH AND  
ADEQUATE ASSURANCE OF FUTURE PERFORMANCE**

CB Marathon OPCO, LLC (“Marathon” or the “Successful Bidder”), by and through Joshua Klevens, submits this declaration in support of Marathon’s good faith and to demonstrate adequate assurance of Marathon’s future performance of the contracts and leases to be assigned to Marathon in connection with the sale of substantially all of the assets of the Debtors<sup>2</sup> to Marathon.

I, Joshua Klevens, declare as follows:

1. My name is Joshua Klevens and I am a Managing Director of Charlesbank Capital Partners LLC (“Charlesbank”). I am also currently a managing director of Marathon.
2. Charlesbank is a middle market private equity firm currently managing more than \$5 billion of capital on behalf of public and corporate pension funds, endowments,

<sup>1</sup> The debtors and debtors in possession in these cases (each a “Debtor” and, collectively, the “Debtors”) and the last four digits of their respective 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.

<sup>2</sup> Unless otherwise defined, capitalized terms shall have the meanings assigned to them in the Sale Motion (defined below) and in the Stalking Horse Agreement attached to the Sale Motion (such agreement, as amended, the “Purchase Agreement”).

foundations, family offices, sovereign wealth funds, and financial institutions and other investors. Charlesbank Equity Fund IX and certain affiliated funds (together, “Fund IX”) is part of a group of funds managed by Charlesbank. Fund IX closed in October 2017 with approximately \$2.75 billion of limited partner commitments. Fund IX is supplying more than \$100 million of the purchase price Marathon is paying for the Debtors’ assets. Marathon is an affiliate of Fund IX.

3. Charlesbank, on behalf of its managed funds, first became interested in a possible acquisition of the Debtors’ assets in 2014, when it participated in a process run by Adidas to sell the Rockport brand and related assets. It performed significant due diligence during that process and submitted a final bid, but was ultimately not chosen to purchase the Rockport brand and related assets.

4. Charlesbank has extensive experience in the consumer industry in general and in the footwear and apparel industry in particular. In 2014, an affiliate of Charlesbank became the majority owner of Varsity Brands, which operates Varsity Spirit, a world-wide seller of cheerleading apparel and footwear, and BSN Sports, a distributor of sports footwear and apparel to youth and collegiate sports teams in the United States. Another affiliate of Charlesbank was the majority owner of Full Beauty Brands from 2012 to 2015, the largest direct-to-consumer plus-size apparel business in the United States. Charlesbank also has experience acquiring companies out of chapter 11. For example, in 2010 an affiliate of Charlesbank sponsored the plan of reorganization of TLC Vision, a leading eyecare services company.

5. Charlesbank’s interest in the Debtors was renewed in December 2017 when it was approached by Houlihan Lokey, Inc. (“Houlihan”) in connection with a formal marketing process instituted by the owners of the Debtors to identify a purchaser for the Debtors’ or their

assets. Charlesbank submitted a preliminary expression of interest to Houlihan and subsequently executed a confidentiality agreement with the Debtors' assets and commenced due diligence.

6. Charlesbank, on behalf of Fund IX, submitted its initial indication of interest to Houlihan on March 8, 2018, and thereafter, following more extensive due diligence, on March 30, 2018, submitted a formal bid for the Debtors' assets and a bid draft of the purchase agreement on April 3, 2018.

7. On or about April 13, 2018, Fund IX was notified that it had submitted the highest or best offer for the Debtors' assets.

8. In April 2018, Marathon was formed by Fund IX to acquire the Debtors' assets. On April 15, 2018, Marathon and the Debtors signed a Letter Agreement regarding exclusivity.

9. On May 13, 2018, Marathon and the Debtors executed the Purchase Agreement.

10. The Debtors filed their chapter 11 cases on May 14, 2018. On the same date, the Debtors filed their *Motion of Debtors for Entry of 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; 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 ("Sale Motion")*. The Sale Motion described Debtors' prepetition marketing efforts and also described the additional postpetition marketing efforts that would be undertaken prior to the selection of Marathon or another Successful Bidder as the "winning bidder."

11. Pursuant to the Sale Motion, the Debtors sought relief in two steps: first, the Debtors sought approval of Bidding Procedures on June 5, 2018; and second, the Debtors intended to seek approval of the Sale to Marathon on July 16, 2018. The Sale Motion also sought to establish rules for potential bidders to bid on the Purchased Assets and to participate in the Auction, should any bidders in addition to Marathon submit a Qualified Bid.

12. On June 5, 2018, the Court entered the Bidding Procedures Order. The Bidding Procedures Order approved the Bidding Procedures which included the key dates concerning the Auction process.

13. There were no competing bids submitted by Qualified Bidders that topped Marathon's stalking horse bid as required under the Bidding Procedures and consequently no Auction was held and Marathon on July 1, 2018, was declared the Successful Bidder.

14. Marathon has at all times negotiated with the Debtors and their professionals in good faith and at arm's length. Neither Marathon, Fund IX, nor Charlesbank are insiders of the Debtors and, other than the pending transaction, neither Marathon, Fund IX, nor Charlesbank have or hold any debt or equity interests in the Debtors. There are no undisclosed agreements or arrangements between Marathon, Fund IX, or Charlesbank, on the one hand, or the Debtors or the owners of the Debtors, on the other hand, concerning the proposed transaction. Neither Marathon, Fund IX, nor Charlesbank colluded with any bidders or potential bidders for the Debtors or made any agreements with any bidders or potential bidders concerning bidding or price.

15. The Purchase Agreement contemplates that all cure amounts will be promptly paid to the non-debtor counterparties to the Purchased Contracts as required under Bankruptcy Code section 365(b)(1)(A). From and after the Closing Date under the Purchase Agreement,

Marathon intends to perform under all of the Purchased Contracts assigned to it as required under Bankruptcy Code section 365(b)(1)(C).

16. In this regard, the Purchase Agreement and the Bidding Procedures both require that the Debtors pay the cure amounts determined or agreed to be owed to the non-debtor counterparties to the Purchased Contracts at the Closing or, in the case of any disputed cure amounts, as promptly as possible once the dispute has been resolved. Marathon is providing more than sufficient cash consideration to the Debtors at Closing (\$150 Million) to enable the Debtors to pay all required cure amounts for each contract or lease that becomes a Purchased Contract. As to Purchaser Paid Cure Costs (if any) under the Purchase Agreement, Marathon has more than sufficient cash resources (as described below) to make any such payments.

17. Marathon will be adequately capitalized at the time of, and following, the Closing. For the reasons set forth below, separate from the payment of any cure costs by the Debtors or Marathon (as the case may be), Marathon projects that it will have ample liquidity to meet its post-Closing obligations under the Purchased Contracts as they come due.

18. First, Marathon will be retaining many of the Debtors' key employees and keeping the majority of the Debtors' key customer and supplier arrangements. These steps will bring stability and predictability to the transition to new ownership.

19. Second, Marathon intends to bring in highly experienced additional leadership with deep experience in the shoe industry, to further enhance the ability of post-closing Rockport to perform under the Purchased Contracts. New senior leadership will include Gregg Ribatt, who is currently serving as a consultant to Charlesbank. Gregg Ribatt has extensive experience in the footwear business. Among other positions, Mr. Ribatt was previously the CEO of Crocs, Inc., a publicly traded footwear company and CEO of the Performance and Lifestyle Group of Collective

Brands. All told, Mr. Ribatt has approximately 25 years of experience in the footwear industry.

20. Third, attached as Exhibit A is a summary of the Sources and Uses of Cash for the Closing. Charlesbank is providing significant equity to the transaction (in excess of \$100 Million) both to minimize leverage and debt service and also to demonstrate its commitment to the success of post-closing Rockport. Because post-closing Rockport will be substantially less leveraged than the Debtors -- funded third party debt of \$55 Million versus funded debt of \$287 Million, post-closing Rockport will have sufficient equity to perform its post-closing obligations under the purchased contracts and leases to be assigned to it.

21. Fourth, Marathon has arranged for an asset based loan for up to \$85 Million to provide liquidity to supplement the cash flow of the business as needed. Marathon estimates that post-closing, after drawing \$15 Million to be used to pay closing costs and a portion of the Purchase Price, Marathon will have no less than \$50 Million available to be drawn under the asset based loan, and is expected to maintain liquidity of no less than \$30 million for the foreseeable future.

22. Fifth, attached hereto as Exhibit B is a forecast opening balance sheet for post-closing Rockport along with forecast balance sheets for December 31, 2018, and December 31, 2019. These balance sheets clearly demonstrate post-closing Rockport's solvency and liquidity.

Based upon the foregoing, Marathon believes that (i) it has acted in good faith within the meaning of Bankruptcy Code section 363(m); (ii) all cure amounts will be timely paid as required under Bankruptcy Code section 365(b)(1)(A); and (iii) it has demonstrated adequate assurance of future performance as required under Bankruptcy Code section 365(b)(1)(C).

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

Executed this 10th day of July, 2018.

CB Marathon OPCO, LLC



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Joshua Klevens  
Managing Director

Exhibit A

## Sources and Uses of Cash for the Closing

Sources		Uses	
	<u>\$M</u>		<u>\$M</u>
ABL Revolver	15.0	Purchase Price	150.0
IP-backed Term Loan	40.0	Fees & Expenses	10.0
CCP Equity	105.0		
<b>Cash Sources at Close</b>	<b>160.0</b>	<b>Cash Uses at Close</b>	<b>160.0</b>
Capital & Finance Leases	21.0	Capital & Finance Leases	21.0
<b>Total Sources at Close</b>	<b>181.0</b>	<b>Total Uses at Close</b>	<b>181.0</b>

**Exhibit B****Forecasted Balance Sheets for Post-Closing Rockport**

<b>Forecast Balance Sheet</b>			
	<b>7/31/2018</b>		
<b>\$M</b>	<b>(Opening B/S)</b>	<b>12/31/2018</b>	<b>12/31/2019</b>
<b>Assets</b>			
Cash & Cash Equivalents	-	-	-
Accounts Receivable	54.1	55.0	53.7
Inventory	110.3	97.3	83.4
Prepaid Expenses and Other	8.9	9.9	9.6
<b>Current Assets</b>	<b>173.3</b>	<b>162.2</b>	<b>146.7</b>
PP&E, Net	64.7	67.3	69.1
Capitalized Deal Fees	10.0	9.0	7.0
Goodwill & Intangibles	1.8	1.8	1.8
<b>Total Assets</b>	<b>249.8</b>	<b>240.2</b>	<b>224.6</b>
<b>Liabilities</b>			
Accounts Payable	35.9	44.2	37.6
Other Current Liabilities	32.8	18.9	18.4
<b>Current Liabilities</b>	<b>68.8</b>	<b>63.1</b>	<b>56.0</b>
ABL Revolver	15.0	27.6	31.7
IP Secured Notes	40.0	39.0	36.6
Capital Lease Liabilities	21.0	19.5	16.2
<b>Total Debt &amp; Debt Like</b>	<b>76.0</b>	<b>86.1</b>	<b>84.6</b>
<b>Total Liabilities</b>	<b>144.8</b>	<b>149.2</b>	<b>140.6</b>
<b>Memo: Liquidity</b>			
Borrowing Base	72.5	66.4	72.3
Less: Revolver Drawn	(15.0)	(27.6)	(31.7)
<b>Liquidity Available</b>	<b>57.5</b>	<b>38.8</b>	<b>40.6</b>

## **APPENDIX D**

**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. 24, 146 & 150**

**RESERVATION OF RIGHTS OF RICHTER ADVISORY GROUP INC., IN ITS  
CAPACITY AS INFORMATION OFFICER, TO SALE MOTION**

Richter Advisory Group Inc., in its capacity as the information officer (the “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 submits this reservation of rights (the “Reservation of Rights”) to the Motion of Debtors for Entry of 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)

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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.

Approving Form and Manner of Notice of Sale, Auction and Sale Hearing, (E) Approving Assumption and Assignment Procedures and (F) Granting Related Relief; 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 (Docket No. 24) (the "Sale Motion"). In support of its Reservation of Rights, the Information Officer respectfully states as follows:

**PRELIMINARY STATEMENT**

1. The Information Officer does not object generally to the relief requested in the Debtors' Sale Motion. However, the Information Officer files this Reservation of Rights seeking clarification and reconciliation of the terms contained in the Proposed Sale Order (as defined below) in order to reflect the agreed upon reservation of rights language contained in paragraph 52 of the 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 (Docket No. 320) (the "Final DIP Order").

**BACKGROUND**

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 Sale Motion. The proposed order (the “Proposed Sale Order”) approving the Sale Motion was attached as Exhibit H to the asset purchase agreement that was also attached to the Sale Motion. Thereafter, on June 5, 2018, the US Court entered the Order (A) Approving Bidding Procedures for Sale of Substantially all of the Debtors’ Assets, (B) Approving Stalking Horse Protections, (C) Scheduling Auction for, and Hearing to Approve, Sale of Substantially all of the Debtors’ Assets, (D) Approving Form and Manner of Notices of Sale, Auction and Sale Hearing, (E) Approving Assumption and Assignment Procedures and (f) Granting Related Relief (Docket No. 146) (the “Bid Procedures Order”). Under the Bid Procedures Order, the final hearing on the Sale Motion is scheduled for July 16, 2018 (the “Final Sale Hearing”).

5. On the Petition Date, the Debtors also filed 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”).

6. Thereafter, on June 8, 2018, the Information Officer filed its Objection and Reservation of Rights to the DIP Motion (Docket No. 165). On June 29, 2018, the Court entered the Final DIP Order.

### **RESERVATION OF RIGHTS**

7. The Final DIP Order contained a reservation of rights (the “DIP Reservation of Rights”) negotiated by and with the Information Officer as follows:

Reservation of Rights: Notwithstanding anything to the contrary in this Final Order, the Final DIP Order Supplement, or the DIP Documents, the approval of this Final DIP Order and the Final DIP Order supplement shall be without prejudice to, and the Information Officer on behalf of the Canadian creditors reserves its rights with respect to: the Agreed ABL Liability Allocation, the allocation of proceeds of any sale of the Debtors’ assets among the Debtors, the allocation of the costs of the Debtors’ Chapter 11 Proceedings among the Debtors, and the treatment of claims against Rockport Canada ULC.

Final DIP Order ¶ 52.

8. The Proposed Sale Order was drafted prior to the entry of the Final DIP Order and it currently contains language that is inconsistent with the DIP Reservation of Rights. The Information Officer believes that such language should be updated to reflect the intervening events since the Proposed Sale Order was originally drafted and preserve the substance of the DIP Reservation of Rights.

9. Paragraphs 9 and 25 of the Proposed Sale Order both of which reference potential use of sale proceeds, require modification or clarification. Specifically, paragraph 9 provides, in relevant part, that “[t]he Debtors are further authorized to pay, without further order of this Court, whether before, at or after the Closing Date, any expenses or costs that are required to be paid in order to consummate

the Transactions or perform their obligations under the Asset Purchase Agreement.”

Paragraph 25 provides that:

All sale proceeds shall be promptly paid at closing on any such sale to (x) in the case of proceeds of ABL Priority Collateral, to the DIP ABL Agent for application to the DIP ABL Obligations and (y) in the case of proceeds of Secured Notes Priority Collateral, the DIP Note Purchasers for application in accordance with the DIP Note Purchase . . . . Notwithstanding anything to the contrary herein, the proceeds from the sale of the Revolving Priority Collateral of Rockport Canada ULC shall be paid in accordance with the allocation of such proceeds set forth in the [Final DIP Order].

The Information Officer has sought clarification from the Debtors with respect to the anticipated distributions to be made (as referenced in the Proposed Sale Order).

However, to date, the Debtors have not provided such information to the Information Officer. The Information Officer, therefore, is compelled to file this Reservation of Rights given its deadline to object to the Sale Motion (which the Debtors have extended to July 11, 2018, at 5:00 p.m. for the Information Officer).

10. The Information Officer does not wish to intervene or complicate further the closing of the proposed sale. However, in order that: a) the proposed sale may be completed without further delay, b) necessary and direct costs of the sale required to be paid to implement the closing and/or required to avoid potential interest and fees associated with the post-petition financing may be paid on a preliminary basis subject to further and final reconciliation; and c) the terms of the Proposed Sale Order reflect and reconcile with the DIP Reservation of Rights, the Information Officer has suggested that the following language be included in the Proposed Sale Order:

For greater certainty, any initial payments or distributions paid from the sales proceeds shall remain subject to final reconciliation based on entry of a final order by this Court

or agreement by the parties with respect to the allocation of debt, proceeds, and costs with respect to Rockport Canada. Notwithstanding anything to the contrary herein, the reservation of rights language found in paragraph 52 of the Final DIP Order entered on June 29, 2018, remains in full force and effect.

WHEREFORE, the Information Officer respectfully requests that the Court (i) modify any proposed final Sale Order, as necessary to address the reservation of rights raised by the Information Officer as set forth herein; and (ii) grant the Information Officer such further relief as the Court deems just and proper.

Dated: July 11, 2018  
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

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Counsel to Richter Advisory Group Inc., in  
its capacity as Information Officer

## **APPENDIX E**

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

In re:	)	
THE ROCKPORT COMPANY, LLC, <i>et al.</i> ,	)	Chapter 11
Debtors. <sup>1</sup>	)	Case No. 18-11145 (LSS)
	)	(Jointly Administered)
	)	
THE ROCKPORT GROUP, LLC; THE	)	
ROCKPORT GROUP HOLDINGS, LLC;	)	
TRG 1-P HOLDINGS, LLC; TRG	)	
INTERMEDIATE HOLDINGS, LLC; TRG	)	
CLASS D, LLC; THE ROCKPORT	)	
COMPANY, LLC; DRYDOCK	)	
FOOTWEAR, LLC; DD MANAGEMENT	)	
SERVICES LLC; ROCKPORT CANADA	)	
ULC; ROCKPORT JAPAN K.K.; THE	)	
ROCKPORT COMPANY KOREA LTD;	)	
ROCKPORT HONG KONG LTD;	)	
DONGGUAN ROCKPORT CONSULTING	)	
SERVICE CO, LTD.; CALZADOS	)	
ROCKPORT S.L.; THE ROCKPORT	)	
COMPANY PORTUGAL, UNIPESSOAL,	)	
LDA; THE ROCKPORT COMPANY, B.V.;	)	
ROCKPORT EUROPE, B.V.; RELAY	)	
TECHNICAL SERVICES PRIVATE	)	
LIMITED; ROCKPORT INTERNATIONAL	)	
LIMITED; ROCKPORT UK HOLDINGS	)	
LTD.	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	Adversary Proceeding
	)	No. 18-50636 (LSS)
ADIDAS AG and REEBOK	)	
INTERNATIONAL LTD.	)	<b>Re: Adv. D.I. 4, 10</b>
<i>Defendants.</i>	)	

**CERTIFICATION OF COUNSEL REGARDING  
ORDER EXPEDITING ADVERSARY PROCEEDING**

<sup>1</sup> The debtors and debtors in possession in these cases and the last four digits of their respective 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.

The undersigned certify as follows:

1. We are counsel to the above-captioned plaintiffs (“Plaintiffs”).
2. On July 10, 2018, Plaintiffs initiated this adversary proceeding (the “Adversary Proceeding”) by filing their complaint [Adv. D.I. 1] against Adidas AG and Reebok International Ltd. (“Defendants”). Contemporaneously with the complaint, Plaintiffs filed a motion to expedite the Adversary Proceeding [Adv. D.I. 4].
3. Defendants objected to the motion to expedite [Adv. D.I. 10] and the Court held hearings on July 11, 2018 and July 16, 2018 to consider the parties’ arguments related thereto.
4. Following the July 16, 2018 hearing, the parties conferred and reached agreement on the terms of the *Order Expediting Adversary Proceeding* (the “Order”) attached hereto as Exhibit A.

WHEREFORE, the Plaintiffs respectfully request that the Court enter the Order, substantially in the form attached hereto as Exhibit A, at its earliest convenience.

Dated: July 17, 2018  
Wilmington, Delaware

/s/Robert C. Maddox

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Mark D. Collins (No. 2981)  
Robert J. Stearn, Jr. (No. 2915)  
Cory D. Kandestin (No. 5025)  
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*Counsel to the Plaintiffs*

**Exhibit A**



Upon consideration of *Plaintiffs' Emergency Motion to Expedite Adversary Proceeding* (the "Motion"),<sup>2</sup> the *Objection of Adidas AG and Reebok International Ltd. to Plaintiffs' Emergency Motion to Expedite Adversary Proceeding* (the "Objection"), the arguments of the parties at the hearings on the Motion and the Objection held on July 11, 2018 and July 16, 2018, and the Court having found that: (i) the Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated February 29, 2012; (ii) venue is proper in this district pursuant to 28 U.S.C. § 1409; and (iii) notice of the Motion was sufficient under the circumstances; and after due deliberation and good and sufficient cause having been shown for the relief sought by the Motion,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted, as set forth herein.
2. Defendants Answer(s) to the Complaint shall be filed before 10:00 a.m. (EDT) on July 16, 2018.
3. The parties shall confer on reasonable limitations for written and deposition discovery, and shall enter into an appropriate confidentiality and clawback agreement pursuant to Federal Rule of Evidence 502.
4. The parties shall serve by email any initial requests for written discovery by 4:30 p.m. (EDT) on July 13, 2018. The parties shall serve by email written responses to the initial document requests, and shall produce documents responsive thereto, by 4:30 p.m. (EDT) on July 20, 2018.
5. The parties shall serve by email any supplemental document requests, interrogatories or requests for admissions by 8:00 p.m. on July 16, 2018. The Plaintiffs (collectively and

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<sup>2</sup> Capitalized terms used but not defined herein shall have meaning ascribed to them in the Motion.

not individually) and the Defendants (collectively and not individually) shall be limited to propounding ten interrogatories. The parties shall serve by email written responses to any interrogatories, requests for admissions or supplemental document requests, and shall produce documents responsive thereto by 6:00 p.m. (EDT) on July 23, 2018.

6. Plaintiffs shall respond to Counts I and III of Defendants' Answer and Counterclaims [Adv. D.I. 18] (the "Counterclaims") by 12:00 p.m. (EDT) on July 22, 2018. Adjudication of Count II of the Counterclaims shall be deferred. If Plaintiffs' response to Count III of the Counterclaims is a motion to dismiss, then the parties shall confer on an expedited briefing schedule for that motion.
7. The parties shall complete depositions by July 28, 2018. The parties shall cooperate to make their respective representatives available for such depositions.
8. The parties shall file simultaneous pre-trial briefs by 6:00 p.m. (EDT) on August 2, 2018, and any response(s) thereto must be filed by 12:00 p.m. (EDT) on August 6, 2018.
9. A trial will be held on August 8, 2018 beginning at \_\_:\_\_ .m. and (if necessary) August 9, 2018 at \_\_:\_\_ .m..
10. The Court shall retain jurisdiction with respect to any matters related to or arising from the implementation or enforcement of this Order.

Dated: July \_\_, 2018  
Wilmington, Delaware

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THE HONORABLE LAURIE SELBER SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE

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

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

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

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

Proceeding commenced at Toronto

**SECOND REPORT OF THE INFORMATION  
OFFICER, JULY 19, 2018**

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