

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

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

**AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP
HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS,
LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT
COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES
LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")**

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

**FACTUM OF THE APPLICANT, RELAY BLOCKER LLC,
formerly known as ROCKPORT BLOCKER, LLC
(Returnable December 21, 2018)**

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

PART I - OVERVIEW

1. The Applicant, Relay Blocker LLC, formerly known as Rockport Blocker, LLC ("**Rockport Blocker**" or the "**Applicant**"), brings this motion under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), seeking an order recognizing certain orders granted by the United States Bankruptcy Court for the District of Delaware (the "**US Court**") in respect of the Applicant and several related companies.
2. 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 (with Rockport Blocker, collectively, the "**US Debtors**") and Rockport Canada ULC ("**Rockport Canada**" and, together with the US Debtors, the "**Rockport Group**") are a leading global designer, distributor and retailer of comfort footwear in more than fifty markets worldwide.
3. On May 14, 2018 (the "**Filing Date**"), each entity in the Rockport Group filed voluntary petitions for relief pursuant to Chapter 11 of Title 11 ("**Chapter 11**") of the United States Code (the "**US Code**") (collectively, the "**Petitions**" and each a "**Petition**") with the US Court. The

Rockport Group has requested that the Petitions be jointly administered for procedural purposes only.

4. On May 15, 2018, the Honourable Judge Silverstein granted various orders (the “**First Day Orders**”), which were recognized by the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) on May 16, 2018.

5. On June 5, 2018, June 12, 2018, and June 13, 2018, the Honourable Judge Silverstein granted, or entered, various orders in the US Proceedings, the details of which are reviewed in the Affidavit of Paul Kosturos sworn June 13, 2018, and which were recognized by the Canadian Court on June 14, 2018.

6. On June 29, July 5, and July 18, 2018, the Honourable Judge Silverstein entered various orders in the US Proceedings, the details of which are reviewed in the Affidavit of Paul Kosturos sworn July 19, 2018 and which were recognized by the Canadian Court on July 20, 2018.

7. On July 24, 2018, the Honourable Judge Silverstein granted or entered various orders in the US Proceedings, as applicable, the details of which are reviewed in the Affidavit of Paul Kosturos sworn July 26, 2018, and which were recognized by the Canadian Court on July 30, 2018.

8. On July 30, 2018, the Honourable Judge Silverstein granted an order in the US Proceedings, the details of which are reviewed in the Affidavit of Jonathan Levi sworn July 30, 2018, and which was recognized by the Canadian Court on August 1, 2018.

9. On August 24, October 1 and December 19, 2018, the Honourable Judge Silverstein granted or entered the Foreign Orders (as defined below) in the US Proceedings, as applicable, the details of which are reviewed in the Affidavit of Paul Kosturos sworn December 19, 2018 (the “**Fifth Kosturos Affidavit**”), a summary of which is set out below.

10. Rockport Blocker has brought this motion for an Order substantially in the form of the draft Order attached at Tab 3 of the Motion Record, *inter alia*, recognizing and enforcing the following orders made by the U.S. Bankruptcy Court (the “**Foreign Orders**”):

- (a) an order, *inter alia*, authorizing the Debtors to amend the caption used in the US proceedings to reflect the change of the Debtors' corporate names (the "**Case Caption Change Order**");
 - (b) an order, *inter alia*, approving the rejection of contracts listed on Exhibit 1 thereto, including any amendments, modifications, addenda, schedules or exhibits thereto, not assumed and assigned to CB Marathon Opco, LLC ("**Marathon**") pursuant to the Sale Order (as defined in the Order of Justice McEwen dated July 20, 2018) (the "**Omnibus Contract Rejection Order**"); and
 - (c) an order, *inter alia*, (i) confirming the Debtors' joint plan of liquidation pursuant to Chapter 11 of the United States Bankruptcy Code as filed with the United States Bankruptcy Court for the District of Delaware (the "**US Court**") on September 21, 2018, as filed in revised form with the US Court on October 16, 2018, as filed in further revised form with the US Court on December 17, 2018 and as filed in further revised form with the US Court on December 19, 2018 (including all amendments, modifications and supplements, the "**Plan**"), and (ii) approving the Debtors' disclosure statement in respect of the Plan (the "**Confirmation Order**").
11. Any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Fifth Kosturos Affidavit.

PART II - FACTS

12. The relevant facts in connection with this Motion are more fully set out in the Fifth Kosturos Affidavit.

PART III - THE ISSUE

13. Should this Court grant the motion of the Companies for an order, among other things, recognizing the Case Caption Change Order and the Omnibus Contract Rejection Order and recognizing and implementing the Confirmation Order and the Plan in Canada?

PART IV - THE LAW

Purpose of Part IV of the CCAA

14. The CCAA is remedial and flexible legislation that is to be given a liberal interpretation to facilitate its objectives.

Re Babcock & Wilcox Canada Ltd., 2000 CarswellOnt 704 (S.C.J.) at paras 11 and 13, Brief of Authorities, Tab 1 [*Babcock*].

15. Section 18.6 was added to the CCAA in 1997 in order to provide a mechanism to facilitate and co-ordinate international insolvencies in an effective and fair manner. In 2009, Part IV of the CCAA was proclaimed into force as a replacement to section 18.6.

Babcock at para 12.

16. The purpose of Part IV of the CCAA is set out in section 44, which provides as follows:

The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and to promote:

- (a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;
- (b) greater legal certainty for trade and investment;
- (c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;
- (d) the protection and the maximization of the value of a debtor company's property; and
- (e) the rescue of financially troubled businesses to protect investment and preserve employment.

CCAA, s. 44, Schedule "B".

17. In considering applications for relief under the former section 18.6 of the CCAA, Courts recognized that in the context of cross-border insolvencies, comity is to be encouraged. Efforts are made to complement, coordinate, and where appropriate, accommodate

insolvency proceedings commenced in foreign jurisdictions. It is submitted that this principle should also apply to applications made under Part IV of the CCAA, as section 44 expressly reflects that this is the purpose of Part IV.

Re Lear Canada (2009), 2009 CarswellOnt 4232 (S.C.J. [Commercial List]) at para 11, Brief of Authorities, Tab 2.

18. The objective of cross-border coordination is to ensure that creditors are treated as equitably and fairly as possible, wherever they are located. Harmonizing insolvency proceedings in the U.S. and in Canada creates the most stable conditions under which a successful reorganization can occur. Where a cross-border insolvency is most closely connected to one jurisdiction, it is appropriate for the Court in that jurisdiction to exercise principal control over the insolvency process in light of the principles of comity and in order to avoid a multiplicity of proceedings.

Re Matlack Inc. (2001), 2001 CarswellOnt 1830 (S.C.J. [Commercial List]) at paras 3 and 8, Brief of Authorities, Tab 3.

Recognition of the Case Caption Change Order and the Omnibus Contract Rejection Order and Implementation of the Confirmation Order and the Plan in Canada

19. The Debtors are debtor companies in the Chapter 11 Proceedings. The Chapter 11 Proceedings have been recognized by this Court under Part IV of the CCAA as a “foreign main proceeding”. Rockport Blocker has also been recognized by this Court as a foreign representative.
20. Pursuant to section 49 of the CCAA, if an order recognizing a foreign proceeding is made, as is the case in this proceeding, the Court may, on application by the foreign representative, make any order that it considers appropriate if the Court is satisfied that it is necessary for the protection of the debtor company’s property or the interests of a creditor or creditors.

CCAA, s. 49, Schedule “B”.

21. Pursuant to section 50 of the CCAA, the Court is given a broad discretion to make an order under Part IV on any terms and conditions that the Court considers appropriate in the circumstances.

CCAA, s. 50, Schedule "B".

22. Pursuant to section 52 of the CCAA, the Court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding. Cooperation may be provided by any appropriate means, including the coordination of the administration and supervision of the debtor company's assets and affairs.

CCAA, s. 52, Schedule "B".

23. Pursuant to section 61 of the CCAA, the Court has the authority to apply any legal or equitable rules governing the recognition of foreign insolvency orders and assistance to foreign representatives that are not inconsistent with the provisions of the CCAA. The Court maintains the discretion to refuse to do something that would be contrary to public policy.

CCAA, s. 61, Schedule "B".

24. In the context of cross-border proceedings and in the interests of comity and cooperation between the courts of Canada and the U.S., Ontario courts have regularly made orders under Part IV of the CCAA recognizing and giving full force and effect to orders of U.S. courts confirming plans of reorganization, and to Chapter 11 plans.

Recognition Order of Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) dated February 21, 2017, Application of Modular Space Corporation, Court File No. 16-11656-00CL, Brief of Authorities, Tab 4.

Recognition Order of Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) dated February 17, 2012, Application of Terrestar Networks Inc. et al, Court File No. 10-CL-8944- 00CL, Brief of Authorities, Tab 5.

Recognition Order of Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) dated November 3, 2010, In the Matter of Chemtura Canada Co./CIE, Court File No. 10-CL-8846-00CL, Brief of Authorities, Tab 6.

Order of Mr. Justice Campbell of the Ontario Superior Court of Justice (Commercial List) dated May 11, 2010, Application of TLC Vision Corporation et al, Court File No. 09-8515-00CL, Brief of Authorities, Tab 7.

Order of Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) dated September 28, 2012, Application of Durabla Canada Ltd. et al, Court File No. 12-9762-00CL, Brief of Authorities, Tab 8.

25. In considering whether it is appropriate to recognize and give full force and effect in Canada to a Chapter 11 plan and to orders of U.S. courts confirming plans of reorganization in the context of cross-border insolvency proceedings, Canadian courts have considered:
- (a) whether the Plan is critical to the restructuring of the debtor companies as a global corporate unit;
 - (b) the level of support amongst creditors for the Plan;
 - (c) whether the stakeholders of the debtors have been subject to a single, standard and well established claims process that treats them equally regardless of jurisdiction; and
 - (d) whether ample notice has been given of the existence of the US Proceedings and ancillary Canadian proceedings.

Re Xerium Technologies Inc. (2010), 2010 CarswellOnt 7712 (S.C.J. [Commercial List]) at para 27, Brief of Authorities, Tab 9.

Re Laidlaw (2003), 2003 CarswellOnt 787 (S.C.J.) at para 5, Brief of Authorities, Tab 10.

26. On September 21, 2018, the Debtors filed the Plan, and on October 16, 2018, the Debtors filed an updated version of the Plan with the US Court. On November 9, 2018, the Debtors filed a supplement to the Plan with the US Court. On December 17, 2018, the Debtors filed a further revised version of the Plan with the US Court. On December 19, 2018, the Debtors filed a further revised version of the Plan with the US Court. The Debtors spent a considerable amount of time negotiating a Plan with its stakeholders.

Fifth Kosturos Affidavit, para 35.

27. The Plan contemplates the creation of a trust established on the Effective Date as described in Section VIII of the Plan and in accordance with the Liquidating Trust Agreement (the “**Liquidating Trust**”) from which, under the terms of the Plan and the Liquidating Trust Agreement, Distributions shall be made for the benefit of Holders of Allowed Claims against the US Debtors.

Fifth Kosturos Affidavit, para 37.

28. The Plan also contemplates the establishment of a fund under the Plan (the “**Rockport Canada Fund**”) to be funded with (i) \$6,007,000 (“**Rockport Canada Cash**”), (ii) the net proceeds of any and all Causes of Action (except Causes of Action that constitute Acquired Assets and any claims or Causes of Action against Released Parties), related to Rockport Canada or a creditor of Rockport Canada which shall be assigned, transferred, and vest in Rockport Canada upon the Effective Date in accordance with the terms of the Plan (the “**Rockport Canada Litigation Claims**” and the net proceeds of such claims, the “**Rockport Canada Litigation Proceeds**”), and (iii) the proceeds of any Insurance Policies with respect to Rockport Canada from which, under the terms of the Plan and the Rockport Canada Plan Administrator Agreement, Distributions shall be made for the benefit of Holders of Allowed Claims against Rockport Canada.

Fifth Kosturos Affidavit, para 38.

29. The Debtors, the Information Officer and the Prepetition Noteholders have also reached an agreement regarding an appropriate allocation of the remaining Sale Proceeds (the “**Sale Proceeds**”) as between the US Debtors and Rockport Canada, the details of which are set out in the Plan. This agreement is the product of numerous settlement discussions between the parties and their respective advisors. During these discussions, the parties exchanged details information regarding the value of Rockport Canada’s assets, potential claims against Rockport Canada and projected recoveries for the Holders of Allowed Rockport Canada General Unsecured Claims (and the US Debtors on account of their intercompany claims against Rockport Canada). The Debtors, the Information Officer and the Prepetition Noteholders ultimately arrived at an agreed allocation of the Sale Proceeds as between the US Debtors and Rockport Canada that the Debtors believe is fair, reasonable and in the best interests of the Debtors’ estates. The Information Officer has agreed that, as a result of this settlement, it (i) has no objection to, and fully supports, confirmation of the Plan, and (ii) will recommend to this Court that the Confirmation Order (approving the Plan and the settlement) be recognized in these proceedings.

Fifth Kosturos Affidavit, para 39.

30. The Foreign Orders and the Plan are important steps in the reorganization of the Companies. The recognition of the Case Caption Change Order and the Omnibus Contract Rejection Order and the recognition and implementation of the Confirmation Order and the Plan by this Court will facilitate the completion of this restructuring on a global basis and allow stakeholders to be treated equitably regardless of the jurisdiction in which they reside.
31. This Court has the discretion to recognize, implement and give full force and effect to the Confirmation Order and the Plan under Part IV of the CCAA. The Court has previously exercised such discretion to recognize other orders granted in the US Proceedings in these proceedings, and the Companies respectively request that such discretion be exercised once again to recognize the Confirmation Order and the Plan, as granting such an order:
- (a) provides for a fair and efficient administration of the US proceedings and these proceedings that protects the interests of the Debtors' creditors and other interested persons;
 - (b) protects and maximizes the value of the property of the Debtors for the benefit of the Debtors' stakeholders;
 - (c) provides for coordination of the administration and supervision of the Debtors' assets and affairs; and
 - (d) is consistent with the principles of the CCAA and the common law and not contrary to public policy.

Recognition and Implementation of Provisions in the Plan in Canada

32. The Plan provides for releases in favour of the Released Parties, upon implementation of the Plan. Rockport Blocker submits that this Court has the discretion to approve and give effect to a Plan that contains such release provisions.
33. In *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, the Ontario Court of Appeal considered whether courts have jurisdiction to sanction a CCAA plan containing releases in favour of third parties, notwithstanding that the CCAA does not

expressly contemplate granting such releases. The Ontario Court of Appeal held that the court has jurisdiction under the CCAA to approve a plan that includes third party releases, and listed the following factors to be considered in determining whether to approve third-party releases:

- (a) the parties to be released are necessary and essential to the restructuring of the debtor;
- (b) the claims to be released are rationally related to the purpose of the Plan and are necessary for it;
- (c) the Plan cannot succeed without the releases;
- (d) the parties who are to have claims against them released are contributing in a tangible and realistic way to the Plan;
- (e) the Plan will benefit not only the debtor companies but creditors generally;
- (f) the voting creditors who have approved the Plan did so with knowledge of the nature and effect of the releases; and that,
- (g) the releases are fair and reasonable and not overly broad or offensive to public policy.

ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp. (2008), 2008 CarswellOnt 4811 (C.A.) at para 113, Brief of Authorities, Tab 11.

34. The above are not mandatory criteria and no individual factor is determinative of the issue of approval of a release.

Kitchener Frame Ltd., Re (2012), 86 CBR (5th) 274 at para 82 (Ont. Sup Ct. J.), Brief of Authorities, Tab 12.

35. In *Re Muscletech Research & Developments Inc.*, Justice Ground of the Ontario Superior Court of Justice (Commercial List) approved releases in favour of third parties, including insurers who were funding the proposed plan of compromise that provided for a global resolution of a large number of product liability cases. In *Re Angiotech Pharmaceuticals*

Inc., Justice Walker of the British Columbia Supreme Court sanctioned a plan that contained a release in favour of a third party on the basis that:

...the proposed release contained in the plan is rationally connected to the purpose of the plan, it is necessary for the implementation of the plan, and it meets the tests ...The creditors who are protected by the release were instrumental in facilitating the reorganization of the petitioners' affairs...

Re Muscletech Research & Developments Inc. (2007), 2007 CarswellOnt 1029 (S.C.J. [Commercial List]) at paras 23-27, Brief of Authorities, Tab 13.

Re Angiotech Pharmaceuticals Inc. (2011), 2011 CarswellBC 841 (S.C.) at paras 12-13, Brief of Authorities, Tab 14.

36. In *Re Canwest Global Communications*, Justice Pepall of the Ontario Superior Court of Justice (Commercial List) considered a CCAA plan that contained a third party release. Justice Pepall sanctioned the CCAA plan, on the basis that:

The release of claims is rationally connected to the overall purpose of the Plan and full disclosure of the releases was made in the Plan, the information circular, the motion material served in connection with the Meeting Order and on this motion. No one has appeared to oppose the sanction of the Plan that contains these releases and they are considered by the Monitor to be fair and reasonable.

Re Canwest Global Communications (2010), 2010 CarswellOnt 5510 (S.C.J. [Commercial List]) at para 30, Brief of Authorities, Tab 15.

37. The Debtors respectfully submit that the Plan, including the releases, exculpations and injunctions, should be recognized, implemented and given full effect in Canada, as the releases and injunctions in favour of the Released Parties satisfy the common law tests set out above, as:

- (a) the Released Parties are necessary and essential to the restructuring of the Debtors;
- (b) the claims to be released are rationally related to the purpose of the Plan and necessary for it;
- (c) the Plan cannot succeed without the releases, as they were a component of the agreement reached that resulted in the Released Parties providing support to the Debtors;

- (d) the Released Parties contributed in a tangible and realistic way to the Plan by providing, among other things, support to the Debtors;
 - (e) the Plan will benefit not only the Debtors, but creditors generally, as it likely provides for greater recovery for the claimants than otherwise would have been possible;
 - (f) the voting creditors who have approved the Plan did so with knowledge of the nature and effect of the releases; and
 - (g) the releases are fair and reasonable and not overly broad or offensive to public policy.
38. The releases, exculpations and injunctions provided for in the Plan are integral to the framework of compromises in the Plan and are fair and reasonable in the circumstances. In the absence of the releases, the Debtors would not expect to have been able to achieve the support from its stakeholders that now exists in favour of the Plan. The Debtors are not aware of any objections to the releases provided for in the Plan.
39. The Information Officer supports the relief sought by the Debtors. Accordingly, it is submitted that it is appropriate for the Court to recognize the Confirmation Order and the releases, exculpations and injunctions provided for in the Plan.

PART V - ORDER REQUESTED

40. Rockport Blocker requests that this Court grant the Order in the form included at Tab 3 of the Motion Record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 19th day of December, 2018.

R. JAIPARGAS / A. MACFARLANE / E. FERREIRA
Roger Jaipargas / Alex MacFarlane / Evita Ferreira

Lawyers for Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG 1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, The Rockport Company, LLC, Drydock Footwear, LLC, DD Management Services LLC and Rockport Canada ULC

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Re Babcock & Wilcox Canada Ltd.*, 2000 CarswellOnt 704 (S.C.J.)
2. *Re Lear Canada* (2009), 2009 CarswellOnt 4232 (S.C.J. [Commercial List])
3. *Re Matlack Inc.* (2001), 2001 CarswellOnt 1830 (S.C.J. [Commercial List])
4. *Application of Modular Space Corporation*, Court File No. 16-11656-00CL, Recognition Order of Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) dated February 21, 2017
5. *Application of Terrestar Networks Inc. et al*, Court File No. 10-CL-8944-00CL, Recognition Order of Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) dated February 17, 2012
6. *In the Matter of Chemtura Canada Co./CIE*, Court File No. 10-CL-8846-00CL, Recognition Order of Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) dated November 3, 2010
7. *Application of TLC Vision Corporation et al*, Court File No. 09-8515-00CL, Order of Mr. Justice Campbell of the Ontario Superior Court of Justice (Commercial List) dated May 11, 2010
8. *Application of Durabla Canada Ltd. et al*, Court File No. 12-9762-00CL, Order of Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) dated September 28, 2012
9. *Re Xerium Technologies Inc.* (2010), 2010 CarswellOnt 7712 (S.C.J. [Commercial List])
10. *Re Laidlaw* (2003), 2003 CarswellOnt 787 (S.C.J.)
11. *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.* (2008), 2008 CarswellOnt 4811 (C.A.)
12. *Kitchener Frame Ltd., Re* (2012), 86 CBR (5th) 274 at para 82 (Ont. S.C.J.)
13. *Re Muscletech Research & Developments Inc.* (2007), 2007 CarswellOnt 1029 (S.C.J. [Commercial List])
14. *Re Angiotech Pharmaceuticals Inc.* (2011), 2011 CarswellBC 841 (S.C.)

15. *Re Canwest Global Communications* (2010), 2010 CarswellOnt 5510 (S.C.J. [Commercial List])

SCHEDULE "B"

STATUTES

Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended.

PART IV

CROSS-BORDER INSOLVENCIES

Purpose

44. The purpose of this Part is to provide mechanisms for dealing with cases of cross-border insolvencies and to promote

- (a) cooperation between the courts and other competent authorities in Canada with those of foreign jurisdictions in cases of cross-border insolvencies;
- (b) greater legal certainty for trade and investment;
- (c) the fair and efficient administration of cross-border insolvencies that protects the interests of creditors and other interested persons, and those of debtor companies;
- (d) the protection and the maximization of the value of debtor company's property; and
- (e) the rescue of financially troubled businesses to protect investment and preserve employment.

Interpretation Definitions

45. (1) The following definitions apply in this Part.

"foreign court" means a judicial or other authority competent to control or supervise a foreign proceeding.

"foreign main proceeding" means a foreign proceeding in a jurisdiction where the debtor company has the centre of its main interests.

"foreign non-main proceeding" means a foreign proceeding, other than a foreign main proceeding.

"foreign proceeding" means a judicial or an administrative proceeding, including an interim proceeding, in a jurisdiction outside Canada dealing with creditors' collective interests generally under any law relating to bankruptcy or insolvency in which a debtor company's business and financial affairs are subject to control or supervision by a foreign court for the purpose of reorganization.

“foreign representative” means a person or body, including one appointed on an interim basis, who is authorized, in a foreign proceeding respect of a debtor company, to

- (a) monitor the debtor company’s business and financial affairs for the purpose of reorganization; or
- (b) act as a representative in respect of the foreign proceeding.

Centre of debtor company’s main interests

(2) For the purposes of this Part, in the absence of proof to the contrary, a debtor company’s registered office is deemed to be the centre of its main interests.

Recognition of Foreign Proceeding

Application for recognition of a foreign proceeding

46. (1) A foreign representative may apply to the court for recognition of the foreign proceeding in respect of which he or she is a foreign representative.

Documents that must accompany application

- (2) Subject to subsection (3), the application must be accompanied by
 - (a) a certified copy of the instrument, however designated, that commenced the foreign proceeding or a certificate from the foreign court affirming the existence of the foreign proceeding;
 - (b) a certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative’s authority to act in that capacity; and
 - (c) a statement identifying all foreign proceedings in respect of the debtor company that are known to the foreign representative.

Documents may be considered as proof

(3) The court may, without further proof, accept the documents referred to in paragraphs (2)(a) and (b) as evidence that the proceeding to which they relate is a foreign proceeding and that the applicant is a foreign representative in respect of the foreign proceeding.

Other evidence

(4) In the absence of the documents referred to in paragraphs (2)(a) and (b), the court may accept any other evidence of the existence of the foreign proceeding and of the foreign representative’s authority that it considers appropriate.

Translation

(5) The court may require a translation of any document accompanying the application.

Order recognizing foreign proceeding

47. (1) If the court is satisfied that the application for the recognition of a foreign proceeding relates to a foreign proceeding and that the applicant is a foreign representative in respect of that foreign proceeding, the court shall make an order recognizing the foreign proceeding.

Nature of foreign proceeding to be specified

(2) The court shall specify in the order whether the foreign proceeding is a foreign main proceeding or a foreign non-main proceeding.

Order relating to recognition of a foreign main proceeding

48. (1) Subject to subsections (2) to (4), on the making of an order recognizing a foreign proceeding that is specified to be a foreign main proceeding, the court shall make an order, subject to any terms and conditions it considers appropriate,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken against the debtor company under the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act;
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the debtor company;
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the debtor company; and
- (d) prohibiting the debtor company from selling or otherwise disposing of, outside the ordinary course of its business, any of the debtor company's property in Canada that relates to the business and prohibiting the debtor company from selling or otherwise disposing of any of its other property in Canada.

Scope of order

(2) The order made under subsection (1) must be consistent with any order that may be made under this Act.

When subsection (1) does not apply

(3) Subsection (1) does not apply if any proceedings under this Act have been commenced in respect of the debtor company at the time the order recognizing the foreign proceeding is made.

Application of this and other Acts

(4) Nothing in subsection (1) precludes the debtor company from commencing or continuing proceedings under this Act, the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act in respect of the debtor company.

Other orders

49. (1) If an order recognizing a foreign proceeding is made, the court may, on application by the foreign representative who applied for the order, if the court is satisfied that it is necessary for the protection of the debtor company's property or the interests of a creditor or creditors, make any order that it considers appropriate, including an order

- (a) if the foreign proceeding is a foreign non-main proceeding, referred to in subsection 48(1);
- (b) respecting the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor company's property, business and financial affairs, debts, liabilities and obligations; and
- (c) authorizing the foreign representative to monitor the debtor company's business and financial affairs in Canada for the purpose of reorganization.

Restriction

(2) If any proceedings under this Act have been commenced in respect of the debtor company at the time an order recognizing the foreign proceeding is made, an order made under subsection (1) must be consistent with any order that may be made in any proceedings under this Act.

Application of this and other Acts

(3) The making of an order under paragraph (1)(a) does not preclude the commencement or the continuation of proceedings under this Act, the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act in respect of the debtor company.

Terms and conditions of orders

50. An order under this Part may be made on any terms and conditions that the court considers appropriate in the circumstances.

Commencement or continuation of proceedings

51. If an order is made recognizing a foreign proceeding, the foreign representative may commence and continue proceedings under this Act in respect of a debtor company as if the foreign representative were a creditor of the debtor company, or the debtor company, as the case may be.

Obligations

Cooperation - court

52. (1) If an order recognizing a foreign proceeding is made, the court shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Cooperation - other authorities in Canada

(2) If any proceedings under this Act have been commenced in respect of a debtor company and an order recognizing a foreign proceeding is made in respect of the debtor company, every person who exercises powers or performs duties and functions under the proceedings under this Act shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.

Forms of cooperation

(3) For the purpose of this section, cooperation may be provided by any appropriate means, including

- (a) the appointment of a person to act at the direction of the court;
- (b) the communication of information by any means considered appropriate by the court;
- (c) the coordination of the administration and supervision of the debtor company's assets and affairs;
- (d) the approval or implementation by courts of agreements concerning the coordination of proceedings; and
- (e) the coordination of concurrent proceedings regarding the same debtor company.

Court not prevented from applying certain rules

61. (1) Nothing in this Part prevents the court, on the application of a foreign representative or any other interested person, from applying any legal or equitable rules governing the recognition of foreign insolvency orders and assistance to foreign representatives that are not inconsistent with the provisions of this Act.

Public policy exception

(2) Nothing in this Part prevents the court from refusing to do something that would be contrary to public policy.

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG
INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK
FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

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