CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
Court No: 500-11-057805-208
500-11-057804-201
Estate No: 41-2607510
41-2607508

S U P E R I O R C O U R T
(Commercial Division)
Bankruptcy and Insolvency Act

IN THE MATTER OF THE AMENDED PROPOSAL OF:

FREEMARK APPAREL BRANDS RETAIL BE INC.

And

FREEMARK APPAREL BRANDS GROUP INC.
legal person duly incorporated under the laws of Canada, having its registered office at 5640 Pare Street, Mount Royal, Quebec, H3B 1M1

Debtors

-and-

RICHTER ADVISORY GROUP INC.

Trustee

REPORT OF THE TRUSTEE ON THE FINANCIAL SITUATION OF THE DEBTORS AND ON THE AMENDED PROPOSAL
(Sections 50(5) and 50(10)(b) of the *Bankruptcy and Insolvency Act*)

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1. The purpose of the Meeting of Creditors is to consider the amended proposal filed on February 10, 2021 (hereinafter the "**Amended Proposal**") by Freemark Apparel Brands Retail BE Inc. and Freemark Apparel Brands Group Inc. (the "**Debtors**" or the "**Company**").

2. Pursuant to Sections 50(5) and 50(10)(b) of the *Bankruptcy and Insolvency Act* (the "**Act**"), and in order to assist the ordinary unsecured creditors (hereinafter the "**Unsecured Creditors**") in considering the Amended Proposal (as defined below), the Trustee is hereby submitting its report on the financial situation of the Debtors and on the Amended Proposal.

3. All the capitalized terms that are not otherwise defined herein shall have the meaning ascribed thereto in the Amended Proposal.

4. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

INTRODUCTION

5. On January 21, 2020, the Debtors filed a Notice of Intention to Make a Proposal (the "**NOI**"), the whole as appears in the documents filed in the court record.

6. On January 21, 2020, documents were sent by regular mail to all creditors of the Debtors, as identified by it, which included a copy of the Debtors' NOI, the whole as appears in the documents filed in the court records.

7. Prior to filing the NOI, this Court authorized Richter to act as trustee to the NOI. Such an authorization was required as an entity related to Richter acts as the auditor for the Debtors.

8. On or around January 27, 2020, the Debtors filed a Motion for the Issuance of an Order Authorizing a Liquidation Sale and Approving Ancillary Relief ("**Liquidation Motion**"). An order was rendered on January 31, 2020 approving the Liquidation Motion (the "**Liquidation Order**").

9. On January 27, 2020, the Proposal Trustee filed its First Report in support of the Liquidation Motion ("**First Report**").

10. On February 17, 2020, the Debtors filed the First Motion for the Extension of the Delay to File a Proposal (the "**First Extension Motion**"). On February 17, 2020, the Proposal Trustee filed its Second Report in support of the First Extension Motion ("**Second Report**"). The First Extension Motion was granted on February 20, 2020 providing an extension until April 3, 2020.

11. On March 23, 2020, the Debtors filed the Motion for the Issuance of an Order Approving a Transaction and Ordering the Assignment of Agreements (the "**Transaction Motion**"). On March 23, 2020, the Proposal Trustee filed its Third Report in support of the Transaction Motion ("**Third Report**"). The Transaction Motion was granted on March 27, 2020. The Transaction closed on March 30, 2020.

12. On March 30, 2020, the Debtors filed the Second Motion for the Extension of the Delay to File a Proposal (the "**Second Extension Motion**"). On March 30, 2020, the Proposal Trustee filed its Fourth Report in support of the Second Extension Motion ("**Fourth Report**"). The Second Extension Motion was granted on April 3, 2020.

13. On May 8, 2020, the Debtors filed the Third Motion for the Extension of the Delay to File a Proposal (the "**Third Extension Motion**"). On May 8, 2020, the Proposal Trustee filed its Fifth Report in support of the Third Extension Motion ("**Fifth Report**"). The Third Extension Motion was granted on May 14, 2020.

14. On June 27, 2020, the Debtors filed the Fourth Motion for the Extension of the Delay to File a Proposal (the "**Fourth Extension Motion**"). On June 27, 2020, the Proposal Trustee filed its Sixth Report in support of the Fourth Extension Motion ("**Sixth Report**"). The Fourth Extension Motion was granted on June 29, 2020.

15. On July 21, 2020, the Debtors filed a joint proposal ("**Holding Proposal**") to their creditors which provided the Debtors with up to six (6) months to continue discussions with their insurance provider and look for other sources of funding to enable them to file an Amended Proposal to be voted on by the Unsecured Creditors. On August 11, 2020, the creditors voted to adjourn the meeting of creditors for up to six months.

16. This report summarizes the relevant information and key elements that may assist the Unsecured Creditors in evaluating the Debtors' affairs and the Amended Proposal, presented as follows:

    a) Overview of the Debtors
    b) Causes of Insolvency
    c) Post-filing operations
    d) Transaction with 11951432 Canada Inc.
    e) Treatment of unsold inventory / receivables
    f) Financial Information
    g) Amended Proposal
    h) Estimated Distribution to the Unsecured Creditors
    i) Trustee's Conclusion and Recommendation

17. All prior reports of the Trustee have been filed in the court record and can be found on the Trustee's website at: https://www.richter.ca/insolvencycase/freemark-apparel/

OVERVIEW OF THE DEBTORS

18. The Debtors were retailers of branded apparel. The Debtors conducted their operations through a chain of 25 retail stores (throughout Canada) and through an e-commerce site. The Debtors also sold to a variety of customers including Costco, the Bay, Winners and other retailers. All stores were closed on March 19, 2020 as a result of the coronavirus and the related pandemic.

19. The Debtors' head office, warehouse and distribution center were all located in Montreal in locations leased from third parties.

20. Prior to the filing of the NOIs, the Debtors employed approximately 338 people. As a result of the store closures on March 19, 2020, and the completion of the Transaction as described below, all employees have been terminated. There are no ongoing operations other than the liquidation of Remaining Inventory as more fully described below.

CAUSES OF INSOLVENCY

21. The NOIs were filed in a context where the Debtors suffered significant losses over the past two years attributed to a variety of factors including:

    a) Extremely competitive retail market;

    b) Lower than forecast margins with certain wholesale customers including as a result of unbudgeted chargebacks from certain customers; and

    c) Overhead structure not in line with the level of operations.

POST-FILING OPERATIONS

22. Subsequent to the filing of the NOIs, the Debtors determined that their strategy was to close the retail operations and focus on wholesale and e-commerce operations. We summarize the next steps as follows:

Retail Operations

23. The Debtors commenced the liquidation of inventory in all of its retail locations. The initial plan was for the Debtors to complete the closure of all retail locations by the end of April 2020 while working on a plan to continue the wholesale and e-commerce operations.

24. As a result of the impact of the coronavirus and its related pandemic, and similar to many other retailers, the Debtors closed all of their retail locations effective March 19, 2020. Governmental sanitary measures were preventing the Debtors to operate their stores.

25. On March 20, 2020, the Debtors issued notices of disclaimer for all of their retail locations pursuant to subsection 65.2 of the BIA and vacated all of the store locations. None of the disclaimers were contested.

Wholesale and E-Commerce Operations

26. On March 23, 2020, the Debtors issued a notice of disclaimer pursuant to subsection 65.2 of the BIA in respect of the Montreal warehouse. The Debtors continued servicing its customers in the ordinary course of business up until April 26, 2020, including fulfilling e-commerce orders and certain wholesale orders which were excluded from the Transaction (as defined below). The Debtors vacated the distribution center on April 23, 2020.

27. On March 30, 2020, a notice of disclaimer was issued for the head office location located in Montreal. The purchaser of the assets pursuant to the Transaction (as defined below) is occupying the head office premises based upon an agreement with the landlord.

TRANSACTION WITH 11951432 CANADA INC.

28. As noted in the Third Report, the Debtors, with the assistance of the Proposal Trustee, launched a SISP on February 7, 2020 in respect of (i) certain intellectual property held by a wholly-owned subsidiary of FAB Wholesale (the "**Bench Americas IP**"); (ii) the current wholesale order book owned by FAB Wholesale, and (iii) the rights held by FAB Wholesale to exercise an option to purchase certain intellectual property owned by an affiliate of GBB in respect of licenses relating to the Bench brand for those territories not included in the Bench Americas IP (the "**Bench ROW IP**").

29. Only one offer was received by the March 13, 2020 deadline, being an offer from 11951432 Canada Inc. (the "**Purchaser**" or "**FABI**"), an entity related to the Debtors. Richter, in consultation with Accord Financial Inc. ("**Accord**"), determined that the offer submitted by the Purchaser (the "**Transaction**") was in the best interest of the Debtors' stakeholders.

30. The Transaction was approved by the Court on March 27, 2020 and closed on March 30, 2020.

31. In addition to the assets acquired pursuant to the Transaction, the Purchaser also acquired a limited amount of inventory of the Debtors.

TREATMENT OF UNSOLD INVENTORY / RECEIVABLES

a) <u>Inventory</u>

32. Following the issuance of the notices of disclaimer, all of the unsold retail inventory and unsold wholesale inventory (collectively the "**Remaining Inventory**"), a total of approximately 256,000 units with an estimated net book value of approximately $3.8 million were moved by Continental, as defined below, to a temporary warehouse in the greater Montreal area. Accord was in agreement with this decision.

33. As a result of the closure of all of the Debtors' retail locations and the cessation of operations, and due to the ongoing impact of Covid-19, the Debtors determined that it would be preferable for the orderly liquidation of the Remaining Inventory to occur with the assistance of a liquidator. Accordingly, from May to December 2020 (the "**Period**"), Continental Auctioneers ("**Continental**") assisted the Debtors in the sale of the Remaining Inventory in liquidation centers operated by Continental.

34. During the Period, the Debtors (via Continental) liquidated approximately 116,000 units for net realization of approximately $1.2 million after taking into account the costs of the liquidation. The net proceeds of the liquidation were remitted to Accord, the Debtors operating lender who holds a first ranking security on the inventory of the Debtors. The liquidation of the Remaining Inventory was halted on December 24, 2020 due to government ordered lockdowns of non-essential retailers. As of December 24, 2020, there remained approximately 68,000 units of Remaining Inventory.

35. Due to uncertainty over the ongoing impact of Covid-19, the impact of government ordered lockdowns and the decreasing value of the remaining inventory (due to mix issues, seasonality issues, etc.) it was no longer feasible to continue liquidating the Remaining Inventory in liquidation centers run by Continental. Following consultations with Accord, the Debtors agreed to sell the balance of the remaining inventory to Continental for approximately $239,000 subject to obtaining court approval of this transaction and the proceeds being remitted to Accord who, as noted above, holds a first ranking charge on the inventory. The Trustee agrees with this course of action to maximize the value of the Remaining Inventory.

b) **Accounts Receivable**

36. The Debtors reported outstanding accounts receivable of $1 million as of the closure of the retail operations. During the wind-down period, the Debtors continued with the collection of accounts receivable, the proceeds of which were deposited into the Debtors' bank accounts and remitted to Accord who holds a first ranking charge on the receivables.

FINANCIAL INFORMATION

37. The following financial data is based upon unaudited financial information prepared by the Debtors, the Debtors' books and records, and discussions with the Debtors' representatives. The Trustee has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of such information. This information is submitted solely to assist the reader in assessing the financial position of the Debtors. The Trustee makes no representation or warranty as to the accuracy of said financial information.

38. Profit and Loss - as noted in the table below, the Debtors reported a combined net loss of $0.8 M for the 5 months ended November 2019 (the latest financial statement available) and $3.9 million for the 12 months ended June 2019. The Debtors' cumulative 24-month loss was approximately $12 million:

Freemark Apparel Brands Group of Companies Combined Income Statement in $000's	**5 months 30-Nov-19 (Unaudited)**	**12 months ended 30-Jun-19 (Unaudited)**	**12 months ended 01-Jul-18 (Audited)**
Net Sales	$ 54,240	$ 80,536	$ 49,950
Gross Margin	11,704	27,530	22,120
Operating Expenses	(12,529)	(27,193)	(28,910)
Earnings (Loss) from Operations	(824)	337	(6,790)
Other Expenses	-	(4,265)	(1,317)
Net Loss	**$ (824)**	**$ (3,928)**	**$ (8,108)**

39. The following table summarizes the Debtors' November 30, 2019 balance sheet.

Freemark Apparel Brands Group of Companies Combined Income Statement in $000's	30-Nov-19 (Unaudited)
Assets	
Current	
Cash	$ (0)
Accounts receivable	8,276
Inventory	11,897
Prepaid expenses	2,022
Intercompany receivable	519
	22,714
Premises and equipment (net)	3,710
Deferred charges	11,414
	$ 37,838
Liabilities	
Current	
Bank indebtedness	$ 22,708
Accounts payable and accrued liabilities	5,996
Current portion of long-term debt	119
	28,823
Loans payable, companies controlled by the ultimate shareholders	14,686
IP loan	5,847
	49,356
Shareholders' equity	
Capital stock	6,125
Deficit	(17,643)
	(11,518)
Liabilities and shareholders' equity	**$ 37,838**

40. We have summarized the assets and liabilities of the Debtors as reported on the Debtors' Statement of Financial Affairs dated February 10, 2021:

a) Assets

As noted above, as of the filing of the Amended Proposal, the Debtors have liquidated all of their assets with the exception of the Remaining Inventory as summarized below:

Freemark Apparel Brands Group of Companies Combined Reported Assets as at February 10, 2021 in $000's	
Inventory	$ 239
Total Assets	**$ 239**

Inventory ($239K)

- Represents the estimated value to be realized from the sale of the Remaining Inventory owned by the Debtors.

b) Liabilities

Liabilities indicated below are based on the books and records of the Debtors, the Statement of Affairs as of February 10, 2021 and management's representations.

Freemark Apparel Brands Group of Companies **Combined Estimated Liabilities as at February 10, 2021** **in $000's**		
Secured Creditors	$	18,923
Preferred Creditors		90
Subsequent Claims		990
Related Creditors		-
Unsecured Creditors		
Trade Creditors		11,057
Landlord damages		3,468
Employees (severance)		748
		15,272
Total Liabilities	**$**	**35,276**

Secured Creditors ($18.9M)

- At the time of the filing of the NOIs, the Debtors' books and records reflected amounts owing to the following secured creditors:

    i. Accord – As of the filing of the NOIs, the Debtors owed $15.1 million to Accord in respect of the operating loan advances secured by a first ranking charge on inventory and receivables as well as various personal guarantees from the shareholders of the Debtors. Following the liquidation of inventory, the Transaction, the collection of receivables as well as the realization of personal guarantees, as of February 1, 2021, the operating loan advances have been reduced to approximately $4.2 million. Accord's secured claim will not be paid in full from the realization of the Debtors' assets nor from the realization on personal guarantees. As a result, approximately $4.0 million of Accord's claim has been classified as unsecured on the Statement of Affairs.

    ii. Freemark Apparel Holdings Inc. ("**FAHI**") – $14.7 million in respect of shareholder loans. FAHI is a second ranked secured lender behind Accord. FAHI's claim has been classified as unsecured on the Statement of Affairs.

Preferred Creditors (estimated at $0.1M)

- The Statement of Affairs reflects approximately $0.1 million of preferred claims representing proofs of claim filed by landlords. The Debtors do not believe these claims are correctly classified. The proofs of claim already filed, and any others that may be filed, will be reviewed if the Amended Proposal is accepted.

Subsequent Claims (estimated at $990K)

- To the knowledge of the Debtors, virtually all obligations incurred by the Debtors subsequent to the filing of the NOIs were paid by the Debtors post-filing except for certain post-filing sales taxes. The Debtors are in discussion with the taxing authorities regarding a potential resolution of this unpaid amount.

Unsecured Creditors (estimated at $15.3M)

- With regard to Unsecured Creditors, the Statements of Affair are based upon proofs of claim filed to date as well as including the amounts owing per the books and records of the Debtors. We summarize the amounts as follows:
  i. Trade creditors ($11.1M);
  ii. Landlords ($3.5M) consisting primarily of damages claimed in respect of resiliated leases; and
  iii. Employees ($748K) consisting of:
    a. $656K in respect of estimated amounts owing for pay in lieu of notice of termination or severance; and
    b. $92K in respect of unpaid vacation pay which will have a priority claim under Section 81.3 of the Act.

41. Proof of claim forms and Employee Claim Notices (where applicable) have been sent to all known creditors. However, at the present date, the Trustee is unable to determine if the Debtors' records are consistent with those of its creditors. Upon reception of the proofs of claim, the Trustee will review them and deal with any discrepancies for purposes of collocation of claims.

42. The Trustee cautions that these amounts may change as additional proofs of claims are filed and such changes may be significant.

AMENDED PROPOSAL

43. The Trustee notes that the following is only a summary of the terms of the Amended Proposal. Creditors are advised to read the Amended Proposal for complete details of the terms of the Amended Proposal.

44. On January 21, 2020, the Debtors filed a Notice of Intention. To facilitate the administration of the Notices of Intention, and due to the integrated nature of operations of the Debtors, the Court, on January 31, 2020 authorized the joint administration. In the same spirit and for the very same reason, the Debtors have jointly filed this Amended Proposal.

45. On July 20, 2020, the Companies filed a Holding Proposal designed to provide the Companies sufficient time to determine if a viable proposal could be filed. At the Creditors' Meeting held on August 11, 2020, the Creditors voted in favour of a resolution to adjourn the Creditors' Meeting for a period of up to six (6) months during which time the Companies intended to complete their discussions with the Director and Officer's insurers and look for other sources of funding in order to file an Amended Proposal to be voted on by the Creditors.

46. The Companies' discussions with the Director and Officer's insurers did not lead to an agreement on the funding of a viable Amended Proposal. However, FABI, a related party, is prepared to inject an aggregate amount of $400,000 (the "**Distribution Pool**"), upon the terms and conditions set out in this Amended Proposal, for the sole purpose of distributing said Distribution Pool to the Creditors should this Amended Proposal be duly accepted by the Creditors and approved by the Court.

47. The terms of the Amended Proposal provide that FABI will remit to the Proposal Trustee $85,000 within five (5) business days following the approval of the Amended Proposal by the Court. FABI shall remit to the Proposal Trustee no later than four (4) months after the Court approval an amount of $315,000.

48. The Distribution Pool shall be available for distribution in accordance with section 9 of the Amended Proposal.

49. The Amended Proposal applies only to Unsecured Claims, Preferred Claims (if any) and Employee Claims. For further clarity, the Amended Proposal does <u>not</u> apply to Secured Claims, nor to Subsequent Claims.

50. Amended Proposal Expenses (as defined in the Amended Proposal) shall be paid by the Companies in priority of all Preferred Claims and Unsecured Claims. For greater certainty, the Amended Proposal Expenses shall not be paid out of the Distribution Pool.

51. According to the terms of the Amended Proposal, the following amounts must be paid in priority from the Distribution Pool:

   a) Crown Claims, if any, will be paid in full within six (6) months after the Approval, or as may otherwise be arranged with the Crown. As noted above, the Debtors are discussing the treatment of unpaid post-filing sales taxes with the Crown;

b) Amounts owing to employees and former employees, that they would have been entitled to receive under Paragraph 136(1)(d) of the Act if the employer became bankrupt on the date of the filing of the Notices of Intention, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Approval, will be paid in full after the Approval as per the Act, as provided in Section 9 (a) of the Amended Proposal. For certainty, the amounts set forth in Section 4 (b) of the Amended Proposal shall be paid out of the Distribution Pool; and

c) Preferred Claims, as described in paragraph 136 the Act, being such claims directed by the Act to be paid in priority to all other claims in the distribution of the property of a bankrupt, excluding the employee claims noted in the b) above. Such Preferred Claims, if any, shall be paid in their entirety, without interest or penalty, in priority to Unsecured Claims within fifteen (15) days of the approval of the Amended Proposal by the Court. As noted above, certain landlords have filed proofs of claim in which they claim a preferred status in the amount of $0.1 million. The Debtors believe that these claims should rank as unsecured and that this category will be nil.

52. The remaining balance of the Distribution Pool, after payment of the above-noted priority claims, shall be used by the Proposal Trustee to make a payment to the Unsecured Creditors, which shall receive:

a) the lesser of: (i) the amount of the Proven Claim of such Unsecured Creditor and (ii) $1,000 (the "**First Level Distribution**") which amount, subject to paragraph c) below, shall be disbursed within 5 months after Approval;

b) an amount equal to such Unsecured Creditor's pro rata share, calculated on the basis of the remaining amount of its Proven Claim, of any amount remaining in the Distribution Pool after the distribution of all of the First Level Distribution amounts, and subject to paragraph c) below, to all Unsecured Creditors ("**Second Level Distribution**"). The Second Level Distribution will also be paid by the Trustee within 5 months after the Approval; and

c) the distributions referred to above shall be net of any amount to be set aside by the Trustee while Claims are being determined, litigated or for any disputed Claim. The Trustee shall use its best judgment in the determination of any amount which should be set aside, and for which period. Once all Claims have been settled or adjudicated with a final judgment, any amount set aside pursuant to this paragraph (c) shall be disbursed by the Trustee.

53. The Superintendent's Levy shall be withheld from each of the above-noted distributions in accordance with the provisions of the Act.

54. Subject to the terms of the Amended Proposal, each Unsecured Creditor with a Proven Claim equal to or less than $1,000 shall be deemed to have voted in favour of the Amended Proposal. Conditional upon approval of the Amended Proposal, FAHI waives and renounces to any right to prove its claim and to any dividend that could be payable to it under the Amended Proposal.

55. The Amended Proposal also provides for a compromise of claims against the Directors of the Debtors as well as any claims against FABI.

ESTIMATED DISTRIBUTION TO THE UNSECURED CREDITORS

56. In the event that the creditors reject the Amended Proposal, the Debtors will automatically be bankrupt. The following information serves to advise the creditors of the Proposal Trustee's estimate as to the distribution to creditors under the Amended Proposal in comparison to the estimated distribution under a bankruptcy scenario.

Amended Proposal

57. Based on the Claims reflected in the Debtors' Statements of Affairs, the amount of the Amended Proposal ($400,000) would be distributed as follows:

Freemark Apparel Brands Group of Companies Summary of Proposal in $000's	# of Creditors	Estimated Claims	Proposal Estimated Distribution	Recovery %
Secured Creditors		$ 18,923	$ -	0.0%
Preferred Creditors		90	-	0.0%
Subsequent Creditors		990	-	0.0%
Related Creditors		-	-	N/A
Unsecured Creditors				
Trade Claims	114	11,057	126	1.1%
Landlord Claims	25	3,468	34	1.0%
Employee Claims (Under 81.3)	262	92	92	100.0%
Employee Claims		656	148	22.6%
Total Unsecured Creditors	**401**	**15,273**	**400**	**2.6%**
Total		**$ 35,276**	**$ 400**	

58. It is estimated that the $400,000 Proposal would represent a 2.6% total recovery to Unsecured Creditors, based upon the estimated claims known to the Proposal Trustee. We caution that these amounts may change as proofs of claims are filed and such changes may be significant.

a) The Proposal would provide some level of recovery to an estimated 114 unsecured trade creditors, of which approximately 57 would receive in excess of 25% of their claim and 26 would be repaid in full;

b) 262 Employee Creditors, with total claims of approximately $748,000, would receive a total of approximately $240,000 (32% recovery). Of this group, 165 employees are expected to have their claims paid in full pursuant to the Amended Proposal. Employees have been sent individualized statements reflecting the amount owed to each employee and whether the amount owed is a secured claim pursuant to Section 81.3 of the Act or an unsecured claim in respect of termination pay.

Bankruptcy

59. As previously noted, based on the amount owing to the principal secured creditor, the Debtors' remaining assets will not yield any realization to permit a distribution to the Unsecured Creditors of the Debtors. In a bankruptcy scenario, the realization to Unsecured Creditors from the Debtors' estates would therefore be nil. Employees however can file a claim under the Wage Earners Protection Program ("**WEPPA**"). Pursuant to the WEPPA, employees will be paid in whole or in part depending on the circumstances of their claim.

Other considerations

60. Sections 95 to 101 of the Act will not be applicable to the Amended Proposal. The remedies pursuant to these provisions relate to the recovery of certain amounts under reviewable transactions, preferential treatments and asset disposals.

61. The Trustee is in the process of performing a cursory review of the transactions that occurred during the three-month period (with unrelated third parties) and 12-month period (for transactions with related parties), prior to the filing of the NOI. The Trustee will provide an update at the Meeting of Creditors on March 2, 2021 ("**Meeting**").

TRUSTEE'S CONCLUSION AND RECOMMENDATION

62. The Amended Proposal presented by the Debtors, which is funded directly by a related party, will provide recovery to the Unsecured Creditors of approximately 2.6%. Alternatively, given the fact that the Debtors have no remaining assets, there will be no dividend to Unsecured Creditors in the event of a bankruptcy of the Debtors with the exception of employees who will be entitled to file claims under the WEPPA.

63. The majority of Employee Creditors will receive the same amount under the Amended Proposal versus a bankruptcy. Notwithstanding that certain Employee Creditors are expected to realize a greater recovery in a bankruptcy scenario, through a claim under the WEPPA program, acceptance of the Debtors' Amended Proposal is in the best interest of the general body of Unsecured Creditors.

64. It must be noted that the Amended Proposal is conditional upon the Debtors reaching an agreement with the Crown regarding the payment of the Subsequent Claim in respect of post-filing sales taxes. An update will be provided at the Meeting.

65. Accordingly, the Trustee recommends that the Unsecured Creditors vote in favour of the Amended Proposal.

Respectfully submitted at Montreal, this 19th day of February 2021.

Richter Advisory Group Inc.
Trustee

Andrew Adessky, CPA, CA, CIRP, LIT