

Estate No. 31-1844971

**IN THE MATTER OF THE BANKRUPTCY OF  
INDU-COM COATINGS CORP.  
OF THE TOWN OF AURORA  
IN THE PROVINCE OF ONTARIO**

**TRUSTEE'S PRELIMINARY REPORT TO THE FIRST MEETING OF CREDITORS**  
**March 25, 2014**

**DISCLAIMER:**

*One of the underlying principles of the Bankruptcy and Insolvency Act, is that of creditors' control. The Act provides for a First Meeting of Creditors to discuss the collective interest of the creditors in the administration of the bankrupt's estate.*

*The purpose of the First Meeting of Creditors is to consider the affairs of the bankrupt, affirm the appointment of the Trustee (or substitution of same), appointment of 1-5 inspectors and to give further direction to the Trustee as may be necessary.*

*In preparing this report and making the comments herein, The Trustee has been provided with, and has relied upon certain unaudited, draft and/or internal financial information, the Debtor's books and records, discussion with management of the Debtor's company, and information from third party sources, being the Debtor's Accountant and or Book-keeper, collectively ("the Information"). Except as described in this Report:*

- a) *The Trustee has not audited, reviewed or otherwise attempted to verify the accuracy of completeness of the Information in a matter that would wholly or partially comply with the generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and accordingly, the Trustee expresses no opinion on or other form of assurance in respect of the Information;*
- b) *Some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed;*
- c) *The Trustee has prepared this Report in its capacity as Trustee in Bankruptcy of the Debtor, and has made a copy available to all known creditors of the Debtor's Estate. Parties using this Report are cautioned that it may not be appropriate for their purposes.*
- d) *Any financial information referred to in this Report was prepared based on management's estimates and assumptions. Readers are cautioned that since projections are based on assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize and the variations could be significant.*

## **I. BACKGROUND**

On July 5, 2013, Inducom Coatings Corp. (hereafter called "the **Bankrupt**") filed a Notice of Intention to file a Proposal. The Proposal was subsequently filed on August 2, 2013. The First Meeting of Creditors was convened on August 23, 2013. The first meeting of creditors was adjourned to permit Canada Revenue Agency, ("CRA") additional time to conduct a Source Deductions audit and to permit the Proposal Trustee additional time to assess a significant contingent claim filed in the Estate by the Plumbers Union. Valuation of the claim by the Proposal Trustee was significant as it would have an impact on the success of the Proposal.

The proposal was dependent on certain tenders being awarded to the Bankrupt. Unfortunately many contributing factors prohibited the Bankrupt from receiving these Projects. Ultimately these Projects were awarded to alternate contractors. As a result of same, the insolvency/restructuring process made it difficult for the Bankrupt to support its cash flows and to secure future alternate contracts. It became evident that the restructuring under the Proposal and statutory time lines (which would be necessary to support the proposal) could no longer be fulfilled.

On March 6, 2014, the Bankrupt filed an Assignment in Bankruptcy, the undersigned was appointed as Trustee of the Estate of the Bankrupt by the Official Receiver. Joanne Russo, CIRP, is the Trustee responsible for the administration of the estate and Evelyn Bowles, Sr. Estate Administrator is assisting with the administration.

## **II. CAUSES OF INSOLVENCY**

Several factors contributed to the financial difficult of the Bankrupt which resulted in the filing of the assignment in bankruptcy. As discussed above, the Bankrupt was not awarded certain projects that it had tendered, one such project being 8 Mercer Street.

During the restructuring, collecting receivables; dealing with deficiencies raised by customers; securing future projects became problematic. Cash flows were clearly being affected. The Bankrupt was forced to walk away from certain projects as it clearly could not support the ongoing expenses of the projects.

Without a supporting line of credit; meeting the demands of suppliers who were requesting c.o.d became very much more difficult.

### **III. TRUSTEE'S ACTIONS TO DATE**

Upon the Assignment in Bankruptcy, in addition to the statutory duties required up to the first meeting, the Trustee has done, but not limited to, the following:

- Instructed that all bank accounts be closed and any balances remitted to the trustee;
- Arranged for notice of the bankruptcy to appear in the Financial Post on March 17, 2014;
- Held a meeting with all employees, informed them of the filing and distributed WEPPA Notices and information pertaining to employees rights pursuant to the Act; provided assistance to the employees in completing their Proofs of Claim as well as the WEPPA applications;
- Obtained receivables list for discussion at the First Meeting of Creditors
- Received and reviewed proofs of claim from none-employees;
- A majority of the books and records of the Bankrupt are in storage with the bankrupt and with the Trustee. The Trustee has not conducted any investigation of any historical transactions, nor will any such investigation be done, unless the Trustee is authorized by the creditors/inspectors to do so and the creditors provide funding for such an investigation;
- Reviewed assets and took an inventory of same; contacted Appraiser;
- Discussions with Canada Revenue Agency;
- Discussions with Counsel representing the Painters Union;



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#### **IV. SECURED CREDITORS**

A recent PPSA search conducted by the Trustee indicates that Honda Canada has a lien against a 2008 Honda Element as well as a lien by Halton Autolease against a 2010 Mercedes C300. Neither vehicle have any available equity to the estate and are both jointly leased by the former director of the company.

The CRA has filed a proof of claim indicating priority source deductions claim of approximately \$72,000.00, which claim would have to be paid in priority to all other claims.

We will be seeking instructions/direction from CRA with respect to matters moving forward with respect to the realization of assets and the sale thereto.

#### **V. LEGAL PROCEEDINGS**

The Trustee is not aware of any legal proceedings that the Bankrupt is involved in. All matters which were commenced against the Bankrupt prior to the Proposal process were stayed by those proceedings.

#### **VI. EVALUATION OF ASSETS and ANTICIPATED REALIZATION**

<b>Asset</b>	<b>Value per SOA</b>	<b>Anticipated Recovery</b>	<b>Cost of Disposition</b>	<b>Net anticipated Value to the Estate</b>	<b>Comments</b>
Accounts Receivable	\$117,066.33	Unknown		Unknown	A significant amount of the receivables pertain to hold back funds. It is difficult to determine if there are any set offs that will be



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					claimed as against the holdback and or any deficiencies that will be claimed thereto.
Miscellaneous office furniture and computers	\$5000.00			Unknown	All assets are secured to CRA as per the TRUST provisions of the BIA

**VII. REVIEWABLE TRANSACTIONS/PREFERENCE PAYMENTS/SETTLEMENTS**

As noted above, the books and records of the company are in the possession the Trustee and the bankrupt’s accountant. Trustee has not conducted any investigation of any historical transactions, nor will any such investigation be done, unless the Trustee is authorized by the creditors/inspectors to do so and the creditors provide funding for such an investigation. The Trustee will be seeking creditor/inspector instructions in this regard.

**VIII. PROOFS OF CLAIM(S)**

Please refer to attached claims register received as of the meeting of creditors.

**IX OTHER MATTERS**

The Trustee acted as the Proposal Trustee for the filing of the Division 1 Proposal by the Bankrupt in July 2013. The Trustee had not previously had any dealings with the Bankrupt, prior to being contacted and consulted with regard to that Proposal and now this assignment.

The Trustee is not in receipt of any funds to cover Trustee fees, as such the Trustee will be seeking direction from CRA and possibly entering into discussion with respect to negotiations of a Directive 12R.

The Trustee will also be seeking directions from the creditors/inspectors on the following matters:

- a) Approval of all of the Trustee's actions to date including the actions outlined in this Preliminary Report and affirmation of Trustee's appointment;
- b) Appointment of inspectors;
- c) Disposition of Assets;
- d) Collection of accounts receivable;
- e) Investigation into the company's books and records and funding for same:
  - (i) Preference Payments;
  - (ii) Reviewable Transactions;
  - (iii) Settlements;
- e) Any other matters which may arise at this first meeting;

**DATED** at Aurora, Ontario this 25<sup>th</sup> day of March, 2014.

**RUSSO CORP.**  
Trustee of the Estate of  
Indu-com Coatings Corp., a bankrupt

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**Per: Joanne Russo, CIRP**