

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 15
)	
Inscape Corporation, <i>et al.</i> , ¹)	Case No. 23-10074
)	
Debtors in a Foreign Proceeding.)	(Jointly Administered)
)	

**SUPPLEMENTAL DECLARATION OF ERIC EHGOETZ IN SUPPORT OF
VERIFIED PETITION FOR ENTRY OF AN ORDER RECOGNIZING
FOREIGN MAIN PROCEEDINGS AND GRANTING ADDITIONAL RELIEF**

I, Eric Ehgoetz, hereby declare:

1. I am the Chief Executive Officer (“CEO”) of Inscape Corporation (“Inscape”). I am also the CEO of Inscape (New York) Inc. (“Inscape New York”) and Inscape Inc. (“Inscape Delaware”) (together with Inscape and Inscape New York, the “Company” or the “Debtors”). Inscape is the duly authorized foreign representative (“the “Foreign Representative”) of the Debtors, which are the subject of jointly-administered proceedings (the “Canadian Proceedings”) under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) in the Ontario Superior Court of Justice (the “Canadian Court”) in Toronto, Ontario, Canada.

2. On January 23, 2023, I filed a Declaration in Support of the Verified Petition for Entry of Order Recognizing Foreign Main Proceedings and Granting Additional Relief (the “Verified Petition”) filed by the Foreign Representative. I submit this supplemental declaration in support of: (i) the Verified Petition and (ii) the supplement to the Verified Petition filed by the Foreign Representative concurrently herewith (the “Supplement”). I am

¹ The Debtors in these Chapter 15 cases, along with the last four digits of each Debtor’s U.S. Federal Employer Identification Number (“FEIN”) or Canada Revenue Agency Business Number (“BN”), are: (i) Inscape Corporation (BN 1738), (ii) Inscape Inc., a Delaware Corporation (FEIN 1804), and (iii) Inscape (New York) Inc., a New York Corporation (FEIN 7231).

over the age of 18 and, if called upon, I could testify to all matters set forth in this declaration based upon my own personal knowledge except for portions specified as being otherwise.

ADDITIONAL INFORMATION REGARDING THE DEBTORS

Location of the Debtor's Headquarters

3. The location of the headquarters for Inscape New York and Inscape Delaware (as well as Inscape, the Canadian parent) is the Company's main headquarters at Holland Landing in Canada. All business and operations-related functions for all three Debtors occur exclusively at the Holland Landing headquarters, and personnel who perform centralized administrative functions for the three Debtors are located exclusively at the Holland Landing headquarters. The functions performed at the main headquarters for each of these entities include, but are not limited to: customer service, supply chain/procurement, accounting, financing, financial reporting and securities compliance. Importantly, as of the filing of the Canadian Proceedings and these Chapter 15 Cases² (as well as the present), all of the key contacts for Inscape New York and Inscape Delaware's customers and vendors have been (or are) located in Canada, and no employees of Inscape New York or Inscape Delaware have performed (or perform) any of the aforementioned operational and administrative functions from the United States. All books and records of Inscape, Inscape New York and Inscape Delaware have been and remain located at the Holland Landing headquarters, and Inscape, Inscape New York and Inscape Delaware have received and continue to receive most of their mail at the Holland Landing headquarters. Further, the Cash Management System, which, among other things, collects funds and pays expenses associated with the operations of all three Debtors, is administered by the finance department located exclusively at the main headquarters at Holland Landing.

² Capitalized terms used but not defined herein have the meanings ascribed to them in the Verified Petition or the Supplement, as applicable.

The Location of Those Who Actually Manage the Debtor

4. Senior management and other key staff of Inscape New York and Inscape Delaware (as well as Inscape, the Canadian parent) are located in Canada at the Holland Landing headquarters. I am the CEO and Jon Szczur is the CFO of all three Debtors, and there is no additional senior management for Inscape New York or Inscape Delaware. Inscape, the Canadian parent entity, employs the following members of senior management, who perform tasks on behalf of all three Debtors: Dennis Dyke, Vice President of Manufacturing & Supply Chain; Kacey Neille-Ennis, Director of Human Resources; Kerry Bray, Director of Finance; Vincent Hardy, Assistant Corporate Controller; and Rebecca Montinaro, Director of Customer Service and Logistics. No members of senior management of Inscape New York, Inscape Delaware, or Inscape are located in the United States, and none works from an office in the United States at any time. Both U.S. and Canadian customers and vendors are and have at all relevant times been aware that (i) management of each of the Debtors, including the U.S. entities, and (ii) the key contacts for customers and vendors of each of the Debtors are located in Canada.

5. As of the Chapter 15 Commencement Date, only two U.S.-based salaried employees worked at the Jamestown Facility to assist with wind-down manufacturing processes and finishing up of “punch-items” to fully complete certain existing orders, and neither was an executive: (i) Tom Skinner, Senior Engineering & Specification Manager of the Walls Division and (ii) Jason Youngberg, Plant Manager for the Walls Division. Both Mr. Skinner and Mr. Youngberg were the only full time employees of Inscape New York as of the Chapter 15 Commencement Date. As of such date, Inscape New York also had approximately six hourly employees retained to complete certain wind-down activities. While, prior to the Commencement Dates, the Jamestown Facility served as a U.S. manufacturing facility for the

“walls” division of the Company, all decisions relating to operations or business at such facility was directed to the appropriate personnel in Canada and overseen directly by myself, as CEO, and Mr. Szczur, as CFO, in Canada.

6. Similarly, prior to the CCAA Commencement Date, Inscape Delaware employed approximately twelve U.S. sales personnel, and such employees reported directly to management located in Canada (i.e., the CEO); customers and vendors were aware that all key Company contacts were located in Canada. Inscape Delaware had no employees as of the Chapter 15 Commencement Date.

7. With respect to the boards of directors of the Debtors, at all relevant times, Jon Szczur, CFO, and myself, CEO, were and are the sole directors of Inscape New York and Inscape Delaware. I am Inscape’s sole director. Both Mr. Szczur and I are Canadian citizens, reside in Canada, and work exclusively at the Holland Landing headquarters. All board meetings for each Debtor’s board of directors have been held exclusively in Canada.

The Location of the Debtor’s Primary Assets

8. Inscape New York consists solely of the “walls” manufacturing facility located in Jamestown, New York, which produced architectural and movable partition walls for office spaces. This facility operated from leased premises (leased by Inscape New York and guaranteed by Inscape, the Canadian parent Debtor) and included machinery and equipment assets valued at approximately \$350,000. The Jamestown Facility is no longer operating. In addition, Inscape New York is owed approximately \$1.1 million in receivables from customers. In order to collect such amounts, all work associated with collection efforts – including, but not limited to, invoicing, accounting, and collection support – is performed at the main headquarters in Canada by employees of Inscape.

9. Inscape Delaware has no material assets.

The Location of the Majority of the Debtor's Creditors or of a Majority of the Creditors Who
Would Be Affected by the Case

10. Inscape New York and Inscape Delaware are guarantors under the Hilco Loan Agreement, dated October 28, 2022, by and among HUK 116 Limited, as lender; Inscape, as borrower; and Inscape New York and Inscape Delaware, as guarantors. Pursuant to the Hilco Loan Agreement, HUK 116 Limited made available the Hilco Loan Facility to be used for, among other purposes, the Company's working capital requirements. As of the Chapter 15 Commencement Date, the total secured indebtedness under the Hilco Loan Facility is C\$2.6 million. As such, HUK 116 Limited, a Canadian company, is the largest creditor of each of the U.S. entities and has a security interest in substantially all of such entities' assets. Accordingly, HUK 116 Limited, a Canadian company, is the creditor who will be most affected by the outcome of the Debtors' cases.

11. The second largest creditor of Inscape New York and Inscape Delaware is Inscape, the parent Debtor, who has its registered office at Holland Landing in Canada. Both Inscape New York and Inscape Delaware have intercompany payables to Inscape in the approximately amounts of \$19 million (for Inscape New York) and \$26.6 million (for Inscape Delaware).

12. Inscape Delaware has no other creditors and is primarily a holding company. Inscape New York has approximately \$1.2 million in trade liabilities, and the majority of its trade creditors are located in the United States. All creditors of each of the Debtors will be given notice of, and a full and fair opportunity to participate in, the claims process in Canada, which process will be administered by the Monitor. All claims allowance and distributions will be maintained by the Court Officer of the Canadian Court.

13. The Pension Benefit Guaranty Corporation (the “PBGC”) is a U.S. creditor who will be affected by these Chapter 15 Cases. The Foreign Representative has reached an agreement with the PBGC with respect to the termination liability claims that it seeks to assert against the Debtors. Pursuant to this agreement, which the PBGC has authorized the Foreign Representative to present to the Court, the Foreign Representative and the PBGC have agreed that the PBGC’s termination liability claims will be recognized and enforceable in the Canadian Proceedings and that such liability will be joint and several unsecured claims against all three Debtors: Inscape, Inscape New York, and Inscape Delaware. The quantum of the PBGC’s claims will be resolved under U.S. law as part of the claims process in the Canadian Proceedings, and the Foreign Representative has cooperated with, and intends to continue to cooperate with, the PBGC in providing the requisite information necessary to calculate the amount of such termination liability claims.

The Jurisdiction Whose Law Would Apply to Most Disputes

14. The Hilco Loan Agreement, the principal contract to which Inscape New York and Inscape Delaware are parties, is governed by Canadian law.

15. Inscape Delaware serves as a co-tenant for the Chicago Showroom; such lease is governed by Illinois law. Inscape Delaware serves as tenant for the Washington Showroom; such lease is governed by the laws of the District of Columbia. Inscape New York serves as tenant for the Jamestown Facility; such lease is governed by New York law. The Debtors have been working with their landlords in each of these locations in order to address and attempt to resolve lease termination issues and to keep their landlords apprised of the status of these Chapter 15 Cases and of the Canadian Proceedings.

16. The substantial majority of Inscape Delaware and Inscape New York’s ordinary trade receivables arose from purchase orders, as opposed to fulsome contracts with their

customers. Each invoice provided to a customer stated that “[t]he invoice and the agreement of purchase and sale arising here shall be governed by and constructed in accordance with the laws of Ontario.”

17. There are no other material contracts or leases to which Inscape New York or Inscape Delaware is a party.

The Location of the Debtor’s “Nerve Center”

18. The “nerve center” of Inscape New York and Inscape Delaware (as well as Inscape, the Canadian parent) is and has always been located in Canada at the main headquarters at Holland Landing. At the main headquarters, management of each Debtor directs and controls its activities and makes all strategic decisions for Inscape New York, Inscape Delaware and Inscape. As of the Commencement Dates, direction and control of all liquidation activities for each of the three Debtors was taking place at Holland Landing in Canada. Since sales in the United States are no longer taking place, Inscape New York and Inscape Delaware are effectively shell companies and have no operations. The U.S. entities have no “nerve center” in the United States, and all activities relating to the liquidation of these entities is taking place in Canada. As such, the “real seat” of each of the Debtors’ is Canada, and not the jurisdiction of incorporation or registered office location of Inscape New York or Inscape Delaware.

19. I understand that the Bankruptcy Code provides for recognition of a foreign proceeding as a “foreign main proceeding” if such foreign proceeding is pending in the country where the debtor has its “center of main interests,” also referred to as “COMI.” The COMI for all three Debtors is Canada, for the following reasons: (i) the location of the headquarters of all three entities is in Canada, notwithstanding the location of the registered office of Inscape New York and Inscape Delaware; (ii) the location of all members of management and of the boards of directors of all three entities is in Canada, and no strategic decision-making, operational

planning, or meetings of the entities' boards of directors take place in the United States; (iii) the largest creditor of all three entities is a Canadian entity and its associated loan agreement, the Hilco Loan Agreement, is governed by Canadian law; (iv) all decision-making for each of the three entities is made by management in Canada, including with respect to U.S. manufacturing and sales (when sales were conducted in the U.S. prior to the Commencement Dates); (v) creditors of each entity are aware that all key customer contacts and customer service for the Company are located in Canada; (vi) all administrative functions for the three entities are performed in Canada, including customer service, supply chain/procurement, accounting and finance, among other functions; (vii) as of the Commencement Dates, all liquidation activities for the three entities are directed from Canada; and (viii) Inscope New York and Inscope Delaware are primarily shell companies with very few tangible assets in the United States, and their true "nerve center" is in Canada.

Each Debtor Has an Establishment in Canada

20. I understand that the Bankruptcy Code provides for recognition of a foreign proceeding as a "foreign nonmain proceeding" if such proceeding is pending in a country where the debtor has an "establishment" and, to satisfy the definition of "establishment" under the Bankruptcy Code, a debtor must have "a seat for local business activity in the foreign country" and this activity must have a "local effect on the marketplace."

21. The Holland Landing Facility, the Company's largest manufacturing and warehouse facility (i) is located in Canada and (ii) produces all furniture for the furniture segment of the Company's business. I believe that the Holland Landing Facility is a "seat for local business activity" in Canada that has a local effect on the marketplace and that it serves as an "establishment" in Canada for all three Debtors. At all relevant times, management for each of the three Debtors were physically located at the Holland Landing Facility and regularly dealt

with, and continue to deal with, creditors, vendors and other counterparties for all three Debtors. Moreover, furniture produced at the Holland Landing Facility was sold (i) to U.S. customers, who were invoiced by Inscape Delaware³ and (ii) to Canadian customers, who were invoiced by Inscape. Additionally, prior to the CCAA Commencement Date, Inscape sales employees that were located at the Holland Landing Facility, sold on Inscape New York's behalf the walls products manufactured by Inscape New York to Canadian customers, which were then directly invoiced by Inscape New York.

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³ Generally, the Company's customers are invoiced as follows: (a) Canadian customers of the furniture segment are invoiced by Inscape; (b) U.S. customers of the furniture segment are invoiced by Inscape Delaware; and (c) all customers of the walls segment are invoiced by Inscape New York.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: February 27, 2023

/s/ Eric Ehgoetz
Eric Ehgoetz
Chief Executive Officer