

District of ONTARIO
Division 07-Hamilton
Estate #: 32-2480036
Court # 32-2480036

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE PROPOSAL OF
FT ENE CANADA INC.
OF THE CITY OF BRANTFORD,
IN THE PROVINCE OF ONTARIO**

REPORT OF TRUSTEE TO THE CREDITORS
(Section 50(5) of the Bankruptcy and Insolvency Act)

Enclosed are the following documents:

- ♦ Notice of Proposal to Creditors;
- ♦ Proposal under Part III, Division I, of the *Bankruptcy and Insolvency Act* (the “**BIA**”), dated August 2, 2019 (the “**Proposal**”) lodged with MNP Ltd. (the “**Trustee**”) by FT EnE Canada Inc. (the “**Company**”) and filed with the Official Receiver on August 2, 2019;
- ♦ a statement of affairs, detailing the Company’s assets and liabilities as August 2, 2019 (“**SOA**”);
- ♦ a proof of claim form;
- ♦ voting letter if you wish to vote in advance of the meeting; and
- ♦ general proxy.

The following is an outline of the background and financial position of the Company, including relevant information that should be of assistance to the creditors in considering their position with respect to the Proposal.

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 Company’s books and records, discussions with employees and management and information from other third-party sources (collectively, the “**Information**”). Except as described in this Report, the Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook.

Capitalized terms used in this Report are the same as those referenced in the Proposal.

SECTION A - Background

The Company is a Canadian corporation carrying on business from a leased¹ production facility of approximately 37,000 square-foot located at 14 Sharp Rd, Brantford, Ontario. The Company is a

¹ 14 Sharp Rd., Brantford, Ontario (the “Real Property”) was owned by the Company up until June 21, 2019. Following the completion of the Court approved sale and investment solicitation process (Order, dated March 28, 2019), the Real Property was sold

wholly owned subsidiary corporation of FTEI. The Company produces nanofibers and nanofiber coated filter media for the global industrial filtration market through a proprietary electrospinning process. The Company employs 18 people.

FTEI's shares were publicly traded on the Korean Securities Dealers Automated Quotations (KOSDAQ) but were delisted on April 26, 2019; FTEI filed for a form of insolvency protection on February 27, 2019 in the Republic of Korea.

The Company filed a Notice of Intention to Make a Proposal on February 27, 2019 ("NOI"), and subsequently obtained three (3) extensions of the Stay Period under the BIA (the latest up to August 7, 2019) within which to file a Proposal from the Court.

On August 2, 2019, the Company filed a Proposal pursuant to the BIA.

The Company was of the view that there was reasonable concern that without the filing of the NOI, the Company could lose its ability to act independently from FTEI and may otherwise have been drawn into the insolvency filings of FTEI, to the detriment of the Company and therefore its creditors.

The Company commenced these restructuring proceedings as a means of: (i) protecting and stabilizing the Company in light of the aforementioned filing by FTEI in the Republic of Korea; (ii) considering the possibility of a restructuring through a sale of its assets and business; and (iii) offering its creditors a dividend that would be higher than its creditors would receive in the event of a bankruptcy.

Since the NOI filing, the Company has conducted and completed a Court-approved sale and investment solicitation process (Order, dated March 28, 2019), which resulted in the sale of the Real Property. Although the going-concern operating business and assets of the Company were also marketed and offered for sale, no acceptable offer that would maximize stakeholder value was received, accordingly such offers were rejected by the Company.

The Trustee is maintaining a website at <https://mnpdebt.ca/en/corporate/Engagements/ft-ene-canada-inc> with publicly available information on the Company's proposal proceedings.

SECTION B - Summary of the Proposal

This section contains a summary of the Proposal, the terms of which would be effective only if the Proposal is accepted by the creditors and approved by the Court, in accordance with the provisions of the BIA.

As set out in the Proposal, the Proposal provides for the following:

- (i) Funding of the Proposal, as follows:
 - a) Conditional on, *inter alia*, the acceptance of the Proposal by the Unsecured Creditors of the Company and the Court approving the Proposal, the Company shall pay any outstanding Administrative Fees and Expenses² and additionally shall provide a further retainer to the Trustee in the sum of \$50,000 (or such amount as the Company and the Trustee may agree);

and leased back (approx. 6 month lease) in a transaction that was approved by the Court (Approval and Vesting Order, dated June 7, 2019).

² Includes the fees and expenses of the Trustee and its legal counsel, as well as the those of the Company's legal counsel, which are secured by a charge pursuant to the Order dated March 28, 2019.

- b) Within thirty (30) days of the Court approving the Proposal, the Company shall provide to the Trustees with sufficient funds to pay the Preferred Creditors³ in full; and
 - c) Upon the approval and final resolution of all properly filed claims by the Trustee and the Company or the Court, the Company shall provide the Trustee an amount equal to the lesser of the total aggregate Proven Claims plus the Superintendent's Levy or \$300,000 (the "**Proposal Fund**").
- (ii) Secured Creditors will be paid in accordance with existing arrangements, or as may be arranged with them and are not affected by this Proposal;
 - (iii) Any claim owed to any Unsecured Creditors where the books and records of the Company indicate an amount equal to or less than \$15,000, shall be deemed to have a Proven Claim, in such amount, regardless of whether they have filed a proof of claim or not;
 - (iv) Any Unsecured Creditor with a Proven Claim greater than \$15,000, excluding any Related Party⁴, may at the time of filing a Proof of Claim and for distribution purposes only elect, in writing, to accept a distribution equal to \$15,000, in full and final satisfaction of its claim, instead a pro rata share of the net Proposal Fund;
 - (v) Any Unsecured Creditors with a Proven Claim of \$15,000 or less, deemed or otherwise, and those Unsecured Creditors with a Proven Claim greater but have elected to receive \$15,000 instead, shall be deemed to have voted in favour of the Proposal and shall deemed to have provided the Proposal Trustee with their proxy to vote as such;
 - (vi) Any Related Party shall either (i) deliver an agreement and consent, in a form satisfactory to the Company and the Trustee, to subordinate its claim or (ii) file a proof of claim. Any Related Party is entitled to vote against, but not for the Proposal under the provisions of S.54(3) of the BIA;
 - (vii) Distributions under the Proposal, are to be as follows:
 - a) Payment of the Administrative Fees and Expenses, in connection with the Proposal shall be paid from time to time by the Company up to the payment of the Proposal Fund. Upon the payment of the Proposal Fund to the Trustee, the outstanding Administrative Fees and Expenses shall be paid out of funds in its hands, and, to the extent it is insufficient, from the Proposal Fund, prior to distribution to the Preferred Creditors and Ordinary Creditors;
 - b) Payment to the Office of the Superintendent of Bankruptcy of the levy payable under section 147 and Rule 123(2) of the BIA on the applicable distributions set-out below;
 - c) Payment forthwith to the Preferred Creditors (including employee amounts under S. 136(1)(d) of the BIA and the Crown claims listed in S. 60(1.1) of the BIA) in full of their Proven Claims following receipt of the funds, which is to be within thirty (30) days of the Court approving the Proposal;

³ Includes employee amounts under S. 136(1)(d) of the BIA and the Crown claims listed in S. 60(1.1) of the BIA.

⁴ Includes FTEI and any creditor related to the Company within the meaning of Section 4 of the BIA, excludes Jong Chul Park.

- d) Within thirty (30) days of the Trustee's receipt of the Proposal Fund, payment to Unsecured Creditor with a Proven Claim of \$15,000 or less, deemed or otherwise, and those Unsecured Creditors with a Proven Claim greater but have elected to receive \$15,000 instead, shall be paid in full from the Proposal Fund; and
 - e) Within ninety (90) days of the Implementation Date, payment to the remaining Unsecured Creditors with Proven Claims of the balance of the Proposal Fund remaining after the payment of any unfunded/unpaid Administrative Fees and Expenses and aforementioned claims on a *pro rata* basis;
- (viii) Any Claims (other than those set-out in S. 50(14) of the BIA) against the Company by any Creditor that are also Claims against the directors and deemed directors of the Company that relate to obligations of the Company where the directors or deemed director are under any law liable in their capacity as directors for the payment of such obligations which occurred before the NOI filing date or after up until the date of the Proposal shall be, and upon Court approval of the Proposal, are to the extent permitted by the BIA, released and forever discharged as against the directors or deemed directors of the Company; and
- (ix) Sections 95-101 of the BIA will not apply in respect of this Proposal;

The above description of the Proposal is a summary only, and readers are cautioned that if there is inconsistency between this report and the Proposal, the terms of the Proposal shall govern.

The Trustee understands that the Company and its counsel, after consultation with the Trustee and its counsel regarding some technical amendments, as well as FTEI and its counsel regarding other amendments, are considering amending certain language of the Proposal, not affecting the quantum of the distributions to the Unsecured Creditors as described above. However as of the date of this report an amended proposal has not been filed with the Trustee. If the Proposal is amended, the Trustee will report on the amendments made to creditors at the meeting of creditors.

SECTION C - Financial Position and Causes of Difficulties

1. The Company advises that the causes of its financial difficulties are attributable to the following:
 - a. Due to the losses being incurred by FTEI, the Company was not provided the sales and research development support that was anticipated by the Company. The lack of sales and research led to stagnation and lost sales opportunities; and
 - b. The Company felt that there was reasonable concern that without the filing of the NOI, the Company may lose their ability to act independently from FTEI and may otherwise have become involved in the insolvency filings of FTEI, to the detriment of its own creditors, employees and customers.
2. The Company has throughout the post-NOI period, has generated sufficient cash flows to sustain its operations. Commentary on the Company financial results since the NOI filing have been presented to the Court in the Trustee's four (4) reports to Court (see the Trustee's Case Website at <https://mnpdebt.ca/en/corporate/Engagements/ft-ene-canada-inc> in order to view the Trustee's reports to Court).

SECTION D - Interim Receiver

Not Applicable.

SECTION E - Identification and Evaluation of Assets

According to the SOA, the Company's assets and their estimated realizable value are as listed below. Further details can be found in Section L of this Report.

Nature of Assets	Estimated Realizable Value Per SOA
Inventory – Stock-in-trade	\$ 100,000
Accounts receivable (net of allowance for doubtful accounts)	368,149
Refunds – SIMA and HST	200,000
Cash – Cash in the Bank	387,522
Cash collateral – Held by RBC	50,000
Trust account – Blaneys	50,000
Trust account – MNP re S. 65.13(8) of BIA	36,000
Vehicles – Ford F150	500
Machinery, equipment and plant	1,000,000
TOTAL	<u>\$ 2,192,171</u>

The Trustee performed a *Personal Property Security Act* (Ontario) (“PPSA”) registration search on August 12, 2019. The search revealed registrations by Royal Bank of Canada (“RBC”) and VW Credit Canada Inc. (“VW”). The Company's indebtedness to RBC was substantially paid off in June 2019 from the proceeds of sale from the Real Property. The PPSA registration is to be discharged and the above-mentioned cash collateral released on or around August 24, 2019 following the contemplated closing of banking facilities on August 14, 2019. A leased vehicle associated with the VW registration was returned on or about June 18, 2019, and accordingly the PPSA registration should be discharged. The Company has advised that no deficiency in the obligation resulted from the return of the vehicle to VW.

With respect to the ownership of the intellectual property associated with the proprietary electrospinning technology, processes and associated other intellectual property and trade secrets to produce nanofibers (collectively the “Nanofiber IP”) used by the Company, the Trustee has been advised by the Company that the Company has no ownership interest in the Nanofiber IP.

SECTION F - Conduct of the Company

The conduct of the Company does not appear to be subject to censure.

SECTION G - Creditors' Claims

As per the SOA, the Company's creditors consist of:

Creditor Classifications	Indebtedness Per SOA
Secured creditors	\$ 36,001
Preferred creditors	0
Unsecured creditors	46,430
Contingent, trust claims or other liabilities	1
TOTAL	<u>\$ 82,432</u>

In connection with the above creditor classes and amounts, we note the following:

1. Virtually all of the secured creditors' claim figure represents a potential S. 81.3 of the BIA claim to the \$36,000 held in trust by the Trustee for payment of employee claims as required under S. 65.13(8) of the BIA and the terms of approval of the sale of the Real Property. Notwithstanding, the Company has advised that there are no amounts owing to the employees for amounts outstanding prior to the NOI filing. The Company has also remained current with its post-NOI obligations. Additionally, the secured creditors' figure includes an amount of \$1

for RBC in recognition of the security it holds against the Company's assets, including the \$50,000 cash collateral noted above, pending such security registration being discharged as discussed above;

2. The Company advises that there are no amounts owing to the employees or other potential preferred creditors under S. 136(1) of the BIA;
3. The unsecured creditors' figure represents the Company's known debts to suppliers and other trade creditors as at the NOI filing date, as well as \$1 for the amount due to FTEI. It should be noted that this figure of \$1.00 shown on the SOA as owing to FTEI is not necessarily reflective of the actual amount owing to FTEI. FTEI was shown to be the largest creditor (unsecured) at approximately \$6 million in the Company's NOI. As the Proposal has only just been filed, no proofs of claim have yet been filed with the Trustee by the creditors and accordingly, the figures presented in the SOA and the creditors' claims are still subject to being proven or deemed proven.
4. The contingent, trust claims or other liabilities' figure represents a potential deemed trust claim of Canada Revenue Agency ("CRA") for unremitted employee source deductions. The Company advises that there are no amounts owing to CRA for unremitted employee source deductions (save and except for any current amounts for the preceding month), which is supported by the Trustee's monitoring of the Company's operations since the NOI filing. Section 60(1.1) of the BIA deals with Crown claims arising under S. 224(1.2) of the *Income Tax Act* ("ITA") and similar provincial legislation or any provision of the *Canada Pension Plan Act* or the *Employment Insurance Act* that refers to S. 224(1.2) of the ITA or similar provincial legislation. Unless the Crown consents otherwise, a proposal must provide for payment within six months of the claims set out in S. 60(1.1) of the BIA. Notwithstanding that it is believed that there are no amounts owing to CRA that are subject to this provision, the Proposal contemplates any such amount being paid as part of the Preferred Creditor payments within the required time period, as required under the BIA.

SECTION H - Previous Business Dealings with the Company

Not applicable

SECTION I - Informal Meeting with Major Creditors

After the filing of the NOI, the Company and the Trustee and their respective legal counsel have had numerous and ongoing discussions with FTEI and its legal counsel (also see Section K – Other below).

SECTION J - Remuneration of Trustee

The Trustee's fees and expenses related to the administration of the Proposal, including those of its and Company's legal counsel, will be paid by the Company from time to time, from retainers and from the Proposal Fund to the extent necessary as detailed in Section B, paragraphs (i)(b) and (vii)(a) above.

In addition to the \$50,000 retainer contemplated in Article 6.1(a) of the Proposal, the Company has provided a total of \$40,000 as a retainer towards the Trustee's fees and expenses.

On March 28, 2019, the Court ordered an Administration Charge in favour of the Trustee, counsel to the Trustee and counsel to the Company.

SECTION K - Other

Since May 2019, FTEI has, among other things, sought unsuccessfully through the Court, to take control of the Company and remove Jong Chul Park ("**JC Park**") as a director of the Company and

Yoonjun Park (“**Y. Park**”) as the General Manager of the Company. Details of the motion and the outcome of such motions by FTEI can be viewed on the Trustee’s Case Website at <https://mnpdebt.ca/en/corporate/Engagements/ft-ene-canada-inc>.

On August 5, 2019, FTEI purported, as the sole shareholder of the Company, to have lawfully conducted a shareholder meeting and removed and replaced JC Park as a director of the Company and removed Y. Park as General Manager of the Company. It is the Company’s position, and the position of JC Park, that such shareholder meeting was unlawfully held and as such is not being recognized by the Company. It should be noted that no determination of this issue has been made by the Court and no date has yet been set for it to be heard.

As a consequence of the above events, on August 8, 2019 Y. Park resigned his position with the Company.

SECTION L - Statement of Estimated Realizations

Set out below is the Trustee’s estimate of the distribution to the unsecured creditors if the Proposal is accepted by the Unsecured Creditors and approved by the Court:

	<u>Note</u>		
Funding by the Company of the Proposal			
Administrative Fees and Expense Funding, including \$50,000	[1] \$	160,000	
Funding for Preferred Creditors	[2]	-	
Proposal Fund	[3]	<u>46,430</u>	
Total Funding by the Company of the Proposal		206,430	
Less:			
Estimated Net Trustee’s Fees and Expenses, after application of \$40,000 retainer on hand	[1] (<u>160,000)</u>	
Estimated Net Funds Available for Distribution to Unsecured Creditors		<u>\$ 46,430</u>	
Estimated Claims of Unsecured Creditors per SOA (excluding claim of FTEI - assumed subordination)	[3] \$	<u>46,430</u>	
Estimated Distribution to Unsecured Creditors (%)		<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td style="text-align: center;">100.0%</td></tr></table>	100.0%
100.0%			

Notes:

1. Figure represents only the Trustee’s fees and expenses including those of its legal counsel but excludes the potential amounts owing and to be paid to the Company’s legal counsel by the Trustee under the Proposal.
2. No amounts are estimated to be owing and to be paid to the Preferred Creditors (employees and the Crown) under the Proposal.
3. Figure is based on the SOA and assumes that FTEI subordinates its claim and does not participate in any distributions.

If the Proposal is rejected by the Creditors, the Company will be deemed bankrupt. The anticipated realizations from a bankruptcy, per the SOA, are summarized below.

	<u>Note</u>		
Estimated Gross Proceeds from Realizations:			
Inventory – Stock-in-trade	[1]	\$ 100,000	
Accounts receivable (net of allowance for doubtful accounts)	[2]	276,112	
Refunds – SIMA and HST	[3]	200,000	
Cash – Cash in the Bank	[4]	387,522	
Cash collateral – Held by RBC	[4]	50,000	
Trust account – Blaneys	[5]	-	
Trust account – MNP re S. 65.13(8) of BIA	[4]	36,000	
Vehicles – Ford F150	[1]	500	
Machinery, equipment and plant	[1]	<u>1,000,000</u>	
Estimated Total Gross Proceeds from Realizations		2,050,134	
Less:			
Estimated selling/liquidation cost	[6]	(275,125)	
Estimated occupation costs (rent, utilities, maintenance, etc.)	[7]	(76,614)	
Estimated Trustee's fees and disbursements		<u>(56,500)</u>	
Estimated Total Net Proceeds from Realizations		1,641,895	
Less:			
Estimated outstanding professional fees and expenses associated with NOI/Proposal proceeding secured by the Administrative Charge granted pursuant to the Court Order dated March 28, 2019	[8]	<u>(300,000)</u>	
Estimated Net Funds Available for Distribution to the Unsecured Creditors		<u>\$ 1,341,895</u>	
Estimated Claims of Unsecured Creditors	[9]	<u>\$ 6,142,296</u>	
Estimated Distribution to Unsecured Creditors (%)		<table border="1" style="display: inline-table;"><tr><td style="text-align: center;">21.8%</td></tr></table>	21.8%
21.8%			

Notes:

1. Based on the SOA figures, no appraisals have been obtained in connection with these assets.
2. Based on the SOA figures and assumes a 75% recovery of the accounts receivables due to discounts, warranty claim issues and other damage claims if collected under a bankruptcy.
3. Based on the SOA figures, with the collection of these refunds being subject to the outstanding corporate tax income returns for 2017 and 2018 being filed with CRA.
4. Based on the SOA figures, with no expected offsetting claims or direct realization costs.
5. Assumes the Company's legal counsel will apply such monies held in trust towards its outstanding professional fees and expenses in the event of the Company's bankruptcy.
6. Assumes selling and liquidation costs (auctioneer commissions, advertising, set-up, etc.) of 25% of the gross realizations in connection with the Inventory, Vehicles, and Machinery, equipment and plant.

7. Assumes occupancy of the leased premises until December 31, 2019, and associated costs thereto.
8. The Administrative Charge created by the Order, dated March 28, 2019 is against all of the Company's assets and would rank in priority to the claims of the Company's unsecured creditors. This figure would include the potential amounts owing for the Trustee's fees and expenses including those of its legal counsel and those of the Company's legal counsel not paid under the NOI/Proposal proceeding incurred prior to the bankruptcy.
9. In the event of the Company's bankruptcy, the claim of the Related Party (FTEI) would participate in the distribution to unsecured creditors; for illustration purposes only, FTEI's claim has been reflected at \$6 million. Additionally, the Company's bankruptcy would result in termination pay liability arising from the termination of the employees.

Preferences and Transactions at Under Value

The Proposal provides that sections 95-101 are not applicable. Accordingly, and to assess the appropriateness of the inclusion of this clause, the Trustee would generally undertake a review of the Company's books and records in order to enable it to be in a position to report to the creditors on any potential preferences or transfers at undervalue identified.

In order to carry out this review, the Trustee would review the Company's bank statements and cancelled cheques for the period beginning five (5) years prior to the filing of the NOI and ending on August 2, 2019, given that the Company has had transactions with FTEI and JC Park; both related parties as defined by the BIA. At the time of writing the report, the Trustee has not yet completed its review, but will advise the creditors at the meeting of creditors to consider the Proposal on August 23, 2019 should any other preferences or transactions at undervalue be identified as part of the Trustee's review.

Notwithstanding the foregoing, the Trustee has identified the following post-NOI transactions:

1. During March and April 2019, the Company paid a total of approximately \$26,000 in logistics costs (broker, carrier and SIMA duties) associated with pre-filing paid material purchases. Although a pre-filing liability, the Company believed the payments were necessary and critical in order to avoid disruption to the Company's on-going operations.

Irrespective of the outcome of the review, it should be noted that the Proposal contemplates the payment in full of the unrelated/arm's length creditors. Accordingly, and should the Proposal be accepted by the creditors and approved by the Court, the only parties potentially prejudiced are the same related parties who may benefit the inclusion of this clause.

SECTION M - Recommendations

Based on the above, the Trustee recommends the acceptance of the Proposal as the Proposal contemplates a higher distribution to the Unsecured Creditors than a bankruptcy. The Proposal would also provide for the continued employment of the Company's current employees and the preservation of business relationships with the Company's existing suppliers and customers.

SECTION N - Technical Requirements for a Successful Proposal

This Proposal will become effective only if it is accepted by a resolution of the Unsecured Creditors and approved by the Court. To obtain Creditor approval, a simple majority in the number of Unsecured Creditors voting, with this majority representing at least 2/3 of the dollar value of the

It should be noted that pursuant to S. 109(6)⁵ of the BIA, the vote of a creditor not dealing with the Company at arm's length shall be excluded from the vote, if such creditor's vote will determine the outcome of the vote. This would include a vote against the Proposal by FTEI, with any such redetermined outcome (i.e. the exclusion of FTEI's vote) then being subject to the Court determining the appropriateness of its inclusion, if an application is made by FTEI within ten (10) days of the vote.

If the Unsecured Creditors vote to accept the Proposal, Court approval of the Proposal must then be sought. If the Court does not approve the Proposal, the Company would be deemed to have made an assignment in bankruptcy and the Trustee will then call a meeting of creditors in the matter of the bankruptcy.

When completing the Proof of Claim form submitted herewith, Creditors should include all outstanding amounts as at February 27, 2019, the date of the filing of the NOI. It is expressly noted and should be clearly understood that the Trustee, in its capacity as Trustee, assumes no personal liability for any claims that Creditors may have against the Company, filed, proven, deemed or otherwise, either before or after the filing of the Proposal.

Creditors may attend, in person or by proxy, the meeting to consider the Proposal, which will be held at offices of Blaney McMurtry LLP, located at 2 Queen Street East, Suite 1500, Toronto, Ontario on August 23, 2019 at 2:30 PM (Toronto Time).

Creditors who do not wish to attend or be represented at the meeting but who wish to vote, may forward their Proofs of Claim and voting letters by either email to angela.liu@mnp.ca or fax to (416) 596-7894, to the Trustee so as to be received prior to 2:30 PM (Toronto Time) on August 23, 2019.

Should you have any questions or comments on the Proposal or this report, please do not hesitate to contact the undersigned.

Dated at Toronto, Ontario, the 13th day of August 2019.

MNP LTD.
Trustee acting *in re* the Proposal of
FT EnE Canada Inc., and not in its
personal capacity

Per:



Matthew E. Lem
Licensed Insolvency Trustee

Encl.

⁵ S. 109(6) - Vote of creditors not dealing at arm's length - If the chair is of the opinion that the outcome of a vote was determined by the vote of a creditor who did not deal with the debtor at arm's length at any time during the period that begins on the day that is one year before the date of the initial bankruptcy event and that ends on the date of the bankruptcy, the chair shall redetermine the outcome by excluding the creditor's vote. The redetermined outcome is the outcome of the vote unless a court, on application within 10 days after the day on which the chair redetermined the outcome of the vote, considers it appropriate to include the creditor's vote and determines another outcome.