

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF SAINT-FRANÇOIS  
No.: 450-11-000167-134

SUPERIOR COURT  
(Commercial Division)  
*The Companies' Creditors Arrangement Act*

---

**IN THE MATTER OF THE PLAN OF  
ARRANGEMENT WITH RESPECT TO:**

**MONTREAL, MAINE & ATLANTIC CANADA CO.  
(MONTREAL, MAINE & ATLANTIQUE CANADA  
CIE)**, a legal person duly incorporated under the  
laws of the province of Nova Scotia, having a place  
of business at 1, Place Ville Marie, 37<sup>th</sup> Floor,  
Montreal, Quebec H3B 3P4 (at the offices of its  
attorney ("fondé de pouvoir"))

**Petitioner**

-and-

**RICHTER ADVISORY GROUP INC. (RICHTER  
GROUPE CONSEIL INC.)** a duly incorporated legal  
person having its principal place of business at  
1981 McGill College, 12<sup>th</sup> Floor, in the city and  
district of Montreal, Quebec, H3A 0G6

**Monitor**

---

**EIGHTH REPORT OF THE MONITOR  
ON THE STATE OF PETITIONER'S FINANCIAL AFFAIRS  
March 26, 2014**

---

**INTRODUCTION**

1. On August 6, 2013, Montreal, Maine & Atlantic Canada Co. (hereafter in this Report "MM&A" or "Petitioner") filed with the Quebec Superior Court a Motion for the Issuance of an Initial Order ("Motion") pursuant to Section 11 of the Companies' Creditors Arrangement Act, R.S.C. 1985, C-36, as amended (the "CCAA"). On August 8, 2013, the Honourable Martin Castonguay, J.S.C., issued an initial order (the "Initial Order"), which inter alia appointed Richter Advisory Group Inc. ("Richter") as Monitor (the "Monitor").
2. On August 21, 2013, the Petitioner filed a Motion to Amend the Initial Order and Seek a Charge and Security on the Property of Petitioner to Secure Funds for Self-Insured Obligations ("Charge

and Security Motion”). The Monitor filed its First Report in respect of the Charge and Security Motion. On August 23, 2013, the Court granted an order amending the Initial Order to include the Self-Insured Obligation Charge.

3. On September 3, 2013, the Petitioner filed a Motion for an Order Extending the Stay Period and to Approve a Cross-Border Insolvency Protocol (“First Extension Motion”). The Monitor filed its Second Report on September 3, 2013 in support of the First Extension Motion. On September 4, 2013, the Court extended the stay of proceedings until October 9, 2013 and approved the cross-border insolvency protocol.
4. On October 4, 2013, the Petitioner filed a Motion for a Second Order Extending the Stay Period (“Second Extension Motion”) requesting an extension of the stay of proceedings to January 28, 2014. The Monitor filed its Third Report on October 4, 2013 in support of the Second Extension Motion. On October 9, 2013, the Court extended the stay of proceedings until January 28, 2014.
5. On October 4, 2013, the Petitioner also filed a Motion to Increase the Amount of the Administration Charge, which increase was approved by the Court on October 9, 2013.
6. On December 13, 2013, the Petitioner filed a Motion for an Order Approving a Compromise and Settlement with Travelers Property Casualty Company of America (“Travelers Motion”), which compromise and settlement was approved by the Court on December 19, 2013.
7. On December 13, 2013, the Petitioner filed a Motion for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date (“Claims Motion”). At the request of the Petitioner and other interested parties, the Claims Motion was postponed and was scheduled to be heard on February 11, 2014 (“February 11, 2014 Hearing”). Following several postponements, the Claims Motion is now scheduled to be heard on March 28, 2014 (“March 28, 2014 Hearing”).
8. On December 13, 2013, the Petitioner and the Monitor jointly filed a Motion to Increase the Amount of the Administration Charge. On December 19, 2013, the Court granted an increase in the Administration Charge.
9. On December 16, 2013, the Petitioner filed a Motion for an order (a) Approving Bid Procedures for the Sale of the Debtor’s Assets, (b) Approving a Stalking Horse Bid, (c) Approving a Break-Up Fee and Expense Reimbursement, (d) Scheduling an Auction, (e) Approving Procedures for the Assignment and Assumption of Certain Executory Contracts and Unexpired Leases and (f) Approving a Form of Notice of Sale (“Sale Motion”). The Sale Motion was approved by the Court on December 19, 2013.
10. On November 1, 2013, the Motion for an Order Appointing Yannick Gagné, Guy Ouellet, Serge Jacques and Louis-Serges Parent as the Representatives of the Class Described in Appendix “A”

hereto ("Class Representatives Motion"), was originally scheduled to be heard on December 19, 2013, but after several postponements, it is now scheduled to be heard at the March 28, 2014 Hearing.

11. On December 17, 2013, the Chapter 11 Trustee filed a Contestation of the Class Representatives Motion.
12. On January 17, 2014, the Petitioner filed a Motion for an Order Approving and Authorizing the Assignment of Contracts ("Contract Assignment Motion"). The Contract Assignment Motion was approved by the Court on January 23, 2014.
13. On January 19, 2014, the Petitioner filed a Motion for the Issuance of (i) An Order Authorizing the Sale of the Assets of the Petitioner and of (ii) a Vesting Order ("Sale and Vesting Motion"). The Sale and Vesting Motion was approved by the Court on January 23, 2014.
14. On January 20, 2014, the Petitioner filed a Motion for a Third Order Extending the Stay Period ("Third Extension Motion"). The Monitor filed its Fifth Report on January 22, 2014 in support of the Third Extension Motion. On January 23, 2014, the Court extended the stay of proceedings until February 11, 2014.
15. On February 4, 2014, the Class Action Plaintiffs filed a Claims Cross-Motion of the Class Action Plaintiffs for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date followed by the filing on February 5, 2014 of the Class Action Plaintiffs Plan of Argument ("Claims Cross-Motion"). The Claims Cross-Motion which was scheduled to be heard at the February 11, 2014 Hearing was postponed and will be withdrawn as set out below.
16. On February 5, 2014, Orford Express Inc. filed a Motion to Modify a Prior Order and to Obtain Various Declaratory Orders ("Orford Motion"). The Orford Motion which was scheduled to be heard on February 26, 2014, was postponed by the Court to and heard on March 21, 2014. This motion has been taken under advisement.
17. On February 7, 2014, the Petitioner filed a Motion for a Fourth Order Extending the Stay Period to February 26, 2014 ("Fourth Extension Motion"). The Monitor filed its Sixth Report on February 10, 2014 in support of the Fourth Extension Motion. On February 11, 2014, the Court extended the stay of proceedings until February 26, 2014.
18. On February 7, 2014, the Monitor filed a Motion for Directions in respect of a Motion for Joint Status Conference filed on February 7, 2014 by the Official Committee of Victims in the Chapter 11 proceedings ("Directions Motion"). On February 12, 2014, the Court issued a letter notifying the service list of its intention to grant the Directions Motion and further issued an order on February

- 17, 2014 in support of a Joint Status Conference to be held in Bangor, Maine on February 26, 2014.
19. On February 7, 2014, the Chapter 11 Trustee filed two separate affidavits in connection with the Claims Motion and the Claims Cross-Motion.
  20. On February 19, 2014, the Petitioner filed a Motion for a Fifth Order Extending the Stay Period to March 12, 2014 ("Fifth Extension Motion"). Pursuant to instructions from the Court, in the absence of any contestation and with the confirmed support of the largest creditor, the Province of Quebec ("Province") as well as the largest secured creditor, the Federal Railroad Administration ("FRA"), no hearing was held. On February 25, 2014, the Court extended the stay of proceedings until March 12, 2014.
  21. On March 10, 2014, the Petitioner filed a Motion for a Sixth Order Extending the Stay Period to which the Court extended the stay of proceedings to April 30, 2014 ("Sixth Extension Motion").
  22. On March 10, 2014, the Petitioner and the Monitor jointly filed a Motion to Increase the Amount of the Administration Charge. On March 14, 2014, the Court granted an increase in the Administration Charge.
  23. On March 24, 2014, Orford filed a "Requête Pour l'émission d'une ordonnance de sauvegarde" ("Safeguard Motion") which is presentable at the March 28, 2014 Hearing.
  24. On March 25, 2014, the Petitioner filed an amended Claims Procedure Order in respect of the Claims Motion as well as an amended Representation Order in respect of the Class Representative Motion.
  25. On March 26, 2014, the Petitioner and the Monitor jointly filed a Motion to Request a Supplemental Administration Charge ("Supplemental Administration Charge").
  26. The Claims Motion and the Class Representatives Motion are scheduled to be heard at the March 28, 2014 Hearing.
  27. All amounts reflected in this report are stated in Canadian currency unless otherwise noted.
  28. The purpose of this Eighth Report of the Monitor is to inform the Court on the following subjects:
    - General Corporate Information and Purpose of CCAA filing;
    - Canadian Transportation Agency;
    - Service of the Railway Line in Lac-Mégantic;
    - Financial Position;

- Cash Flow Projections and Interim Financing;
  - Insurance;
  - Compromise and Settlement with Travelers Property Casualty Company of America;
  - Sale of Assets;
  - Claims Process and Class Representatives Motion;
  - Supplemental Administration Charge;
  - Chapter 11 Proceedings;
  - Activities of the Monitor;
  - Recommendations of the Monitor;
  - Conclusion.
29. We inform the Court that the Monitor has not conducted an audit or investigation of the information which has been provided to it by the Petitioner and that accordingly, no opinion is expressed regarding the accuracy, reliability or completeness of the information contained within this Report. The information contained herein is based on a review of unaudited financial information provided to the Monitor by the Petitioner's management and the Chapter 11 Trustee's Financial Advisor as well as discussions with the Petitioner's management and employees, the Chapter 11 Trustee and the Chapter 11 Trustee's Financial Advisor.

#### **GENERAL CORPORATE INFORMATION AND PURPOSE OF CCAA FILING**

30. As noted in the Monitor's prior reports, the Petitioner operates a shortline freight railroad company in the Province of Quebec. It is a wholly owned subsidiary of Montreal, Maine & Atlantic Railway Ltd. ("MM&AR") which operates a shortline railroad in the States of Vermont and Maine (MM&A and MM&AR are hereinafter collectively referred to as the "Companies"). Together, the Companies operate approximately 500 route miles and service customers in Canada and the United States. An affiliated company, LMS Acquisition Corp. ("LMS") located in Hermon, Maine, operates a 130,000 square foot warehouse offering warehousing and lumber distribution.
31. We refer to the Monitor's prior reports for a description of the purpose of the CCAA proceedings.

#### **CANADIAN TRANSPORTATION AGENCY ("CTA")**

32. As noted in the Monitor's Sixth report, the CTA amended the date of effect of the suspension of MMA's Certificate of Fitness to April 1, 2014 as the sale transaction with RAH was targeted to be completed by March 31, 2014. While all parties continue to work towards closing the sale

transaction (as discussed in greater detail below), it became clear to MMA that it would be prudent to seek a further extension of its Certificate of Fitness to enable continued operation of the railroad pending the closing.

33. Accordingly, on March 14, 2014, MMA filed a request with the CTA to amend the suspension date for its Certificate of Fitness to June 1, 2014, the whole to ensure the transaction closes (before that date) without the need to seek any further extensions should delays in closing be encountered. The CTA is currently reviewing MMA's request.

### **SERVICE OF THE RAILWAY LINE IN LAC-MÉGANTIC**

34. We refer to the Monitor's Fourth, Fifth, Sixth and Seventh Reports for a summary of rail service to the City. There have been no material developments since our Seventh Report. MMA continues to service the industrial park in the City and has not yet implemented east-west traffic between Quebec and Maine.

### **FINANCIAL POSITION**

35. In conjunction with the filing of the Sixth Extension Motion on March 10, 2014, the Petitioner submitted weekly cash flow projections covering the period from March 3, 2014 to April 15, 2014, a copy of which was attached as Exhibit "R-1" to the Sixth Extension Motion.
36. Wheeling & Lake Erie Railway Company ("Wheeling") provided the Companies with a US\$6 million line of credit, which had been utilized in full as of the commencement of the restructuring proceedings. The accounts receivable and inventory of MM&AR as of the filing date, secured the line of credit. Subsequent to the Camden DIP financing, as defined below, MM&AR has set aside the proceeds of all U.S. accounts receivable collected for pre-petition sales and for post-petition sales through October 18, 2013. MM&AR has been remitting these deposits to Wheeling on a regular basis.
37. As at March 14, 2014 the total amount remitted to Wheeling was approximately US\$1.2 million. A further US\$0.7 million is being held in escrow:
  - US\$0.5 million thereof relates to the proceeds of the sale of tax credits earned by MM&AR. Following a hearing on January 23, 2014 in the United States Bankruptcy Court for the District of Maine ("US Court") as to whether or not Wheeling has a security interest over the tax credits, on March 17, 2014 the US Court ruled that \$342k of the proceeds are subject to Wheeling's security interest and the Chapter 11 Trustee, on behalf of MM&AR is entitled to the balance of \$148k.

- The remaining US\$0.2 million held in escrow, may be remitted to Wheeling if the realization of assets subject to Wheeling's security does not generate sufficient proceeds to pay the amounts owed to Wheeling.
38. As of March 14, 2014, the consolidated cash balance of the Companies amounted to US\$0.3 million as compared to the projected consolidated balance of US\$0.1 million. In addition, the Companies used US\$3.5 million of the DIP financing as compared to a projected use of US\$4.0 million. The overall positive variance of US\$0.7 million is primarily attributable to the following:
- US\$0.4 million positive cash receipts variance resulting from the better than forecasted collection of accounts receivable, which may be timing related and may reverse in future periods;
  - US\$0.3 million lower than projected payroll, material and supplies and freight car and locomotive expenses, which also may be timing related and also may reverse in future periods.
39. For additional details, we refer you to Exhibit "1" attached hereto, entitled Comparative Cash Flow for the period March 1, 2014 to March 14, 2014.

#### **CASH FLOW PROJECTIONS AND INTERIM FINANCING**

40. Included hereto as Exhibit "2" are the combined projections for MM&A with MM&AR ("Combined Projections") for the period March 17, 2014 to May 2, 2014 prepared on the assumption of a closing by the end of April ("Period"). In addition, all subsequent post-closing payments and adjustments are reflected in the Combined Projections in the period post the week ended May 2, 2014.
41. The Combined Projections are an extract of the short-term cash flow projections last updated by management and the Chapter 11 Trustee based on information and assumptions as of the week ended March 21, 2014. The Combined Projections have been submitted to the Chapter 11 Trustee and the Chapter 11 Trustee's Financial Advisor who have not indicated any disagreement with the Combined Projections nor that they are not suitable for the Period. The Combined Projections have been prepared using probable assumptions supported by and consistent with the plans of the Companies for the Period, considering the economic conditions that are considered the most probable by management. Since the Combined Projections are based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material.
42. The underlying assumption of the Combined Projections are that the Companies will continue with their current level of railway operations, pending the eventual closing of the sale of assets to RAH, projected to take place by the end of April 2014. The Combined Projections include the assumption

that east-west service would commence at the end of March 2014. Any delay in resumption of this service is not expected to have a material impact on the cash flow.

43. The Combined Projections reflect the following:

<b>Montreal, Maine &amp; Atlantic Railway Ltd and Montreal Maine &amp; Atlantic Canada Co.</b>			
<b>Cash Flow Projections - Summary</b>			
<b>For the period Mar 3, 2014 to May 2, 2014 and post closing</b>			
<b>(in USD)</b>	<b>Mar 3/14 to</b>	<b>Post</b>	
<b>(in thousands)</b>	<b>May 2/14 <sup>(1)</sup></b>	<b>closing <sup>(2)</sup></b>	<b>Total</b>
<u>Cash Receipts</u>			
Transportation revenue	\$ 1,968	\$ 750	\$ 2,718
Other operating revenue	216	-	216
Sale proceeds - Railroad Acquisition	14,250	-	14,250
Insurance proceeds - Travelers	-	3,800	3,800
DIP financing	1,211	-	1,211
<b>Total Cash Receipts</b>	<b>17,645</b>	<b>4,550</b>	<b>22,195</b>
<u>Cash Disbursements</u>			
Transport revenue offsets	511	500	1,011
Payroll and related expenses	1,643	1,005	2,648
Material and supplies	869	-	869
Freight car & locomotive	51	60	111
Other operating costs	483	-	483
Closing costs	10	150	160
Real estate taxes	-	650	650
Post filing accounts payable	-	200	200
Repayment of DIP financing	-	4,737	4,737
<b>Total Cash Disbursements</b>	<b>\$ 3,566</b>	<b>\$ 7,302</b>	<b>\$ 10,868</b>
<b>Net Cash Flow</b>	<b>14,079</b>	<b>(2,752)</b>	<b>11,327</b>
Cash, beginning of period	271	-	271
<b>Ending cash <sup>(3)</sup></b>	<b>\$ 14,350</b>	<b>\$ (2,752)</b>	<b>\$ 11,598</b>
<sup>(1)</sup> Cash flow was prepared on the assumption that the sale of assets will be completed by April 30, 2014.			
<sup>(2)</sup> Post-closing, the Companies will collect the remaining accounts receivable and settle its post-filing obligations.			
<sup>(3)</sup> Ending cash is subject to various priority charges/carveouts in favour of professionals in both Canada and the United States in addition to various charges of secured lenders.			

- US\$22.2 million of cash receipts include the following:
  - US\$2.9 million of receipts which include the collection of freight, switching, storage, car hire and equipment rental revenue. As the majority of billings are issued by MM&AR on behalf of the Companies, the MM&A projections reflect that funding to cover projected disbursements of MM&A during the Period will be provided by MM&AR, which is consistent with historical practices. The projected revenues include services relating to both Phase I

and Phase II of MM&A's operating plan. As noted above, Phase II has not yet commenced pending ongoing discussions with the City. Delays in the implementation of Phase II are not expected to be material to the cash flow.

- US\$14.3 million represents the gross sale proceeds to be received upon closing of the transaction with RAH, prior to payment of any closing adjustments (including real estate taxes and payroll) which are shown in the disbursements for cash flow purposes.
- US\$3.8 million of business interruption insurance is further detailed below. The total amount of the insurance proceeds is not being contested.
- US\$1.2 million of additional DIP financing that is projected to be subsequently repaid in full following the closing of the sale transaction.
- US\$10.9 million of cash disbursements consisting of both operating expenses pre-closing (US\$3.6 million) and post-closing disbursements (US\$7.3 million) summarized as follows:

March 17 to May 2, 2014 Disbursements

- US\$0.5 million Interline Settlement System ("ISS") payment is the estimated net amount owing from the use of other railway's tracks.
- US\$1.7 million of payroll and benefits is based on forecasted staffing levels in both Canada and the US as well as overtime and temporary employment required for certain track repairs and maintenance during the operating period.
- US\$0.9 million of materials and supplies consists primarily of estimated costs related to the maintenance and servicing of the railroad tracks as well as fuel purchases, consistent with current run rates.
- US\$0.5 million of other operating costs including freight and locomotive costs, provision for rent, utilities, insurance, interest and other bank charges, and employee expenses during the operating period.

Post-Closing Disbursements

- US\$0.5 million ISS payment outstanding relating to March and April 2014 activity.
- US\$1.0 million of payroll expenses related to the final pay periods and vacation pay for Canadian and US employees (owing as of the closing date) as well as severance for Canadian employees who are not projected to continue with RAH.
- US\$0.2 million provision for other potential closing costs resulting from the sale transaction with RAH.
- US\$0.7 million in respect of outstanding real estate taxes on the land and buildings owned by the Companies.

- US\$0.2 million payment of all remaining post filing obligations.
  - US\$4.7 million repayment of the Camden DIP financing.
  - No provision for professional fees in either Canada or the US has been included during the Period.
44. As discussed in previous Monitor's reports, the Chapter 11 Trustee was able to obtain US\$3 million of Debtor In Possession financing ("DIP Financing") in the form of a line of credit from Camden National Bank ("Camden"), which line of credit was subsequently increased to US\$4.8 million. The DIP Financing has been used to support the operations of both MM&AR and the Petitioner, but is not sufficient to permit any additional capital expenditures for necessary track repairs nor for payments of the fees owed to the Petitioner's Counsel, the Monitor and its Counsel ("Professionals").
45. The Combined Projections reflect that the US\$4.8 million of DIP Financing should provide sufficient financing through April 30, 2014, by which time, the closing is projected to occur, after which, the DIP Financing will be repaid from the proceeds of sale allocated to MM&AR.
46. As of the date of this report, the Companies have drawn upon US\$3.8 million of the current US\$4.8 million DIP Financing.

## **INSURANCE**

47. The Petitioner's insurance broker has confirmed that XL Insurance Company Limited ("XL"), who issued the existing civil liability policy which provides aggregate coverage of \$25 million per event, has agreed to a 60 day extension from April 1, 2014. All other policies which also expire on April 1, 2014 are being similarly extended.
48. As noted in the Monitor's Seventh Report, the Monitor, its counsel, counsel for MM&A as well as the Chapter 11 Trustee continue to be in communication with counsel for XL as well as other interested parties to discuss potential terms and conditions under which XL will remit the \$25 million payable under the insurance policy. Discussions, which intensified following the Joint Status Conference held on February 26, 2014, are progressing and the Monitor will provide further updates as required.

## **COMPROMISE AND SETTLEMENT WITH TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA**

49. We refer to the Monitor's Fifth Report for a summary of the US\$3.8 million settlement reached with Travelers Property Casualty Company of America ("Travelers") and approved by this Court and the

US Court, on December 19, 2013 and December 24, 2013, respectively (“Travelers Settlement Payment”).

50. As a result of a contestation filed by Wheeling in respect of the allocation of the Travelers Settlement Payment between MM&A and MM&AR, no amounts can be disbursed until further order of the Courts.
51. On March 13, 2014, the US Bankruptcy Court held a hearing on whether or not Wheeling has a security interest over the Settlement Payment and took the matter under advisement. If the US Bankruptcy Court rules against Wheeling, then there will be no need to have a hearing on the allocation. If Wheeling is determined to have an interest in the Travelers Settlement Payment, a joint hearing in respect of allocation has been scheduled for May 7, 2014. The Monitor and its counsel will continue to work with the Chapter 11 Trustee and its professionals in the event that such a joint hearing is necessary.
52. The Monitor is holding the US\$2.47 million of funds paid to it in trust pending the resolution of the Wheeling contestation and a further order of this Court permitting it to pay accrued professional fees owing to the Professionals that are secured by the Administration Charge.

## **SALE OF ASSETS**

53. Further to the updates provided in our Sixth and Seventh Reports, work to close the sale transaction with RAH continues. The following is a summary of certain open items:
  - RAH continues to work with the regulatory authorities in Canada and the US to obtain the appropriate operating licenses. In this respect, RAH confirmed that it recently filed its request for a clearance certificate from the Canada Transportation Agency;
  - RAH is in regular attendance at MM&AR’s office in Bangor, Maine to prepare for a transition of operations following a closing;
  - Work continues to finalize the schedules to the asset purchase agreement;
  - RAH continues its meetings and discussions with representatives of the Province and the City regarding various operational matters including the track in Lac-Mégantic. In this respect, RAH has advised that it has reached an agreement with the City regarding the continuation of rail service once the closing occurs.
54. A hearing was held on March 21, 2014 in respect of a motion filed by Orford Express Inc. (“Orford”) in which they seek an order modifying the Approval and Vesting Order to compel RAH to assume a contract between Orford and MM&A under which Orford operated a tourist train on MM&A’s tracks. The matter was taken under advisement. As noted above, on March 24, 2014, Orford filed a

Safeguard Motion to ensure the continuation of the operation of the tourist train (by RAH after the closing) through to December 31, 2014 while the matter regarding the assumption of the contract is determined by the court. Pursuant to the Safeguard Motion, Orford is essentially requesting that the Court order RAH to respect MMA's obligations under the contract pending the Court's decision in this matter.

## **CLAIMS PROCESS AND CLASS REPRESENTATIVES MOTION**

55. An agreement has been reached between the Petitioner, the Monitor, the Chapter 11 Trustee, the Province and the Proposed Class Representatives regarding the Claims Motion, the Class Representatives Motion and the Claims Cross-Motion to enable these matters to proceed on a consensual basis. We summarize the proposed orders being sought as follows:

### **Amended Claims Procedure Order**

- The Claims Motion as originally filed on December 13, 2013 will proceed. We refer to the Monitor's Fourth Report for a full description of the claims process;
- Derailment Claims filed with the Monitor will be deemed filed in the Chapter 11 proceedings if the creditors filing such claims elect to do so;
- The bar date in the CCAA and in the Chapter 11 proceedings will be June 13, 2014 ("Claims Bar Date"). Any creditor who does not file an individual proof of claim by the Claims Bar Date, shall not be entitled to:
  - Any further notice;
  - Participate as a creditor in the CCAA proceedings;
  - Vote on any matter in the CCAA proceedings, including a plan of arrangement ("Plan");
  - Advance a claim against MM&A;
  - Receive a distribution under the Plan.
- While the Amended Claims Procedure Order specifically forbids the filing of a proof of claim on behalf of a class or group of creditors, the proposed Class Representatives will be authorized to file one protective proof of claim on behalf of the Wrongful Death Victims, defined as "the estate of the persons deceased as a result of the Derailment, their successor, spouse or common law partner, child, grandchild, parent, grandparent and sibling";
- Based on input from the Class Representatives, certain modifications to the claims forms have been made, which revised claim forms are attached to the Amended Claims Procedure Order;

- The Monitor, assisted by the Class Representatives will hold information sessions for residents of the City in April 2014 and will be present in the City following the information sessions to provide assistance to creditors in respect of the completion of the claim forms;
- The Claims Cross-Motion filed by the Class Representatives will be withdrawn.

**Amended Class Representative Order**

- Appoints Yannick Gagné, Guy Ouellet, Serge-Jacques and Louis-Serge Parent as Class Representatives and appoints Daniel Larochelle, Consumer Law Group Inc., Rochon Genova LLP and Paliare Roland Rosenberg Rothstein LLP as Class Counsel in the CCAA proceedings;
- Approve the definition of Class Members which can be found in Appendix A to the amended Representation Order;
- Direct that any Class Member who does not wish to be represented by the Class Representatives and Class Counsel may opt-out of such representation by delivering an opt-out notice to the Monitor by May 30, 2014. Class Counsel drafted an opt-out notice which the Monitor and the Petitioner did not agree with. Accordingly, the form of opt-out notice as proposed by the Monitor and the Petitioner is attached as Appendix B to the amended Representation Order. Class Counsel may submit an alternate form of opt-out notice to be considered by the Court;
- Direct that the Class Representatives or Class Counsel are authorized to carry out the terms of the Amended Class Representative Order on behalf of the Class Members including:
  - Negotiating and approving, on behalf of the Class Members, and binding the Class Members to, any settlements, including the terms of any future court order or Plan and providing advice to Class Members;
  - Dealing, on behalf of the Class Members, with stakeholders in these proceedings;
  - Assisting Class Members or their representatives with the completion of their individual proof of claim.

**SUPPLEMENTAL ADMINISTRATION CHARGE**

56. Further to the order issued on March 14, 2014, the Professionals hold a \$4 million Administration Charge in respect of work done to date and in respect of ongoing work to be performed relating to the completion of the sale of assets to RAH, the continued monitoring of the operations of the Petitioner, the coordination of matters with the Chapter 11 Trustee, matters relating to the Travelers insurance proceeds as well as continued statutory duties under the CCAA proceedings.

57. In addition to the on-going work noted above, there remains substantial work to be performed including the work which can be summarized in two phases:

**Phase I**

- Finalizing negotiations with XL and other interested parties to obtain the \$25 million of proceeds, launch and oversee the claims process including assisting creditors in filing claims, perform a preliminary review of claims filed including identifying which creditors are entitled to the XL insurance proceeds, and the potential interim distribution of the \$25 million.

**Phase II**

- Negotiating with potentially liable third parties for contributions to a distribution fund in exchange for full and final releases and filing a Plan of Arrangement, holding a creditors' meeting to vote on the Plan of Arrangement and submitting the plan of arrangement for Court approval.
58. In order to fund the further work including the work to be performed under Phase I above, the Professionals are seeking a \$1.8 million Supplemental Administration Charge (which approximates a \$1.5 million charge plus taxes) which shall have priority on any amount to be paid i) by XL, but excluding the amount of \$25 million of insurance coverage under its insurance policy, ii) by any other insurers, iii) by the insureds under the XL insurance policy or any other insurance policies, as well as iv) by Potentially Liable Third Parties, in each case as consideration for full and final releases to be granted through the present CCAA proceedings
59. Since the Initial Order, as a result of the ongoing tight liquidity facing the Petitioner and MM&AR, the Professionals have not requested nor has it been possible for the Petitioner to make any payments to the Professionals, thereby preserving cash flow to enable the continued operations to service the Petitioner's many clients and enable the continued payment of the Petitioner's employees.

**CHAPTER 11 PROCEEDINGS**

60. As previously reported, on August 7, 2013, MM&AR commenced proceedings under Chapter 11 of the U.S. Bankruptcy Code in the US Court.
61. On August 21, 2013, the U.S. Trustee appointed Robert J. Keach, attorney, to be the Chapter 11 Trustee of MM&AR and he has assumed day to day control of the operations of MM&AR.
62. The Monitor and its counsel continue to be in frequent contact with the Chapter 11 Trustee and his professionals to coordinate the efficient administration of both estates as well as the completions of

the sale transaction, and the Claims Process that are more fully described elsewhere in this report and in prior Monitor reports.

63. The Monitor reviews daily and weekly information reports from the Companies as well as variance reports prepared by Development Specialists Inc. (“DSI”), the financial advisor to the Chapter 11 Trustee.
64. As noted in the Monitor’s Fourth Report, the United States Trustee appointed four creditors (who all allege to have claims arising from the Derailment) to a Committee of Derailment Victims (“Official Committee of Victims”) to assist the Chapter 11 Trustee. In addition, the Province and the City have been added as ex-officio members to the Official Committee of Victims. The Official Committee of Victims has also engaged legal counsel.
65. As discussed in the Monitor’s Sixth Report, the Unofficial Committee of Wrongful Death Claimants (“WDC Committee”) filed a Chapter 11 Plan and a Disclosure Statement for Chapter 11 Plan (“WDC Chapter 11 Plan”). The WDC Chapter 11 Plan has been contested by the Chapter 11 Trustee, the Committee along with numerous other parties as unconfirmable and premature given the cross border efforts to resolve the distribution of the XL insurance proceeds. We refer to our Sixth Report for more details regarding the WDC Chapter 11 Plan.
66. The Monitor is continuing to post the various relevant motions and orders in respect of MM&AR’s Chapter 11 proceedings to its website to permit all stakeholders to follow these proceedings. Recent motions and orders filed with or issued to date by the US Court include the following:
  - Chapter 11 Trustee’s motion for an order (I) determining that the unofficial committee of wrongful death claimants failed to comply with bankruptcy rule 2019 and (II) imposing sanctions for such failure;
  - Wrongful Death Claimants’ motion to determine compliance with bankruptcy rule 2019 and Wrongful Death Victims’ motion for emergency determination and shortened objection period to determine compliance with bankruptcy rule 2019;
  - Order granting Chapter 11 Trustee’s motion for an order (I) determining that the unofficial committee of Wrongful Death Claimants failed to comply with bankruptcy rule 2019 and (II) imposing sanctions for such failure;
  - Decision and order regarding the proceeds of the sale of the Debtor’s 45G tax credit;
  - Order establishing June 13, 2014 as the deadline for filing proofs of claim and procedures relating thereto and approving form and manner of notice thereof;
  - Order on motions to transfer nineteen wrongful death cases filed in Illinois to the United States District Court of Maine.

## **ACTIVITIES OF THE MONITOR**

67. The Monitor's activities have included the following:

- Continued monitoring of the Petitioner's operations which has included frequent contact with the Chapter 11 Trustee and his professionals, Petitioner's management and legal counsel all with a view to keeping apprised of material developments and to seek input with respect to the restructuring process. In addition, The Monitor has kept apprised of the restructuring proceedings of MM&AR through the review of Chapter 11 motions and orders;
- Maintaining regular contact with representatives of the Province, the City and other stakeholders in this restructuring process to seek their input and provide assistance in various areas;
- The Monitor is working with the Chapter 11 Trustee and the various professionals in respect of the completion of the sale of the Companies' assets to RAH;
- The Monitor through its counsel has been in communication with the legal counsel of the proposed Class Representatives;
- The Monitor continues to respond to queries from suppliers, creditors and other interested parties;
- The Monitor and its counsel have been in contact with the legal counsel of XL to discuss the framework to expedite the remittance of the insurance proceeds;
- The Monitor reviewed the Petitioner's financial affairs and results for the period March 1, 2014 to March 14, 2014;
- The Monitor continues to post copies of all Court materials filed in the CCAA and Chapter 11 Proceedings on its website;
- The Monitor has prepared and filed this Eighth Report;
- Other administrative and statutory matters relating to the Monitor's appointment.

## **RECOMMENDATIONS OF THE MONITOR**

68. At the present time, it is premature for the Petitioner to devise a Plan of Arrangement and present same to its creditors.

69. The Petitioner has been paying for goods and services received subsequent to the date of filing the CCAA as they become due, except for professional fees.

70. The Petitioner is acting in good faith, with due diligence and has been cooperating with all stakeholders involved in this process, including but not limited to, the Monitor, the various governmental agencies including the CTA, the City, the Chapter 11 Trustee and its creditors.
71. The Monitor, the Petitioner, the Chapter 11 Trustee and the Class Representatives have agreed on a consensual resolution to permit the claims process to be commenced and for the individual creditors to be represented by the Class Representatives and Class Counsel, unless they choose not to be represented.
72. There remains significant work to be done by the Professionals in the CCAA process including, but not limited to, completing the sale of the Petitioner's assets which is now expected to occur by April 30, 2014 and the implementation of the first phase of the claim process which will include conducting information sessions in the City as well as responding to the large number of inquiries that are expected to accompany the thousands of claims to be filed.
73. Absent the creation of the Supplemental Administration Charge of \$1.8 million, the Petitioner lacks the means to secure the payment of the fees of the Professionals who are essential to the CCAA process, in particular as it relates to the claims process, the negotiation of the terms and conditions of the remittance of the XL \$25 million insurance proceeds and distribution of funds to creditors.

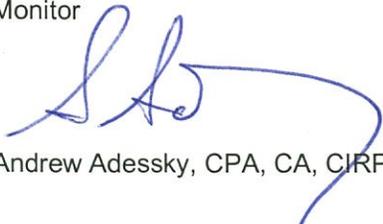
## **CONCLUSION**

74. The Court should grant the amended Claims Procedure Order to enable the commencement of the claims process.
75. The Court should grant the proposed Class Representatives Order so that creditors, who choose to do so, can benefit from the actions of the Class Representatives and Class Counsel.
76. The Court should grant the Supplemental Administration Charge of \$1.8 million.

Respectfully submitted at Montreal, this 26<sup>th</sup> day of March, 2014.

**Richter Advisory Group Inc.**

Monitor



Andrew Adessky, CPA, CA, CIRP

## **Exhibit 1**

## Montréal, Maine &amp; Atlantic Railway Ltd./Montreal Maine &amp; Atlantic Canada Co.

## Comparative Cash Flow

For the period March 1, 2014 to Mar 14, 2014

(in USD)	Forecast Mar 1 - Mar 14	Actual Mar 1 - Mar 14	Variance Mar 1 - Mar 14
<b><u>MMA Cash Receipts:</u></b>			
Deposits & Wire Transfers	372,268	817,690	445,422
ISS <sup>1</sup>	5,883	-	(5,883)
Other items <sup>2</sup>	76,483	63,672	(12,811)
DIP financing - Camden National Bank	703,158	200,000	(503,158)
<b>Total</b>	<b>1,157,792</b>	<b>1,081,362</b>	<b>(76,430)</b>
<b><u>MMA Disbursements:</u></b>			
ISS payout <sup>1</sup>	200,000	209,888	(9,888)
Payroll & Related Taxes	511,415	423,261	88,154
Materials and supplies	304,608	195,227	109,381
Freight car and locomotive	67,071	12,217	54,854
Other costs	163,281	156,755	6,526
<b>Total</b>	<b>1,246,374</b>	<b>997,348</b>	<b>249,026</b>
Net Cash Flow	(88,582)	84,014	172,596
Opening Cash Balance - MMA	188,582	187,175	(1,407)
Closing Cash Balance - MMA	100,000	271,189	171,189
<b><u>Camden National Bank - DIP Lender</u></b>			
Opening line of credit	3,326,339	3,326,339	-
Funds advanced	703,158	200,000	503,158
Ending Line of credit	4,029,497	3,526,339	503,158
Total authorized line of credit	4,350,000	4,350,000	-
Total available line of credit	320,503	823,661	(503,158)
<b>Loan balance - net of cash</b>	<b>\$ 3,929,497</b>	<b>\$ 3,255,150</b>	<b>\$ 674,347</b>

<sup>1</sup> - The Interline Settlement System ("ISS") is the centralized process for the rail industry used to negotiate and agree upon for the sharing of revenue generated for a movement when two or more tracks are involved in a shipment route.

<sup>2</sup> - Other items includes switching revenue, car hire revenue and equipment rentals.

## **Exhibit 2**

Montreal, Maine & Atlantic Railway Ltd. & Montreal Maine & Atlantic Canada Co.		FORECAST								
(in USD)	W/E 21/03/2014	W/E 28/03/2014	W/E 04/04/2014	W/E 11/04/2014	W/E 18/04/2014	W/E 25/04/2014	W/E 02/05/2014	Post 02/05/2014	Total	
<b>Receipts:</b>										
<b>Transportation Revenue</b>										
Freight Revenue and Zone Switching	\$ 358,267	\$ 220,000	\$ 250,000	\$ 295,000	\$ 295,000	\$ 320,000	\$ 230,000	\$ -	\$ 1,968,267	
MCC Pre 10/18 Collections	-	-	-	-	-	-	-	-	-	
ISS Settlement	-	-	-	-	-	-	-	-	-	
Sub Total - Transportation Revenue	358,267	220,000	250,000	295,000	295,000	320,000	230,000	-	1,968,267	
<b>Other Operating Revenue</b>										
Switching & Miscellaneous	-	-	-	40,000	-	-	-	-	40,000	
Railcar Storage	-	-	52,000	-	-	-	-	-	52,000	
Equipment Rental	-	48,000	-	-	-	-	30,000	-	78,000	
Car Hire Revenue (Payable)	20,704	-	-	-	-	-	25,000	-	45,704	
Sub Total - Other Operating Revenue	20,704	48,000	52,000	40,000	-	-	55,000	-	215,704	
<b>Non-Operating Revenue</b>										
Fortress sale proceeds	-	-	-	-	-	-	14,250,000	-	14,250,000	
Business interruption insurance proceeds	-	-	-	-	-	-	-	3,800,000	3,800,000	
45G Proceeds	-	-	-	-	-	-	-	-	-	
Final collection of Post 10/18 A/R	-	-	-	-	-	-	-	750,000	750,000	
Sub Total - Non-Operating Revenue	-	-	-	-	-	-	14,250,000	4,550,000	18,800,000	
<b>Total Cash Receipts</b>	<b>378,971</b>	<b>268,000</b>	<b>302,000</b>	<b>335,000</b>	<b>295,000</b>	<b>320,000</b>	<b>14,535,000</b>	<b>4,550,000</b>	<b>20,983,971</b>	
<b>Disbursements:</b>										
<b>Transportation Revenue Offsets</b>										
ISS payout	-	-	250,000	-	-	-	260,541	500,000	1,010,541	
NBSR, MNR, SLQ, CN	-	-	-	-	-	-	-	-	-	
Sub Total - Transportation Revenue Offsets	-	-	250,000	-	-	-	260,541	500,000	1,010,541	
<b>Payroll &amp; Related</b>										
Salaries, Wages & Commissions US	300	215,000	-	231,049	-	231,049	-	262,800	940,199	
Employee Benefits & Claims - US	73,264	45,000	48,150	48,150	48,150	48,150	-	200,000	510,864	
US Railroad UC	-	-	-	-	50,000	-	-	-	65,000	
Salaries, Wages & Commissions CDN	107,689	-	126,694	-	126,694	-	126,694	527,170	1,014,941	
Group Health, pension and union dues- CDN	10,407	34,000	12,188	788	12,188	34,788	12,188	-	116,546	
Sub Total - Payroll & Related	191,660	294,000	187,031	279,987	237,031	313,987	138,882	1,004,970	2,647,550	
<b>Materials &amp; Supplies</b>										
Diesel Fuel	148,578	60,000	84,662	84,662	84,662	84,662	84,662	-	631,890	
Inventory Payments	-	5,000	5,000	5,000	5,000	5,000	5,000	-	30,000	
Material/Repair Costs US	21,498	20,000	22,500	12,500	12,500	12,500	12,500	-	113,998	
Material/Repair Costs CDN	532	20,000	22,500	12,500	12,500	12,500	12,500	-	93,032	
Sub Total - Material & Supplies	170,608	105,000	134,662	114,662	114,662	114,662	114,662	-	868,920	
<b>Freight Car &amp; Locomotive Expense</b>										
Leases - Car	-	-	-	21,000	-	-	-	60,000	81,000	
Leases - Locomotive	-	-	12,000	-	-	-	12,000	-	24,000	
Car Repair Net	1,997	-	2,000	-	-	-	2,000	-	5,997	
Sub Total - Freight Car & Locomotive	1,997	-	14,000	21,000	-	-	14,000	60,000	110,997	
<b>Other Operating Costs</b>										
Rent	-	-	16,000	-	-	-	-	-	16,000	
Electricity	16,774	-	9,000	-	-	-	9,000	-	34,774	
Heat at Derby maintenance facility	-	5,400	5,400	2,500	2,500	2,500	2,500	-	20,800	
Insurance Payments	53,885	20,000	-	-	-	-	-	-	73,885	
Bank Chges /Interest Exp/Points	14,401	1,000	-	1,000	1,000	18,943	1,000	-	37,344	
Other Closing Costs	-	-	10,000	-	-	-	-	150,000	160,000	
Pre-Petition sales tax	-	-	-	-	-	-	-	-	-	
Real Estate taxes	-	-	-	-	-	-	-	650,000	650,000	
Post-filing A/P	-	-	-	-	-	-	-	200,000	200,000	
Phone, Internet, Radio, Other expenses	27,158	33,250	55,000	43,250	43,250	43,250	55,000	-	300,158	
Sub Total - Rent, Heat & Utilities	112,218	59,650	95,400	46,750	46,750	64,693	67,500	1,000,000	1,492,961	
<b>Total Operating Disbursements</b>	<b>476,483</b>	<b>458,650</b>	<b>681,094</b>	<b>462,400</b>	<b>398,444</b>	<b>493,343</b>	<b>595,585</b>	<b>2,564,970</b>	<b>6,130,969</b>	
Payoff of DIP loan	-	-	-	-	-	-	-	4,737,178	4,737,178	
<b>Net Cash Inc(Dec) From Ops</b>	<b>(97,512)</b>	<b>(190,650)</b>	<b>(379,094)</b>	<b>(127,400)</b>	<b>(103,444)</b>	<b>(173,343)</b>	<b>13,939,415</b>	<b>(2,752,148)</b>	<b>10,115,825</b>	
<b>SUMMARY</b>										
Cash Beginning	271,189	173,677	100,000	100,000	100,000	100,000	100,000	14,350,000	271,189	
Net Weekly Cash Flow	(97,512)	(190,650)	(379,094)	(127,400)	(103,444)	(173,343)	13,939,415	(2,752,148)	10,115,825	
Financing Advance(Paydowns)	-	116,973	379,094	127,400	103,444	173,343	310,585	-	1,210,839	
Cash Ending <sup>(1)</sup>	\$ 173,677	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 14,350,000	\$ 11,597,852	\$ 11,597,852	
<b>Principal Bal New Financing</b>	<b>3,526,339</b>	<b>3,526,339</b>	<b>3,643,312</b>	<b>4,022,406</b>	<b>4,149,806</b>	<b>4,253,249</b>	<b>4,426,592</b>	<b>4,737,178</b>	<b>3,526,339</b>	
<b>Net Weekly Cash Advance(Paydown)</b>	<b>-</b>	<b>116,973</b>	<b>379,094</b>	<b>127,400</b>	<b>103,444</b>	<b>173,343</b>	<b>310,585</b>	<b>(4,737,178)</b>	<b>(3,526,339)</b>	
<b>End of Period Principal Balance</b>	<b>3,526,339</b>	<b>3,643,312</b>	<b>4,022,406</b>	<b>4,149,806</b>	<b>4,253,249</b>	<b>4,426,592</b>	<b>4,737,178</b>	<b>-</b>	<b>-</b>	

<sup>(1)</sup> Ending cash is subject to various priority charges/carveouts in favour of professionals in both Canada and the United States in addition to various charges of secured lenders.