

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL  
No: 500-11-060613-227

SUPERIOR COURT  
(Commercial Division)  
(Sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*, R.S.C.  
(1985), ch C-36 as Amended)

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IN THE MATTER OF THE PLAN OF  
COMPROMISE AND ARRANGEMENT OF:

RISING PHOENIX INTERNATIONAL INC.

and

10864285 CANADA INC.

and

11753436 CANADA INC.

and

CDSQ IMMOBILIER INC.

and

COLLÈGE DE L'ESTRIE INC.

and

ÉCOLE D'ADMINISTRATION ET DE  
SECRÉTARIAT DE LA RIVE-SUD INC.

and

9437-6852 QUÉBEC INC.

and

9437-6845 QUÉBEC INC.

Debtors

and

RICHTER INC.  
(FORMERLY RICHTER ADVISORY GROUP INC.)

Monitor

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THIRD REPORT OF THE MONITOR RICHTER INC. (FORMERLY RICHTER ADVISORY GROUP INC.)

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## INTRODUCTION

1. The present report ("**Third Report**") should be read in conjunction with the Amended Pre-Filing Report dated January 6, 2022 (the "**Pre-Filing Report**"), the Supplementary Report dated January 16, 2022 (the "**Supplementary Report**") and the Second Report dated February 2, 2022 (the "**Second Report**") prepared by Richter Inc. (formerly Richter Advisory Group Inc.) ("**Richter**" or the "**Monitor**"), in its capacity as Monitor of Rising Phoenix International Inc. ("**RPI**") and the other entities listed in the style of cause (collectively, the "**Debtors**" or the "**Company**").

2. On January 6, 2022, the Debtors filed with the Superior Court of Québec, Commercial Division (the “**Court**”), an *Application for the Issuance of a First Day Initial Order and an Amended and Restated Initial Order* (the “**First Application**”) and on January 6, 2022, the Court granted the *First-Day Initial Order* (the “**First-Day Initial Order**”). Pursuant to the First-Day Initial Order, among other things, all creditors were stayed from commencing or continuing any proceedings against the Debtors and/or the directors and officers of the Debtors until and including January 14, 2022 (the “**Stay Period**”).
3. On January 13, 2022, Firm Capital Mortgage Fund Inc. (“**Firm Capital**”) filed a *Contestation to the Applicants’ request for an Amended and Restated Initial Order* (the “**Firm Capital Contestation**”). Firm Capital ultimately did not proceed with its Contestation in view of the settlement that preceded the hearing on January 17, 2022. As outlined below, Firm Capital has fully assisted the parties to further the Company’s restructuring efforts.
4. On January 16, 2022, the Debtors filed an *Amended Application for the Issuance of an Amended and Restated Initial Order* (the “**Amended and Restated Initial Order**”) and on January 17, 2022, the Court granted the Amended and Restated Initial Order and extended the Stay Period to February 28, 2022.
5. On February 9, 2022, Anish Sachdeva, Manjot Singh, Sukhrajpreet Singh, Sukhmanpreet Singh and Jaspreet Singh (the “**Proposed Student Representatives**”) filed an *Application for the Issuance of a Student Representation Order* (the “**Representation Application**”) which seeks the appointment of “McCarthy Tétrault LLP and its division MT>*ipius*” (the “**Student Attorneys**”) as representative counsel in the CCAA Proceedings to represent “all persons who are creditors of the Debtors as a result of their status as a currently enrolled student” at the three (3) Colleges “or pipeline student of the Colleges” (pas per the draft order included as Exhibit R-2 to the Representation Application (the “**Draft Representation Order**”), para. [5]).
6. The Monitor is informed that:
  - Manjot Singh and Jaspreet Singh are students currently enrolled at CDE and are both in their last semester of studies;
  - Anish Sachdeva, as of January 6, 2022, was a “pipeline student” (as the term is further described in paragraph 44 of this report) whose visa for M College was recently refused; and
  - Sukhrajpreet Singh and Sukhmanpreet Singh are enrolled at the *École de Secrétariat Notre-Dame-des-Neiges*, operating as *Collège de comptabilité et de secrétariat du Québec, campus de Sherbrooke Inc.* (“**CCSQ Sherbrooke**”), a non-profit vocational school in the city of Sherbrooke. CCSQ Sherbrooke is a partner institution with RPI, but is not a filing entity in these CCAA Proceedings.
7. This Third Report is subject to the Terms of Reference and Disclaimer found in the Pre-Filing Report. Capitalized terms not defined herein shall have the meanings ascribed thereto in the Pre-Filing Report, the Supplementary Report and the Second Report.

8. This Report is intended to provide the Court with information relating to:
  - a) Monitor's Activities;
  - b) Company's Activities;
  - c) Communications with the *Ministère de l'immigration, francisation et intégration*;
  - d) Sales and Investment Solicitation Process ("**SISP**");
  - e) Financial Position Update, Financial Performance and Cash Flow Projections;
  - f) Representation Application; and
  - g) Conclusion.
9. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.
10. All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Pre-Filing Report.

## **MONITOR'S ACTIVITIES**

11. Since the commencement of the CCAA, the Monitor has, *inter alia*:
  - a) Complied with Statutory Obligations**
    - In accordance with the First-Day Initial Order:
      - Made the First-Day Initial Order publicly available by posting a copy on the Monitor's website (<https://www.richter.ca/insolvencycase/rising-phoenix-international-inc/>) (the "**Monitor's Website**");
      - Sent, by mail, notice to every known creditor of the Debtors informing them of the issuance of First-Day Initial Order;
      - Prepared a list of creditors including the names, addresses, and estimated amounts owed and made the list publicly available on the Monitor's Website; and
      - Made the service list publicly available on the Monitor's Website;
    - In accordance with the First Day Initial Order, notice of the CCAA filing was published in *Le Devoir* and *The Gazette* newspapers on January 13 and January 20, 2022;
    - Prepared and filed the Pre-Filing Report, the Supplementary Report, the Second Report and this Third Report as well as attended two (2) Court hearings with respect to the CCAA Proceedings;
    - Updated the Monitor's Website to allow stakeholders to access relevant documents in connection with the CCAA Proceedings.

**b) Meetings with Management**

- Met with the Company's management to explain their obligations during the CCAA Proceedings and to assist them in their compliance with these provisions;
- Conducted meetings with management to discuss the effects of the CCAA, the desire to preserve the value of the Company and the need for their cooperation;
- Assisted management in the development of a communication protocol to various stakeholders including students, creditors, and employees. By way of example, a specific communication to the students was prepared by the Monitor and sent to all students as well as posted on the Monitor's Website. In addition, the Monitor prepared a *Frequently Asked Questions* document in relation to the CCAA Proceedings which was also made publicly available on the Monitor's Website;
- Held numerous discussions and conference calls with representatives of the Company, the Debtors' counsel, Kaufman Lawyers LLP, and the Monitor's counsel, Stikeman Elliott LLP in connection with the various steps relating to the CCAA Proceedings, including, without limitation, implementation of the SISP.

**c) Preparation of Cash Flow Projections and on-going Monitoring of Cash Flows**

- Reviewed and analyzed the reported assets, liabilities and operations of the Debtors in order to better understand the financial situation of the Company;
- Took the necessary steps to open a trust account at the Royal Bank of Canada;
- Controlled the collection of any receipts and the issuance of all disbursements of the Debtors, in accordance with the terms of the Amended and Restated Initial Order;
- Assisted management with the preparation of cash flow projections and related assumptions and has continued to update these projections as required;
- Reviewed weekly variances between the reported cash flow results versus the cash flow projections for the period from January 6, 2022 to February 4, 2022.

**d) Negotiated Interim Financing Facility**

- Negotiated the terms of an Interim Financing Facility with Firm Capital, which provided the Applicants with the funds required to engage in the present restructuring process;
- Communications with Firm Capital and the Company regarding updated real estate appraisals procured by Firm Capital on February 1, 2022 from Colliers International Realty Advisors Inc., copies of which have been included in the data room.

**e) Communications with Stakeholders**

- Has arranged for a toll-free hotline (1-866-773-2196) and an email address (rpigroup@richter.ca) through which the Debtors' creditors or other interested parties can make inquiries related to the CCAA Proceedings;
- Has been in communication with the students who are registered at the Colleges, and in this regard, has received and answered approximately 2,000 emails and 80 telephone messages;
- Reviewed and approved the *Notice to Lessor to Disclaim or Resiliate a Lease by Commercial Tenant* pursuant to subsection 32(1) of the CCAA which was sent to the lessor (9352-8198 Québec Inc.) on January 10, 2022;
- Ongoing communications with representatives of the *Ministère de l'éducation* and the *Ministère de l'enseignement supérieur* (collectively, the "**Education Ministries**"), either directly or through their attorneys, with a view to keeping them informed of the restructuring, the graduation of students and the SISP. In this respect, a *Frequently Asked Questions* document was prepared by the Monitor, reviewed by the Education Ministries and posted by the Monitor in the Data Room for all prospective bidders to access information regarding the transfer and renewal of the Colleges' permits;
- Communicated with legal counsel for the Debtors and for the *Ministère de l'immigration, de la francisation et de l'intégration* ("**MIFI**") regarding the immigration status of the students, with a view to ensuring that the CCAA Proceedings would not impact their status;
- Entered into negotiations with Skytech Communications (a key supplier that provides the Omnivox online services platform) to resolve a disruption of service (the "**Omnivox Interruption**") which was causing delays in the entering of grades and the release of transcripts for M College. To this end, the service was re-established on February 4, 2022 after a settlement was reached with counsel for Skytech Communications;
- Participated in discussions with Revenu Québec with respect to sales taxes;
- Responded to queries from current suppliers.

**f) Actions taken in relation to the SISP**

- Assisted with the preparation of information / documents required for a SISP, including, but not limited to, form of procedures for the SISP, list of potential purchasers, teaser document, confidentiality agreement and draft purchase agreement;
- Set up and populated a data room for potential bidders;

- Launched the SISP on January 24, 2022 including the mailing of a teaser document explaining the investment opportunity to approximately 250 potentially interested parties consisting primarily of other operators of private colleges across Canada as well as certain international college operators;
- Supported the due diligence process being performed by interested parties, which included answering multiple questions and communications with several potential bidders;
- Attended visits at the Colleges as well as the Gatineau Property.

**g) Students' Insurance Coverage**

- Ongoing communications with JF Insurance Agency Group (the “**Insurer**”) and legal counsel to ensure that the insurance policies which were at imminent risk of cancellation were maintained;
- Worked with the Debtors and the Insurer to resolve any issues relating to the number of students covered under the policies, the term of the coverage and the rate applicable thereto;
- Throughout these CCAA Proceedings, certain students have had issues come up in respect of accessing or renewing their insurance, which the Monitor has responded to by communicating with the Insurer to address these specific issues and to ensure that the terms of the Initial Order were complied with.

**h) Analysis of Financing Options and Alternative Exit Options**

- Engaged in discussions with Firm Capital and other potential providers of financing regarding funding that may be required past February 28, 2022 for the implementation of a potential transaction;
- Analyzed several potential scenarios with a view to implement transactions that would allow the Debtors to graduate as many students as possible while maximizing the estates' value for creditors.

**COMPANY'S ACTIVITIES**

12. In addition to assisting the Monitor with regards to the items discussed above, since the commencement of the CCAA, the Company has, *inter alia*:

- Dealt with daily operational and administrative activities of the Company and the Colleges;
- Been in constant communication with teachers and additional key staff members who are needed to graduate as many students as possible by the end of February 2022;
- Continued to provide education services to 516 students with the intent to graduate these students by February 28, 2022. To date, 325 students have completed their curriculum;

- Inputted grades and coordinated with the relevant Education Ministries for the issuance of diplomas. The Company's effort to input students' grades was delayed by the Omnivox Interruption; however, the Company has advised that all requests for transcripts have now been submitted;
- Worked, and is continuing to work, on updating its accounting to provide more current financial information;
- Since the commencement of the CCAA proceedings, has answered over 3,600 queries from students, over and above queries directed to the Monitor. On average, students' inquiries are answered within three (3) working days at the latest, with the vast majority being answered within one (1) day. The below table summarizes the activities of the Company per college:

<b>College</b>	<b>EMAILS ANSWERED</b>	<b>REQUESTS FULFILLED</b> (Transcripts, letters of enrollment, etc.)
M College	2,215	924
CDE College	541	239
CCSQ Longueuil	881	391
CCSQ Sherbrooke	44	22
<b>Total</b>	<b>3,681</b>	<b>1,576</b>

- It is anticipated that all 516 students will complete their curriculum by February 28, 2022 and graduate in March 2022 once the necessary information has been fully transmitted to the Education Ministries who issue the graduation certificate.

#### **COMMUNICATIONS WITH THE MINISTRE DE L'IMMIGRATION, FRANCISATION ET INTEGRATION ("MIFI")**

13. As described in paragraph 18 to 20 of the Monitor's Second Report, since the CCAA filing, several students have received a formal notice from the MIFI in which these students were advised that their application for temporary selection in accordance with the requirements of the *Quebec Immigration Act* (CQLR, chapter I-02.1) had been refused, unless these students submitted new information which would allow the MIFI to reconsider its decision.
14. Exchanges took place with counsel to the Company and counsel to MIFI and on February 7, 2022, MIFI's counsel provided the following written confirmation to the Monitor:

*“En raison du processus de restructuration en cours et des efforts déployés dans le but de trouver un ou des acheteurs qui pourraient poursuivre les activités des collèges, le MIFI ne verra pas à transmettre, pour le moment, d'autre avis d'intention de refus de demande de sélection temporaire ou de rendre de*

*décision quant aux avis déjà transmis. Le MIFI réévaluera sa position, notamment à la lumière des résultats du processus de vente mis en place.”*

15. The Monitor understands this to mean that for the time being, MIFI will put on hold the processing of the foregoing notices or the issuance of similar notices to students pending the outcome of the SISP and the parties’ efforts to find going concern purchasers for the Colleges. MIFI also reserves its right to reassess its position following the outcome of the SISP.

## **SALES AND INVESTMENT SOLICITATION PROCESS**

16. The below table summarizes the status of the key dates of the SISP which were included in Exhibit A to the Monitor’s Second Report.

<b>Date</b>	<b>Steps</b>	<b>Update</b>
January 24, 2022	Launching of the SISP including the issuance of a teaser to more than 200 potential interested parties	Since the launch of the SISP, 25 interested parties have signed non-disclosure agreements and were granted access to the Data Room.
January 24 to February 11, 2022	Due diligence period	The Monitor and the Company worked with interested parties to enable them to perform the necessary due diligence including responding to information requests, meetings with management, tours of the Colleges, etc.
February 11, 2022	Deadline for the receipt by the Monitor of Bids and Deposits.	Bids were received from six (6) interested parties as more fully discussed below
By no later than February 18, 2022	Date of the Auction (if needed) and selection of the Successful Bid(s).	Discussed below
Subject to the availability of the Court, no later than seven (7) calendar days following either the conclusion of the Auction or the date on which a determination is made by the RPI Group, with the consent of the Monitor and Firm Capital, not to proceed with an Auction.	Hearing of the Approval Motion	Discussed below

17. The SISP due diligence period and overall process was kept relatively short due to several factors, which included (i) limited liquidity available to fund the ongoing CCAA process; (ii) the need to expeditiously implement a transaction to allow students to return to their courses as soon as possible; (iii) the need to allow potential buyers sufficient time to renew the permits for the Colleges with the Education Ministries prior to the expiration of such permits on June 30, 2022.



18. The Monitor, the Company and Firm Capital are currently reviewing and analyzing the six (6) offers which were received as part of the SISP on February 11, 2022. As the analysis remains ongoing and in order to protect the integrity of the sale process, the Monitor cannot provide a detailed overview of the bids received, however the following comments are in order at this stage:
- a) All of the bids received have taken note of the criteria in the SISP procedures, including the request that interested parties detail how they will treat the students who have been impacted by the CCAA Proceedings;
  - b) The bids received are such that all of the assets made available for sale are addressed and more particularly, if transactions are implemented, several options are available to affect a going concern continuation of the activities of the Colleges subject to various terms and conditions, including the transfer of the applicable permits;
  - c) The Monitor is very optimistic that, subject to obtaining regulatory approvals, it will be possible to implement a going concern transition of the Colleges to a new purchaser. The Monitor also intends to determine if, as part of the approval of a transaction(s), and subject to the terms of the existing Interim Financing Facility, additional funding could be unlocked and dedicated to education activities to graduate additional students during the weeks preceding the closing (in addition to the 516 students who are already scheduled to graduate in the coming weeks).
19. As part of its review, the Monitor expects to be in contact with some or all of the bidders to seek further clarifications regarding their bids before determining next steps. As noted above, the SISP contemplated the potential for an auction, and this is also a factor under consideration. Given the complexity involved with the analysis and selection of the winning bid(s), the Monitor may extend the period required (beyond February 18, 2022) should an auction be deemed advisable.
20. It is a certainty that the implementation of a potential transaction(s) will require funding past February 28, 2022. As part of its Interim Financing Facility and subject to compliance with the terms thereof, Firm Capital has agreed to provide a further \$650,000 post February 28, 2022 to support the operations of the Debtors, which funding (as noted below) is now called into question by the Representation Application.

#### **FINANCIAL POSITION UPDATE, FINANCIAL PERFORMANCE AND CASH FLOW PROJECTIONS**

21. Paragraph 41 of the Pre-Filing Report summarized the Debtors' estimate of liabilities. Included in this estimate was an amount of \$11.4M in connection with student liabilities, including pipeline students, refund requests and other. The Debtors continue to review these amounts and believe the actual liability to students may be lower than originally estimated. This amount will ultimately be determined as part of an eventual claim process which will be overseen by the Monitor.

22. Since the filing of the CCAA proceedings, the Company has been paying its suppliers for the post-filing goods and services received, including \$129,000 for the student insurance premiums for coverage through the period up to February 28, 2022 which is in line with the projected cash flow in Exhibit A of the Monitor's Supplementary Report.
23. **Exhibit A** to this Third Report contains the comparative cash flow statement for the 30-day period ended February 4, 2022 which indicates that the Company currently reflects a positive cash flow variance of approximately \$159K, which primarily relates to timing variances.

## **REPRESENTATION APPLICATION**

24. The Monitor opposes the relief currently sought in the Representation Application. The Monitor's recommendation to the Court is founded on the timing and structure of the relief sought in the Representation Application and could be revisited as matters evolve. In particular, the priority charge requested in the Representation Application would constitute an event of default under the Interim Financing Facility, with the consequences described hereafter.
25. The Monitor is very sensitive to the plight of the students and has been working against the clock since the outset of the CCAA filing to find and implement solutions to assist these vulnerable stakeholders. However, it would be against the interest of the students to appoint representative counsel in a manner that upsets the fragile equilibrium required to reach a successful outcome that would benefit all students.

### **Relief Sought in the Representation Application**

26. No information was sought from the Monitor prior to filing the Representation Application to evaluate the impact of the relief sought on the tight cash flow of the Debtors, or to determine how that relief could be adapted to the financial constraints of the present case.
27. In fact, the Monitor was advised of the filing of the Representation Application only a few hours before it was filed, at which point the Monitor did ask the Student Attorneys that the filing be delayed until after the February 11, 2022 bid deadline in the SISF. That request was denied.
28. On February 10, 2022, the Monitor sent a letter to the Student Attorneys to request clarifications with respect to the scope of their mandate, the budget for their fees and the Student Attorneys' willingness to modify the rank of the Representative Counsel Charge sought in the Draft Representation Order (Exhibit R-2). A copy of that letter is appended to this report as **Exhibit B**.
29. On February 11, 2022, the Student Attorneys responded to the Monitor's inquiries in a letter which is appended to this report as **Exhibit C** (the "**February 11 Letter**").
30. The Monitor wishes to highlight certain issues which arise from its review of the Representation Application, the Draft Representation Order and the February 11 Letter.

31. First, the mandate of the Student Attorneys is not clearly defined nor circumscribed. What is clear however, is that the Student Attorneys intend not only to actively participate in the ongoing CCAA Proceedings, but also to provide immigration-law advice to the students, the extent of which is unknown and may be unrelated to the current CCAA Proceedings. The Student Attorneys contemplate preparing and communicating a detailed list of tasks only after their appointment is confirmed.
32. Second, the Student Attorneys have declined to communicate a budget with respect to their professional fees and disbursements, citing the fact that the scope of their involvement with the students would need to be canvassed first.
33. In that regard, Paragraph [7] of the Draft Representation Order provides as follows:

“**ORDERS** that the Debtors shall pay, within seven (7) days of the reception of an invoice without any privileged information from the Representative Counsel, the reasonable fees and disbursements of the Representative Counsel, whether incurred before or after this Order, and shall be authorized to provide each with a reasonable retainer in advance or on account of such fees and disbursements, if so requested.” (our emphasis).
34. Given the foregoing, the professional fees and disbursements of the Student Attorneys would not be capped, and the Court would be ordering that the Debtors pay these up to an unlimited amount. The quantum of the fees incurred prior to the issuance of the Order is currently unknown, however in the February 11 Letter, the Student Attorneys specified that a \$50,000 retainer would be reasonable in the circumstances.
35. The Draft Representation Order seeks a \$100,000 super-priority charge as security for the professional fees and disbursements incurred by the Student Attorneys (the “**Representative Counsel Charge**”). This charge would rank after the Senior Administration Charge and before the FCC Security and the DIP Charge. The Student Attorneys have made it clear in the February 11 Letter that they are not willing to make any concessions regarding the rank of this requested charge.

#### **Impact of the Relief on the Current Situation**

36. From the Monitor’s perspective, the relief contemplated in the Draft Representation Order is premature and impossible to implement in its current form. Granting this relief would also deprive the Debtors of the funding of the second tranche of the Interim Financing in the amount of \$650,000 (the “**Second Tranche**”) from Firm Capital on which the Debtors rely to implement a transaction that will benefit all students.

37. The Debtors simply don't have the means to fund the obligations that would be subscribed in the Draft Representation Order. As appears from the table below, the current cash flows are already extremely tight and do not contemplate the payment of a \$50,000 retainer to the Student Attorneys, let alone an open-ended commitment to pay the professional fees and disbursements of these attorneys in respect of a mandate that has not even been defined or circumscribed. We further note that the Second Tranche would only allow for an additional payment towards professional fees (including the Monitor, its counsel and the Company's counsel) of \$100,000 until an eventual closing of a transaction.

<b>RPI Group (Consolidated)</b>					
<b>Projected Cash Flow</b>	<b>Mar-22</b>	<b>Apr-22</b>	<b>May-22</b>	<b>Jun-22</b>	<b>Total</b>
<i>Period Ending:</i>	<i>01-Apr-22</i>	<i>29-Apr-22</i>	<i>27-May-22</i>	<i>01-Jul-22</i>	
<b>In CAD</b>	<i>35 days</i>	<i>28 days</i>	<i>28 days</i>	<i>35 days</i>	<i>126 days</i>
<b>Receipts</b>	\$ -	\$ -	\$ -	\$ -	\$ -
Rent	(38,000)	(38,000)	(38,000)	(38,000)	(152,000)
Salaries	(15,000)	-	-	-	(15,000)
Educational services	(5,000)	-	-	-	(5,000)
Municipal taxes	-	-	-	(93,000)	(93,000)
Utilities	(16,000)	(12,800)	(5,600)	(7,000)	(41,400)
Other operating expenses	(27,057)	(17,806)	(17,806)	(29,057)	(91,725)
Student Insurance	-	-	-	-	-
<b>Operating Expenses</b>	<b>(101,057)</b>	<b>(68,606)</b>	<b>(61,406)</b>	<b>(167,057)</b>	<b>(398,125)</b>
Professional Fees	(40,000)	(30,000)	(20,000)	(10,000)	(100,000)
Interest on First Ranking Loan	-	-	(36,390)	(45,488)	(81,878)
Interim Facility Interests & Fees	(25,171)	(20,137)	(20,137)	(25,171)	(90,616)
<b>Other Expenses</b>	<b>(65,171)</b>	<b>(50,137)</b>	<b>(76,527)</b>	<b>(80,659)</b>	<b>(272,495)</b>
<b>Net Cash Flow</b>	<b>(166,228)</b>	<b>(118,743)</b>	<b>(137,933)</b>	<b>(247,716)</b>	<b>(670,620)</b>
<b>Opening Cash Balance</b>	<b>21,294</b>	<b>505,066</b>	<b>386,323</b>	<b>248,390</b>	<b>21,294</b>
Net Cash Flow	(166,228)	(118,743)	(137,933)	(247,716)	(670,620)
Firm Capital - Second Tranche	650,000	-	-	-	650,000
<b>Ending Cash Balance</b>	<b>\$ 505,066</b>	<b>\$ 386,323</b>	<b>\$ 248,390</b>	<b>\$ 674</b>	<b>\$ 674</b>

Note: The above cash flow does not reflect the proceeds or the impact of a going-concern sale of the Colleges.

38. From a practical perspective, the Student Attorneys' unwillingness to circumscribe the scope of their involvement and to commit to a budget that could be considered within the current cashflow makes the relief sought in the Draft Representation Order impossible to implement and signals a broader unwillingness to cooperate in sharing the limited resources available.
39. It bears reminding that unlike certain CCAA filings in which the debtor company continues to generate revenues from its current operations, in the present case, the only source of revenue for the Debtors is the interim financing which is currently provided by Firm Capital. The Debtors do not have other sources of revenue and have ceased collecting tuition or other amounts from the students.
40. The implementation of a successful outcome that will benefit all Students therefore clearly rests upon the advance of the Second Tranche, to fund the CCAA process past February 28, 2022.

41. In that regard, on February 11, 2022, the Monitor was advised in no uncertain terms by counsel for Firm Capital that the issuance of an order creating a Representative Counsel Charge which is senior to, or *pari passu* with, the ranking of the Firm Capital Security or the DIP Charge would constitute an Event of Default under the Interim Financing Agreement, and should this occur, Firm Capital will not advance the Second Tranche. A copy of the letter from Firm Capital's counsel is appended to this report as **Exhibit D**.
42. Aside from the issue of the legality of the Court ordering a priming charge over an already existing priming charge, which appears questionable, the practical implication of the Court issuing the Draft Representation Order is that the process will not be funded past February 28, 2022 and accordingly, the successful transition of the students as part of the SISF will be in jeopardy.
43. The Monitor is informed that Firm Capital would be prepared to advance the Second Tranche, subject to a resolution of the situation described by Firm Capital's counsel in its letter of February 11, 2022.

#### **Interest of the Students and Next Steps**

44. First, it bears noting that the "students" do not form a homogenous group of members with identical interests. As highlighted in the table below, the majority of students enrolled at the Colleges are present in Canada and will presumably favour an outcome that allows them to complete their education. However, others may be "pipeline students" who remain in India (awaiting a visa decision) or students who have already transitioned to other colleges and in both cases, such individuals may favour an outcome that maximizes the amounts available for distribution on account of refund claims.

<b>Students Status Summary</b>	Graduating Students Note 1	Registered Students Note 2	Pipeline Students Note 3	Other Students Note 4	Total
<b>Filing Entities</b>					
M College	329	364	192	392	1,277
CDE	122	89	31	86	328
CCSQ (Longueuil)	40	230	71	14	355
<b>Partner Schools</b>					
CCSQ Sherbrooke	25	57	14	10	106
Other Partner Schools (Note 5)	-	-	-	-	-
<b>Total</b>	<b>516</b>	<b>740</b>	<b>308</b>	<b>502</b>	<b>2,066</b>
Note 1	Graduating Students are enrolled students projected to graduate by February 28, 2022 (or shortly thereafter).				
Note 2	Registered (Active) Students are students who are enrolled and have begun their classes.				
Note 3	Pipeline Students are students who provided a deposit, but are not yet enrolled (most of them are awaiting their visa approval).				
Note 4	In addition to the categories above, Other Students consists of students who had their visa request denied, and/or voluntarily withdrew from the programs.				
Note 5	The table above excludes information relating to students at partner schools.				

45. The extent to which all “students” can therefore be represented by a single law firm therefore deserves to be carefully examined by the Court.
46. It also bears noting that one of the premises on which the Representation Application is founded is flawed: the notion that the interests of the students have not been taken into account throughout this CCAA process.
47. The Monitor takes issue with such a characterization. Although the Students have not been represented by legal counsel, their interests have consistently been taken into account and in fact, everything the Monitor has done since the beginning of this CCAA filing has been geared towards preserving the students’ interests.
48. Unlike certain precedents in which representative counsel was appointed and in which a charge was granted to secure their fees and disbursements, such as *Hexagone*, *Target* or *League Assets*, the financial resources of the Debtors in this case are significantly more limited. As a result, the Monitor has been playing a proactive role to protect the most vulnerable stakeholders (i.e. the students), including through the following:
  - a) Communicating with and responding to hundreds of student inquiries;
  - b) Securing interim financing from Firm Capital in difficult circumstances, to fund the graduation of certain students and an accelerated SISP;
  - c) Securing the participation of the Debtors’ existing management to work (for free) on the implementation of a plan to graduate 516 students;
  - d) Securing emergency health and medical insurance coverage for the students in the post-filing period (after the Insurer had issued notices to cancel the existing insurance coverage due to lack of payment of premiums);
  - e) Exchanging with the Education Ministries to seek clarity on the regulatory aspects of a potential transaction for the sale of the Colleges;
  - f) Ensuring the collaboration of MIFI in halting the potentially detrimental consequences outlined in the notices sent to students, with respect to their immigration status; and
  - g) Running a SISP in which it has been openly announced that an outcome which contemplates a going concern sale to a purchaser who will assume the current obligations owed by the Colleges to the students will be favored.
49. In light of the foregoing, the proposed role of a Representative Counsel would be duplicative, to a large extent, of many of the tasks already being undertaken by the Monitor.

50. As described above, on February 11, 2022, the Monitor received several serious offers to purchase the Colleges as a going concern in the context of the SISP, accompanied by the requisite deposits. The Monitor is also exploring options that would allow for the graduation of several hundred students presently in Canada, while a going concern sale is implemented.
51. However, none of these options to graduate more students and to implement a going concern transaction will realistically be implemented prior to February 28, 2022. This makes the funding of the Second Tranche vitally important, and the risk of destabilization posed by the relief sought in the Draft Representation Order, all the more real.

## **CONCLUSION**

52. The Monitor recommends to the Court that it deny the relief sought by the Proposed Student Representatives in the current form of the Draft Representation Order. The granting of such relief would be detrimental to the efforts made thus far to identify a prospective buyer and deprive the Applicants of the funding of the Second Tranche which is critical to further the ongoing restructuring efforts and ultimately bring a transaction to a close.
53. The Court could reserve the ability of the Proposed Student Representatives to request relief in the future, on terms which may realistically be implemented within the budgetary, contractual and other constraints of the present matter, following consultation with the Monitor.

Respectfully submitted at Montreal, this 14th day of February 2022.

### **Richter Inc. (formerly Richter Advisory Group Inc.)**

Monitor



Olivier Benchaya, CPA, CA, CIRP, LIT



Andrew Adessky, CPA, CA, MBA, CIRP, LIT

**Exhibit A**

**Comparative Cash Flow Statement for  
the 30-day period ended February 4, 2022**



<b>RPI (Consolidated)</b>				
<b>Revised Projected Cash Flow</b>	<b>Reported</b>	<b>Projected</b>	<b>Variance</b>	<b>Notes</b>
<i>For the period of Jan 6 to Feb 4, 2022</i>	<i>30 days</i>	<i>30 days</i>		
<b>Receipts</b>	<b>\$ 7,500</b>	<b>\$ -</b>	<b>\$ 7,500</b>	<b>1</b>
Rent	(80,604)	(85,670)	5,066	
Salaries	(34,702)	(52,500)	17,798	2
Educational services	(19,303)	(56,250)	36,947	3
Utilities	(5,375)	(52,300)	46,925	4
Other operating expenses	(13,542)	(55,850)	42,308	3
Student Insurance	(129,000)	(129,000)	-	
<b>Operating Expenses</b>	<b>(282,526)</b>	<b>(431,570)</b>	<b>149,044</b>	
Professional Fees	(300,966)	(315,000)	14,034	5
Contingency - Deemed Trust	(23,553)	(15,000)	(8,553)	6
DIP Interest & Fees	(68,221)	(73,329)	5,107	
<b>Other Expenses</b>	<b>(392,741)</b>	<b>(403,329)</b>	<b>10,588</b>	
<b>Net Cash Flow</b>	<b>(667,767)</b>	<b>(834,899)</b>	<b>167,132</b>	
<b>Opening Cash Balance</b>	<b>49,995</b>	<b>58,200</b>	<b>(8,205)</b>	
Net Cash Flow	(667,767)	(834,899)	167,132	
DIP	1,100,000	1,100,000	-	
<b>Ending Cash Balance</b>	<b>\$ 482,228</b>	<b>\$ 323,301</b>	<b>\$ 158,927</b>	

## NOTES

1. Reflects a reimbursement of a retainer payment for legal fees that was not projected to be received.
2. The favorable variance is due to fewer staff being hired than initially projected. The payroll currently reflects 4 administrative staff, as compared to 7 that was reflected in the projections. To date, no additional staff is required.
3. The favorable variance is timing related and should reverse in the coming weeks.
4. The favorable variance is primarily due to timing differences and the fact that not all of the deposits (as reflected in the projections) have been requested from the utility companies to date.
5. In addition to the professional fees reflected above, the Monitor, its counsel and counsel to the Debtors have deferred approximately \$500K to assist in prioritizing cash flow in respect of educating students, ensuring the payment of student insurance premiums and other related expenses. These fees are expected to be paid out of future interim financing and/or the sale of the assets.
6. Reflects funds that were set aside for a potential CRA deemed trust claim.

**Exhibit B**  
**Letter sent to the Student Attorneys on February 10, 2022**

Joseph Reynaud  
Direct: 514 397 3019  
[JReynaud@stikeman.com](mailto:JReynaud@stikeman.com)

February 10, 2022

BY EMAIL: [atardif@mccarthy.ca](mailto:atardif@mccarthy.ca)

Our file: 033491-1035

Me Alain Tardif  
**McCarthy Tétrault LLP**  
1000, rue De La Gauchetière Ouest  
Bureau 2500  
Montréal QC H3B 0A2

**Re : In the Matter of Rising Phoenix International Inc. et al. (the “Debtors”) |  
Application for the Issuance of a Student Representation Order  
S.C.M. No.: 500-11-060613-227**

Dear Colleague,

We are counsel to Richter Advisory Group Inc. (the “**Monitor**”), in its capacity as monitor of the Debtors in the captioned file. The purpose of this letter is to obtain clarifications with respect to the relief sought in the *Application for the Issuance of a Student Representation Order* (the “**Application**”), which was served yesterday.

We understand your firm seeks to be appointed as representative counsel of the students enrolled at all three colleges and for the fees and costs of your firm to be born entirely by the Debtors and guaranteed by a \$100,000 super-priority charge which would rank *pari-passu* with the senior tranche of the current Administration Charge, therefore before the current DIP Charge.

We further understand that your firm’s mandate would be to “seek to preserve the rights of the Students and represent them as part of the CCAA Proceedings” (Application, para. 48), with a team that involves not only insolvency counsel, but also immigration-law counsel (Application, para. 52).

In light of the very limited liquidity available to the Debtors, in order to properly evaluate the viability of the relief sought in the Application and its impact on the cashflow, the Monitor asks that you kindly specify the following:

1. Assuming the current sale process generates a going concern transaction for a sale of all three colleges, please confirm the exact scope of involvement of your firm. In particular, please confirm whether, in addition to providing legal representation in the CCAA proceedings, your firm would also provide immigration law advice to the students, and if so, to what extent (i.e. bespoke individual legal advice or collective information, advice to all students or certain groups only, what tasks etc.). The Monitor seeks a detailed list of tasks regarding your firm’s involvement on both the CCAA and immigration-law aspects, should the latter be sought.

2. Please provide an estimate of the fees and costs associated with the provision of the services outlined in your answer to the preceding paragraph, until April 30, 2022.

In that regard, you may assume that the Debtors will continue to operate to graduate students, a going concern sale of the colleges will be implemented to transition existing students who have not graduated and a plan of arrangement will be negotiated and implemented to distribute proceeds to creditors, including to students.

3. Please provide the quantum of any retainer required by your firm in connection with paragraph [7] of the form of order (Exhibit 2 to the Application).
4. The Debtors are parties to an Interim Financing Commitment with Firm Capital Corporation pursuant to which a second funding tranche in an amount of \$650,000 required to fund the operations of the Debtors after February 28, 2022 may be advanced, provided, *inter alia*, that the Debtors are not in default under the existing interim financing facility. In that regard, the Debtors have subscribed the following standard undertaking:

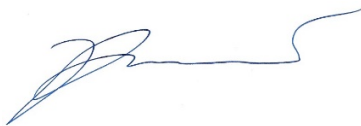
*"In addition to the above-mentioned covenants, the Borrowers further undertake not to (i) request, obtain or consent to any variations of the DIP Charge including to the relative amount or priority thereof, or (ii) create, seek or allow the creation of any hypothecation, pledge, security interest, mortgage, charge or other preferential right or interest in any of the Borrower's present or after-acquired property or assets ranking in priority to or pari passu with the DIP Charge."*

Please indicate whether your firm would accept that an eventual Representative Counsel Charge, should such a charge be created, rank after the existing charges as outlined in the Amended and Restated CCAA Initial Order of January 17, 2022.

The Monitor will reserve its position on the relief sought in the Application pending the receipt of satisfactory answers to the foregoing. As you will appreciate, given your express wish to have the Application heard expeditiously, time is of the essence in providing these answers. We thank you for your collaboration and remain available to discuss this matter.

Yours Truly,

**STIKEMAN ELLIOTT LLP**



Joseph Reynaud  
JR/bm

**Exhibit C**  
**February 11 Letter**

McCarthy Tétrault LLP  
Suite 2500  
1000 De La Gauchetière Street West  
Montréal (Québec) H3B 0A2  
Canada  
Tel: 514-397-4100  
Fax: 514-875-6246

**Alain N. Tardif**  
Email: atardif@mccarthy.ca



February 11, 2022

By email: [jreynaud@stikeman.com](mailto:jreynaud@stikeman.com)

Mtre Joseph Reynaud  
**Stikeman Elliott LLP**  
1155 René-Lévesque Blvd. W.  
41<sup>st</sup> Floor  
Montréal, QC Canada H3B 3V2

Dear Colleague:

**Re: In the Matter of Rising Phoenix International Inc. et al. (the “Debtors”) |  
Application for the Issuance of a Student Representation Order  
S.C. M. No.: 500-11-060613-227**

As you know, we have filed the *Application for the Issuance of a Student Representation Order* (the “**Application**”) on behalf of Anish Sachdeva, Manjot Singh, Sukhrajpreet Singh, Sukhmanpreet Singh and Jaspreet Singh asking the Court to (i) appoint McCarthy Tétrault LLP and its division MT>iplus as representative counsel to represent the interests of all persons who are creditors of the Debtors as a result of their status as student and (ii) order that our professional fees and disbursements be paid by the Debtors and are secured by a \$100,000 priority charge ranking after the Senior Administration Charge (as defined in the Amended and Restated Initial Order dated January 17, 2022 (the “**Initial Order**”)).

The present correspondence is in response to yours dated February 10, 2022, pursuant to which you are seeking to obtain clarifications with respect to the relief sought in the Application with a view to properly evaluating same.

All capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Application.

### **Scope of Proposed Involvement**

We have yet to circumscribe all the work that will be required in the course of our mandate. If, and when, we are appointed as representative counsel, we will meet with the students and prepare a list of tasks regarding our involvement, which we will readily share with the Monitor.

Notwithstanding the foregoing, the scope of our involvement would necessarily include reviewing all bids, if any, to be received by the Debtors in the context of the sale and investment solicitation process that is being conducted in respect of the business and assets of the Debtors, all documents to be executed to implement a transaction, as the case may be, and all court material in connection with such transaction.

With respect to immigration matters, we have met and spoken with approximately thirty-five (35) students over the past few weeks and are still working on identifying all the issues that will need

to be dealt with; however, the students are extremely concerned about the status of their student study permits as it impacts not only their ability to study in Canada, but also their ability to work to provide for their basic needs. As at the date hereof, a significant number of students are unable to work since the Debtors have ceased providing educational services. We are currently anticipating providing general legal advice regarding the issues to be identified in collaboration with the students.

### **Fees and Disbursements**

It is difficult, if not impossible, to estimate the extent of our professional fees and disbursements without first canvassing the scope of our involvement with the students, from whom the Debtors recently collected significant amounts in tuition fees - ranging in several thousands of dollars – and used same for unknown purposes.

As regards the quantum of the retainer which would be required, we believe that \$50,000 would be reasonable in the circumstances.

### **Representative Counsel Charge**

Concerning the rank of the Representative Counsel Charge, we are not willing to make any concessions regarding its rank. The Monitor and its counsel have insisted that part of the administration charge securing their professional fees and disbursements rank prior to the FCC Security and the Interim Lender Charge (as these terms are defined in the Initial Order). We find it odd that the Monitor, who has inside knowledge of the Debtors' financial situation and has insisted that part of the charge in its favour rank first, is asking us if we are willing to accept that the Representative Counsel Charge take rank after all the existing charges. In any event, we fail to see how the Representative Counsel Charge should not have a rank similar to that of the charges securing the professional fees and disbursements of the other professionals implicated in this file.

Furthermore, we are of the view that Firm Capital Mortgage Fund Inc. ("**FCC**") would be ill-advised to contest the proposed ranking of the Representative Counsel Charge, which would take rank before the FCC Security and the Interim Lender Charge, on the basis that it would be "funding" the students' legal fees, and especially so, by relying on standard language included in all interim financing term sheets. FCC is not only the interim lender but also the secured lender and it could be argued that the students' tuition fees, some of which were paid over one year prior to the initiation of the CCAA Proceedings, for educational services which were never provided by the Debtors, were in fact used to "service" FCC's debt.

### **Conclusion**

We are seeking to represent the most significant group of the Debtors' stakeholders, whom are collectively owed more than half of the value of the Debtors' estate, mostly as tuition fees advanced for educational services which were never provided by the Debtors, which fees, again, have been used for unknown purposes after having been secured through questionable practices (in this regard, we refer you to paragraphs 33 and 34 of the Application as well as to Exhibits P-3, P-4 and P-5).

We are appalled, to say the least, by the fact that the Monitor and the Debtors are not more eager at the opportunity to secure a channel of communication with potential representatives who have

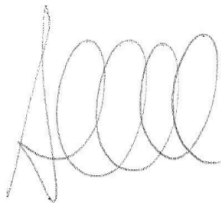
been able to secure a fragile trust-based relationship with the students, which constitute the most important group of stakeholders in the context of the Debtors' restructuring proceedings, who were, and continue to be, under the impression that they have been defrauded.

We sincerely hope that the Monitor will seize this opportunity to allow the students a voice in the Debtors' restructuring process as these students will ultimately be the most affected by the outcome of the current process.

Given that the Application is set to be heard on the morning of February 15, 2022, we would be grateful if the Monitor could provide us with its position regarding the relief sought pursuant to the Application at the latest by 11:00 am on February 14, 2022.

Yours truly,

**McCarthy Tétrault LLP**

A handwritten signature in black ink, appearing to read 'Alain N. Tardif', with a stylized, cursive script.

Alain N. Tardif  
Partner



**Exhibit D**  
**Letter from Firm Capital's Counsel**

# FFMP

AVOCATS  
LAWYERS

Depuis/Since 1923

Fishman Flanz Meland Paquin s.e.n.c.r.l./LLP  
1250, boul. René-Lévesque Ouest, Bureau 4100  
Montréal (Québec) H3B 4W8  
Tél.: 514 932-4100  
Télec.: 514 932-4170

Mark E. Meland  
mmeland@ffmp.ca

**BY EMAIL**

February 11, 2022

Me Martin Jutras  
**KAUFMAN AVOCATS S.E.N.C.R.L.**  
800 René-Lévesque Blvd. West  
Suite 2220  
Montreal QC H3B 1X9

and

Me Joseph Reynaud  
**STIKEMAN ELLIOTT S.E.N.C.R.L., S.R.L.**  
1155 René-Lévesque Blvd. West  
41st Floor  
Montréal, Québec, H3B 3V2

and

Mr. Olivier Benchaya  
**RICHTER**  
The Richter Tower  
1981 McGill College  
Suite 1100  
Montreal QC H3A 0G6

Re: In the matter of the CCAA proceedings of Rising Phoenix International  
Inc. et al. (the “Debtors”)

---

Dear Sirs,

As you are aware, we represent Firm Capital Mortgage Fund Inc. (“**Firm Capital**” or the “**Lender**”).

On February 9, 2022, we received service of an Application for the Issuance of a Student Representation Order (the “**Representation Application**”). In the Representation Application, the Student Applicants seek, *inter alia*, an order of the Court creating a representative counsel charge in the amount of \$100,000 that would rank in priority to the FCC Security and the

Interim Lender's Charge, as such terms are defined in the Amended and Restated Initial Order dated January 17, 2022 (the "**Initial Order**").

As you are aware, Firm Capital agreed to make interim financing available to the Debtors strictly on the basis of all of the terms and conditions set forth in the Interim Financing Commitment dated January 16, 2022, Exhibit R-23A (the "**Interim Financing Agreement**"), including, notably, the charges and priorities specifically set forth in the Initial Order. Conditional upon the Debtors satisfying all of these terms and conditions, which were all carefully negotiated and without which Firm Capital would not have entered into the Interim Financing Agreement, Firm Capital agreed to make loans in the aggregate maximum principal amount of \$1,750,000 to cover the costs and expenses detailed in a Cash Flow Forecast prepared by the Monitor and approved by Firm Capital. In the Initial Order, the Court approved the interim financing and ordered the Debtors to perform all of their obligations owed to the Lender pursuant to the Interim Financing Agreement.

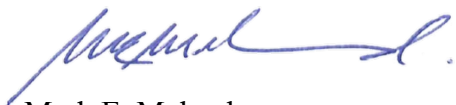
The Interim Financing Agreement specifically stipulates that the obligation of the Lender to make each of the DIP Advances is conditional upon there being no liens ranking in priority to the DIP Charge, other than an Administration Charge of \$150,000 and the Firm Capital Security.

Section 18 (viii) of the Interim Financing Agreement further stipulates that the rendering of an order of the Court granting a charge which is senior to, or *pari passu* with, the ranking of the Firm Capital Security or the DIP Charge would constitute an Event of Default under the Interim Financing Agreement. Should such an Event of Default occur, be advised that the Lender will not be in a position to make the Second Advance, as such term is defined in the Interim Financing Agreement.

We trust that the Debtors and the Monitor will take all necessary steps to ensure compliance with the Debtors' obligations under the Interim Financing Agreement.

Yours truly,

**FISHMAN FLANZ MELAND PAQUIN LLP**



Mark E. Meland  
MEM/hb