

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.

Applicants

and

RICHTER ADVISORY GROUP INC

Monitor

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SUPPLEMENTAL FIRST REPORT OF THE MONITOR RICHTER ADVISORY GROUP INC.

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## INTRODUCTION

1. The present report (“**Report**”) is intended to supplement the *Amended Pre-Filing Report* dated January 6, 2022 (the “**Pre-Filing Report**”) of Richter Advisory Group Inc. (“**Richter**” or the “**Monitor**”), filed in the context of the proceedings herein and should be read in conjunction therewith.

This 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.

2. This Report is intended to provide the Court with information relating to:
  - a) Update Since the Issuance of the Initial Order;
  - b) Communications with Stakeholders;
  - c) Prospective Sale of Assets;
  - d) Interim Financing;
  - e) Additional Amendments to the Draft Amended and Restated Initial Order; and
  - f) Conclusion.
  
3. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

#### **UPDATE SINCE THE ISSUANCE OF THE INITIAL ORDER**

##### **A) Bank Accounts**

4. Following the issuance of the Initial Order, the Monitor took the necessary steps to open a trust account at the Royal Bank of Canada. The Monitor is currently engaging in discussions and finalizing the necessary steps in order for the funds held in the Applicants' accounts to be transferred, in their entirety into this new trust account held by the Monitor.
  
5. Since the Initial Order, certain limited payments have had to be paid, which have been funded personally by Caroline Mastantuono.

##### **B) Notices of Stay of Proceedings**

6. As described in the Application, there are a number of litigation and arbitration proceedings in which the Applicants, and in some cases its Directors, are involved. Following the issuance of the Initial Order, the Monitor sent a *Notice of Stay of Proceedings* pursuant to section 11.02 of the CCAA to the parties to each of the following proceedings:
  - a) *Raysem Consultants Corporation v. 10864285 Canada Inc.* (500-17-105348-182).
  - b) *Les Services de Réputation Syrus Inc. v. Phoenix Ascendant International Inc.* (500-22-257901-216).

- c) *College Universel v. Rising Phoenix International Inc.* (500-17-110236-190 and arbitration proceedings related thereto).
  - d) *Institut supérieur d'informatique v. Rising Phoenix International Inc. & al.* (arbitration proceedings).
  - e) *Benoit Sansoucy Inc. v. Caroline Bonneville and Rising Phoenix International Inc. and 11753436 Canada Inc. et als.* (500-17-115064-209).
7. Since doing so, a number of these parties (or their counsel) have asked to be added to the Service List and have engaged in meaningful discussions with counsel for the Applicants and/or the Monitor. An updated Service List is available on the Monitor's website, which will continue to be updated as additional interested parties so request.
  8. One of the arbitrators acting in the *College Universel v. Rising Phoenix International Inc.* arbitration reached out to the Monitor, acknowledging receipt of the above-mentioned notice, and agreed that the arbitration proceedings will be suspended pending further developments in these CCAA proceedings.
  9. In addition, the arbitrator in the other arbitration proceeding reached out to the Monitor to raise certain questions relating to the scope of the stay of proceedings. Following several discussions with counsel involved in this arbitration, the Monitor has been advised that modifications have been made to the draft Amended and Restated Initial Order, as described in greater detail below.
  10. Finally, and in addition to the foregoing, a notice of default for unpaid rent and related services was sent to one of the Applicants (10864285 Canada Inc.) on January 4, 2022 for the premises located at 8550, Newman Boulevard, Lasalle, Quebec. As such, a Notice of Stay of Proceedings was also sent to the landlord for this building.

**C) Notice to Disclaim**

11. On January 10, 2022 *Notice to Lessor to Disclaim or Resiliate a Lease by Commercial Tenant* pursuant to subsection 32(1) of the CCAA was sent to the lessor (9352-8198 Québec Inc.), informing it that the lease which granted possession of the property situated at 2140 de la Montagne, Montreal, Quebec, was resiliated or disclaimed as at February 9, 2022, if no application for an order is made pursuant to subsection 32(2) of the CCAA.
12. These premises were previously used as the Applicants' head office, which space is no longer being used or necessary in order to achieve the restructuring goals outlined in the Application and herein.

**D) Notices to Creditors**

13. On January 12, 2022, the Monitor sent a notice to all known creditors of the Applicants informing them of the issuance of the Initial Order. In addition, all required documentation is available on the Monitor's website and the Monitor is publishing the requisite notices in the newspapers on January 13 and 20, 2022.

**COMMUNICATIONS WITH STAKEHOLDERS**

**A) Communications with the Ministry of Education**

14. Immediately prior to and following the filing of the Application, the Monitor has had a number of communications with the Ministry of Education (the "**Ministry**"), including the following:
- a) On January 5, 2022, the Monitor and the Applicants held a video-call with the Ministry of Education. During this call, the Ministry was provided with an overview of the current situation, as well as informed of the upcoming CCAA filing and hearing.
  - b) On January 6, 2022, the Monitor's counsel sent copies of the Application, as well as the Pre-Filing Report, to the Ministry, and informed them that all relevant documents and proceedings could also be found on the Monitor's website.
  - c) On January 11, 2022, the Ministry reached out to the Monitor for clarifications relating to the potential closure of the Colleges, as well as the graduation of the 501 students over the course of the next two months.
  - d) On January 12, 2022, the Monitor's counsel response to the Ministry, confirming, among other things, the following:
    - The Colleges have been on holiday break since November 30, 2021. The return to classes was postponed to January 17, 2022, in line with the public health measures currently in place, however certain students were able to re-start online classes on January 10, 2022.
    - If the Interim Financing is approved by the Court, the Applicants will have sufficient liquidity to pursue the necessary operations to graduate 501 students within the next two months.
    - The outcome and next steps for the remaining students that are registered at the Colleges, will depend, in large part, on whether the Monitor is successful in marketing and selling the Colleges, as a going concern, as described in more detail below.

- A hearing on the issuance of the Amended and Restated Initial Order, which includes approval of the Interim Financing, is scheduled to take place on January 14, 2022 (which has since been rescheduled to January 17, 2022).
- e) On January 13, 2022, the Monitor was advised that an attorney from the office of the Attorney-General of Quebec would appear to represent the Ministry at the upcoming hearing.

**B) Communications with Students**

15. Since the issuance of the Initial Order, the Monitor has been in communication with the students who are registered at the Colleges, and in this regard, has received approximately 400 emails and 25 telephone messages.
16. Most of these students are inquiring about reimbursement of their tuition. The Monitor is informing these students that any refund requests will be dealt with at a latter date and, to the extent possible, through a plan of arrangement and compromise.
17. A number of other students are writing to confirm whether they can finish their studies and graduate. Other than the 501 students who are expected to graduate in the next two months, subject to the Interim Financing being approved, all other students are being informed that their studies are paused, temporarily for the time being, as the Applicants, working with the Monitor, determine if the Colleges can be sold to a third party.
18. In this regard, the Monitor has been informed that a number of the 501 students who will be able to graduate over the course of the next two months, were able to start online classes on January 10, 2022. The remaining will begin on January 17, 2022, online or in-person, depending on the guidelines and regulations from the government and Public Health.

**C) Communications with the Insurer**

19. On January 7, 2022, following the issuance of the Initial Order, the Monitor wrote to the Insurer informing them of the stay of proceedings which stays the Insurer from implementing any of the policy alterations and cancellations that were scheduled to take effect on January 14, 2022.
20. The Insurer has retained counsel.
21. A conference call was held between the Monitor, the Insurer and their counsel on January 11, 2022, and it is the Monitor's understanding that the Insurer intends to abide by the terms of the Initial Order, including the stay of proceedings.

22. On January 14, 2022, the Monitor paid the projected premium owing for the students up to January 15, 2022.

**D) Canada Revenue Agency**

23. The Monitor has been informed by the attorney for the Canada Revenue Agency that there would be an amount of approximately \$26,000 in deductions at source owing by the Collège de l'Estrie Inc., of which approximately \$20,000 is covered by a deemed trust for the 2020 fiscal year.
24. The Monitor is in the process of reviewing this information in consultation with the Applicants and will continue to engage with the CRA in this regard.

**PROSPECTIVE SALES OF ASSETS**

**A) Interest in the Sale of the Colleges**

25. As described in the Pre-Filing Report, the Monitor intends to carry out an accelerated sale and investment solicitation process (“SISP”) to test the market for a potential sale as a going concern of the Colleges. During the SISP, the Colleges will continue to be operational, on a limited basis, with the goal of graduating the Graduating Students. The following is a summary of the steps and estimated dates in connection with the SISP:

<b>Steps</b>	<b>Estimated Dates</b>
Launching of the SISP, including providing access to a dataroom to all interested parties who sign an NDA	On or before January 21, 2022
Court approval of the SISP	On or before January 28, 2022
Due Diligence	Up until February 10, 2022
Due date for bids by all prospective bidders	February 11, 2022
Selection of successful bid(s)	February 18, 2022
Approval Hearing	February 24, 2022

26. The Monitor also intends to seek solutions for students who have commenced their studies (either in Canada or as an AIP student) but cannot graduate in the next two months, as well as for students already in the pipeline.
27. Since the issuance of the Initial Order, the Monitor and the Applicants have been preparing a data room, such that the SISP will be launched in the week of January 17, 2022, with bids to be submitted within two to three weeks from the start of the process.

28. Since the issuance of the Initial Order, the Monitor has already received several unsolicited calls and conducted preliminary meetings with seven (7) parties which have expressed interest in a variety of options and opportunities, many of which focus on acquiring some or all of the Colleges as a going concern. The Monitor has noted that all of these interested parties are already themselves operating colleges or universities (in Quebec, Canada and/or internationally), or alternatively, are working in the student-recruitment field.
29. These parties have all asked to sign non-disclosure agreements in order to access the data room as soon as it becomes available, in order to fully assess the opportunity.
30. The Monitor continues to engage in discussions with these interested parties, and as mentioned above, is working with the Applicants to finalize and launch the SISP in the coming days, pending the outcome of the Applicants' request for the approval of Interim Financing.

**B) Interest in the Real Estate**

31. As mentioned in the Application, as well as the Pre-Filing Report, the Monitor intended to implement the sale of the Gatineau Property with the existing prospective purchaser as per the terms of the existing letter of intention (Exhibit R-22 to the Application). The Monitor has been informed, however, that the potential purchaser has not responded to any recent communications by the Applicants and considering that the due diligence period expires on January 19, 2022, the Monitor expects to reach out to other purchasers (likely through the engagement of a commercial real estate broker) in order to sell the property on terms that are commercially advantageous for the creditors of the Applicants.
32. In this regard, on January 13, 2022, the Monitor communicated with a broker who expressed an interest in obtaining a mandate to sell the Gatineau Property. This broker previously sold the Gatineau Property on two occasions (including to the Applicants in 2020) and is thus very familiar with the Gatineau Property. The broker further advised that there is renewed interest in said property and represented that he is confident that a rapid transaction can occur.
33. In addition, the Monitor received a call from a representative of an interested party who has expressed serious interest in the Gatineau Property. The Monitor has advised that party that additional information could be shared only once the formal SISP commences.
34. As for the balance of the Real Estate, these assets will be offered for sale at the same time as the Colleges, to allow their operation as a going concern. In addition, in an effort to maximize potential value, the Monitor also intends to list these assets with independent real estate brokers at the same as it is running the SISP, thereby maximizing the options available to the benefit of all stakeholders, including both the secured and unsecured creditors of the Applicants.

35. All eventual sales of assets will first be specifically approved by this Court.

### **INTERIM FINANCING**

36. On January 13, 2022, Firm Capital Mortgage Fund Inc. ("**Firm Capital**") filed a *Contestation of Firm Capital Mortgage Fund Inc. to the Applicants' Request for an Amended and Restated Initial Order* (the "**Contestation**").

37. Since then, the Applicants, Firm Capital and the Monitor have been in discussions. Ultimately, Firm Capital and the Applicants have agreed to an *Interim Financing Commitment* (the "**FCC Commitment Letter**") whereby Firm Capital (as "**Interim Lender**") agrees to extend to the Applicants a subordinate debtor-in-possession non-revolving interim loan facility (the "**Interim Facility**"), the key terms of which are summarized below:

- a) Interim financing up to the aggregate amount of \$1,750,000 which shall be disbursed in accordance with the terms and conditions of the FCC Commitment Letter
  - following the issuance of the Amended and Restated Initial Order, \$1,100,000 to the Monitor, on behalf of the Applicants; and
  - a further advance on February 28, 2022, in the maximum amount of \$650,000, subject to (i) an order of the Court extending the Stay of Proceedings, and (ii) receipt of satisfactory appraisal reports in respect of the real property owned by the Applicants.
- b) The advances made pursuant to the Interim Facility are conditional and subject to the issuance of an order from this Court (in the Amended and Restated Initial Order) granting a super-priority charge in favour of the Interim Lender for an amount of \$2,200,000 over all present and after-acquired property, assets and undertakings of the Applicants, which shall rank in priority to all other creditors, except for (i) a Court-ordered administration charge of not more than \$150,000 to secure payment of professional fees and disbursements of the Monitor and the Monitor's counsel (the "**Senior Administration Charge**"), and (ii) the existing security interests registered by Firm Capital on the property of the Applicants (the "**FCC Security**").
- c) The Interim Facility is also guaranteed by Caroline Mastantuono.
- d) The Interim Facility will bear interest at an annual interest rate of 15%, along with a commitment fee of 2% payable as at the date of disbursement of each advance.
- e) The reasonable fees and expenses of the Interim Lender shall be reimbursed by the Applicants.



- f) The Maturity Date is December 31, 2022. The Applicants shall be required to make mandatory prepayments of amounts outstanding to Firm Capital to the extent of 100% of the net cash proceeds (for greater certainty, net only of reasonable and customary costs and closing adjustments) of any sale or transfer, assignment or other disposition of the assets or shares of any Applicants to any person or entity whatsoever, with such payments being applied first to the Firm Capital Loan (as defined in the Interim Facility) and then to the Interim Facility.
- g) The Interim Facility shall be used for:
- the costs, fees and expenses incurred in connection with the Applicants' restructuring pursuant to the CCAA proceedings in accordance with the revised cash flow statements attached as Schedule C (the "**Revised Cash Flow Forecast**") to the Interim Facility or any future cash flow statement submitted by the Monitor and approved by the Lender. A copy of the revised Cash Flow Forecast is attached to this Report as **Exhibit A**;
  - funding working capital requirements as contemplated in the Cash Flow Forecast; and
  - for other general purposes of the Borrowers with the prior approval of the Interim Lender and the Monitor.
38. The Monitor participated in the negotiations with Firm Capital, which led to the conclusion of the FCC Commitment Letter, and the Monitor supports its approval on the terms therein set forth.
39. In light of the foregoing, and pursuant to sections 14 and 15 of the Commitment Letter filed in support of the Application (Exhibit R-23) with Gestion Levy Inc., the Applicants will be required to pay Gestion Levy Inc. the Break Fee and Expense Reimbursement (as defined in Exhibit R-23).

#### **ADDITIONAL AMENDMENTS TO THE DRAFT AMENDED AND RESTATED INITIAL ORDER**

40. Based on the Interim Facility described above, as well as certain discussions with other stakeholders or interested parties, the Applicants have advised the Monitor that they will proceed to amend the relief sought in the Amended and Restated Initial Order (Exhibit R-2), to reflect the following:
- a) The duration of the Stay Period will be reduced from March 31 to February 28, 2022;
  - b) The Notice of Stay of Proceedings delivered by the Monitor on January 7, 2022 and paragraphs 9 and 11 of the Amended and Restated Initial Order shall not preclude Me Gordon Kugler, acting in his capacity as arbitrator, from making and delivering his arbitral decision on the merits (the "**Arbitral Decision**") in the arbitration proceeding between Rising Phoenix International Inc., Caroline Mastantuono, Christina Mastantuono, Joseph Mastantuono and Les Consultants 3 L M Inc., operating under the name Institut supérieur d'information, which was taken under advisement by Me Kugler on December 17, 2021. This declaration applies solely in respect of

the making of the Arbitral Decision and not in respect of any subsequent homologation and/or enforcement proceedings in respect of the Arbitral Decision;

- c) As security for the professional fees and disbursements incurred both before and after the making of the Initial Order (on January 6, 2022), the following administration charges will be granted:
- the Senior Administration Charge; and
  - a subordinate administration charge of \$450,000 to secure payment of professional fees and disbursements of the Applicants' legal counsel, as well as the Monitor and the Monitor's counsel, on a pro rata basis, to the extent of any residual fees and disbursements (if any) (the "**Junior Administration Charge**"),
- d) The priorities of the FCC Security, the Senior Administration Charge, the Junior Administration Charge, the Directors' Charge and the Interim Lenders' Charge, as between them, shall be as follows:
- first, the Senior Administration Charge;
  - second, the FCC Security;
  - third, the Interim Lender's Charge;
  - fourth, the Junior Administration Charge; and
  - fifth, the D&O Charge.

41. The Monitor supports the issuance of the Amended and Restated Initial Order, as further amended by the Applicants.

## **CONCLUSION**

42. Since the issuance of the Initial Order, the Monitor, working with the Applicants, has been in constant discussions and negotiations with various stakeholders and creditors, which is reflected in the revisions made to the draft Amended and Restated Initial Order.

43. The Monitor believes that this relief is necessary and reasonable and will allow the Applicants to achieve the best result for all stakeholders, including, the hundreds of foreign students which have been reaching out to the Monitor in recent days.

Respectfully submitted at Montreal, this 16<sup>th</sup> day of January, 2022.

**Richter Advisory Group Inc.**

Monitor



Olivier Benchaya, CPA, CA, CIRP, LIT



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

**EXHIBIT A**

<b>RPI (Consolidated)</b>								
<b>Revised Projected Cash Flow In CAD</b>	<b>15-Jan-22 10 days</b>	<b>21-Jan-22 6 days</b>	<b>28-Jan-22 7 days</b>	<b>04-Feb-22 7 days</b>	<b>11-Feb-22 7 days</b>	<b>18-Feb-22 7 days</b>	<b>28-Feb-22 10 days</b>	<b>Total 54 days</b>
<b>Receipts</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Rent	(15,800)	(26,870)	-	(43,000)	-	-	-	(85,670)
Salaries	(15,000)	(3,750)	(30,000)	(3,750)	(30,000)	(3,750)	(17,500)	(103,750)
Educational services	-	(25,000)	(25,000)	(6,250)	(6,250)	(6,250)	(6,250)	(75,000)
Municipal taxes (Note 1)	-	-	-	-	-	-	-	-
Utilities	-	(12,150)	(36,150)	(4,000)	(4,000)	(4,000)	(4,000)	(64,300)
Other operating expenses	-	(20,500)	(20,100)	(15,250)	(15,250)	(15,250)	(11,850)	(98,200)
Student Insurance	(27,400)	(46,600)	-	(55,000)	-	-	-	(129,000)
<b>Operating Expenses</b>	<b>(58,200)</b>	<b>(134,870)</b>	<b>(111,250)</b>	<b>(127,250)</b>	<b>(55,500)</b>	<b>(29,250)</b>	<b>(39,600)</b>	<b>(555,920)</b>
Professional Fees	-	(135,000)	(130,000)	(50,000)	(50,000)	(50,000)	(50,000)	(465,000)
Contingency	-	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(5,000)	(30,000)
DIP Interests & Fees	-	(67,000)	(6,329)	-	-	-	(12,658)	(85,986)
<b>Other Expenses</b>	<b>-</b>	<b>(207,000)</b>	<b>(141,329)</b>	<b>(55,000)</b>	<b>(55,000)</b>	<b>(55,000)</b>	<b>(67,658)</b>	<b>(580,986)</b>
<b>Net Cash Flow</b>	<b>(58,200)</b>	<b>(341,870)</b>	<b>(252,579)</b>	<b>(182,250)</b>	<b>(110,500)</b>	<b>(84,250)</b>	<b>(107,258)</b>	<b>(1,136,906)</b>
<b>Opening Cash Balance</b>	<b>58,200</b>	<b>-</b>	<b>758,130</b>	<b>505,551</b>	<b>323,301</b>	<b>212,801</b>	<b>128,551</b>	<b>58,200</b>
Net Cash Flow	(58,200)	(341,870)	(252,579)	(182,250)	(110,500)	(84,250)	(107,258)	(1,136,906)
DIP	-	1,100,000	-	-	-	-	-	1,100,000
<b>Ending Cash Balance</b>	<b>\$ -</b>	<b>\$ 758,130</b>	<b>\$ 505,551</b>	<b>\$ 323,301</b>	<b>\$ 212,801</b>	<b>\$ 128,551</b>	<b>\$ 21,294</b>	<b>\$ 21,294</b>

**Note 1** : Property taxes owing in the period are to be paid out of the Property Tax Reserve (as referred to in the Firm Capital Loan document) held by Firm Capital, to the extent possible.