

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),

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, 12th Floor, in the city and
district of Montreal, Quebec, H3A 0G6

Monitor

TWENTY-FIRST REPORT OF THE MONITOR
November 24, 2015

INTRODUCTION

1. On August 6, 2013, Montreal, Maine & Atlantic Canada Co. (hereafter in this Report "MMAC" 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"). An initial stay of proceedings was ordered until September 6, 2013 ("Stay Period").
2. The Stay Period was extended by the Court twelve times with the most recent extension to December 15, 2015 having been granted by the Court on April 15, 2015.

3. We refer to the Monitor's prior reports for an overview of the CCAA proceedings and a summary of all motions issued and orders granted to date.
4. On September 15, 2015, the Court Appointed Representatives of the Class Members filed a Motion for an Order Authorizing the Filing of Additional Late Claims ("Additional Late Claims Motion").
5. On September 21, 2015, Royal & Sun Alliance of Canada filed a "*Requête pour être autorisé à déposer une preuve de réclamation hors délai.*" ("RSA Late Claim Motion").
6. On October 13 and 14, 2015, late claim motions were filed in the Chapter 11 case of Montreal Maine & Atlantic Railway, Ltd. ("MMAR") on behalf: i) the estate and heirs of Yvon Ricard ("Ricard Claim"), ii) the estate and heirs of Jean Sebastien Jacques ("Jacques Claim") and iii) Tafisa Canada Inc. ("Tafisa Claim"). On November 20, 2015, an additional late claim motion was filed in the Chapter 11 case of MMAR on behalf of five individual creditors ("Individual Claims") (collectively the "Chapter 11 Late Claims Motions").
7. On November 23, 2015, the Court Appointed Representatives of the Class Members filed a Supplementary Motion for an Order Authorizing the Filing of Additional Late Claims ("Supplementary Late Claims Motion").
8. On November 24, 2015, the Petitioner filed a Motion for the Appointment of a Claims Officer ("Claims Officer Motion"), a Motion for a Thirteenth Extension of the Stay Period ("Thirteenth Extension Motion") and a Motion for the Approval of Professional Fees ("Professional Fee Motion").
9. On or about November 24, 2015, counsel to the Class Representatives will be filing a Motion for the approval of Class Counsel Fees ("Class Counsel Fee Motion").
10. The Additional Late Claims Motion, the Supplementary Late Claims Motion, the RSA Late Claim Motion, the Claims Officer Motion, the Thirteenth Extension Motion, the Professional Fee Motion and the Class Counsel Motion will all be heard on November 26, 2015. The Chapter 11 Late Claims Motions will be heard by the U.S. Bankruptcy Court for the District of Maine ("Bankruptcy Court") as noted below.
11. Capitalized terms not defined in this Report have the meaning ascribed thereto in the Monitor's previous reports or in the Amended Plan. All amounts reflected in this report are stated in Canadian currency unless otherwise noted.
12. The purpose of this Twenty-First Report of the Monitor is to inform the Court on the following subjects:
 - Background and Overview of Restructuring Proceedings;

- Additional Late Claims Motion, Supplementary Late Claims Motion, RSA Late Claim Motion and Chapter 11 Late Claims Motions;
- Claims Review Status and the Proposed Claims Officer;
- Plan Implementation and Estimated Distribution;
- Extension Request;
- Approval of Professional Fees;
- Approval of Class Counsel Fees;
- Chapter 15 Proceedings;
- Activities of the Monitor;
- Recommendations of the Monitor and Conclusion.

BACKGROUND AND OVERVIEW OF RESTRUCTURING PROCEEDINGS

13. MMAC operated a shortline railroad of approximately 250 route miles servicing customers in the Province of Quebec. MMAR, which is MMAC's parent company (together the "Companies") operated a shortline railroad of approximately 250 route miles servicing customers in Maine and Vermont.
14. Following the tragic train derailment on July 6, 2013 in the City of Lac-Mégantic, Quebec ("Derailment"), MMAC, on August 6, 2013, filed for protection under the CCAA. MMAR similarly filed for protection under Chapter 11 of the U.S. Bankruptcy Code on August 7, 2013. On August 21, 2013, Robert J. Keach was appointed Chapter 11 Trustee of MMAR ("Trustee").
15. The purpose of these filings was to i) preserve the operations of the railroad in order to service the many customers and municipalities located along its route who were dependent on the railway for the operations of their business, ii) preserve the employment of the Companies' work force, iii) maximize the value of the assets of the Companies and iv) reach a global settlement of the numerous potential liabilities related to the Derailment.
16. Following the commencement of the restructuring proceedings, the immediate focus was to preserve the operations of the railroad in order to service the many customers and municipalities located along its route and who were dependent on the railway for the operations of their business as well as preserve the employment of the Companies' work force.
17. In September 2013, the Petitioner and the Chapter 11 Trustee engaged an investment banker to conduct a sale process of the assets of the Companies to be sold as a going concern. A purchaser was identified and following an auction, the sale of the operating assets to the purchaser was

approved by the CCAA Court and the Bankruptcy Court in January 2014. The sale of the assets was concluded in May/June 2014, and the operations of MMAC were effectively terminated on June 30, 2014.

18. Following the Derailment, a class action was commenced in Canada against a large number of defendants and multiple law suits were filed in the United States on behalf of the estates and various family members of deceased victims.
19. In order to compensate creditors for damages suffered as a result of the Derailment, it was clear to all concerned from the outset of the Restructuring Proceedings that this could only be accomplished through contributions from potentially liable third parties ("Third Parties") in exchange for full and final releases in respect of all litigation and liabilities relating to the Derailment. This led to complex and lengthy negotiations which resulted in the filing of both the CCAA Plan and the Chapter 11 Plan which were then accepted by the creditors and approved by the CCAA Court and Bankruptcy Court respectively.

ADDITIONAL LATE CLAIMS MOTION, SUPPLEMENTARY LATE CLAIMS MOTION, RSA LATE CLAIM MOTION AND CHAPTER 11 LATE CLAIMS MOTIONS

A) Additional Late Claims Motion

20. We refer to the Monitor's Ninth and Seventeenth Reports dated April 25, 2014 and April 24, 2015 respectively for an overview of the claims process and the procedures taken to inform creditors of the June 13, 2014 Bar Date ("Bar Date") and the assistance provided to creditors to complete their proofs of claim prior to the Bar Date.
21. The Late Claims Motion is the second such late claims motion filed by the Class Representatives. The first late claims motion was filed on April 14, 2015 ("Amended Additional Claims Motion") and sought permission to have 210 late claims filed after the Bar Date. With respect to the late claims included in the Amended Additional Claims Motion:
 - 102 claims were categorized by the Class Representatives as June 2014 claims (Exhibit R1 to the Amended Additional Claims Motion) on the basis that such claims were not filed on or before the Bar Date due to a late surge of claims being filed and/or inadvertence on the part of counsel to the Class Representatives;
 - 108 claims were categorized by the Class Representatives as January or April 2015 claims based on the date that the claims were actually completed by the respective creditors.
22. The Monitor's comments on the Amended Additional Claims Motion are summarized in its Seventeenth Report dated April 24, 2015. Following an order of this Court dated May 27, 2015

("May 27, 2015 Order"), 127 of the claims included in the Amended Additional Claims Motion (for which detailed affidavits were provided by the creditors filing such claims) were allowed to be filed and included in the claims database maintained by the Monitor.

23. The Additional Late Claims Motion seeks approval for the filing of approximately 476 claims, all of which would be filed in the Bodily Injury and Moral Damages category. However, approximately 125 of the affidavits which have been filed in support of the Additional Late Claims Motion allege economic damages which in the aggregate total approximately \$1.2 million and these would be filed in the Property and Economic Damages category. A summary of these additional claims is as follows:

Montreal Maine & Atlantic Canada Co. Additional Late Claims								Property and Economic Damages Late Claims by Type ⁽¹⁾
Type	Stated Reason for Late Claim	Number of Claims	Duplicates	Claim Already Filed Before the Bar Date	No Claim Attached to the Affidavit	Signed Affidavit Not Provided	Adjusted Number of Additional Late Claims	
R1	Minor Claimants Related To Previously Approved June 2014 Claims	40	-	-	-	(2)	38	\$ -
R2	June 2014 Claims Whose Affidavits Were Received After The May 27 Judgment	12	-	-	-	-	12	41,000
		<u>52</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(2)</u>	<u>50</u>	<u>41,000</u>
R3	New June 2014 Claims	45	-	(2)	(1)	-	42	18,000
R4	Claimants Who Were Unaware Of The Claims Bar Date	187	(1)	(2)	(4)	-	180	355,000
R5	Claimants Who Suffered Significant Psychological Trauma	56	(1)	(1)	(1)	-	53	319,000
R6	Claimants Who Mistakenly Believed That They Were Not Eligible To File A Claim	121	(3)	-	(1)	(1)	116	196,000
R7	Claimants Who Did Not File Claims Prior To The Claims Bar Date Due To Other Reasons	36	-	(1)	-	-	35	303,000
		<u>445</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>	<u>(1)</u>	<u>426</u>	<u>1,191,000</u>
R8	Minor Claimants ⁽²⁾	79	(79)	-	-	-	-	-
		<u>576</u>	<u>(84)</u>	<u>(6)</u>	<u>(7)</u>	<u>(3)</u>	<u>476</u>	<u>\$ 1,232,000</u>

(1) Represents claims of approximately 125 claimants.
(2) Minor claimants are already included in categories R3 to R7.

24. Based on its review of the information provided with the Additional Late Claims Motion, the Monitor has identified approximately 21 claims that are either duplicates of claims which have already been filed or for which supporting documentation has not been provided. These claims should not be allowed to be filed.
25. Based on the information provided with respect to the remaining 476 claims, the Monitor has assessed that if these 476 late claims are allowed to be filed and are ultimately determined to be valid, the dilution to the claims filed by the Bar Date or otherwise filed pursuant to the May 27, 2015 Order, in the Bodily Injury and Moral Damages category would be approximately 11%. We refer to Exhibit 1 hereto for additional details on the calculation.

26. The reasons for the late filing of the 476 claims are identified in the table above. The Monitor has reviewed the affidavits of the 476 late claims and notes that the reasons for these late claims are similar to reasons provided by creditors with respect to the January and April 2015 Claims and include:

- Lack of awareness of the Bar Date for many reasons including that the creditor moved subsequent to the Derailment, did not follow events in the media or did not understand the process;
- Creditors who thought the process was only for family members of wrongful death victims, people living in the Red Zone, people who were evacuated, etc.;
- Creditors who were unable to deal with the claims process due to psychological trauma following the Derailment;
- Other reasons including illness, the requirement to look after others, work obligations, etc.

27. The Monitor does not, at the present time, have sufficient information to assess whether any of the approximately \$1.2 million of claims that would be filed in the Property and Economic Damages category are valid claims and will ultimately be allowed. Moreover, any allowance of those additional economic claims will decrease any Economic Savings (if any) which are to be reallocated to the other categories of creditors as outlined in section 4.2 of the Amended Plan.

B) Supplementary Late Claims Motion

28. As a result of the filing of the Supplementary Late Claims Motion only on November 23, 2015, the Monitor has not yet reviewed the 68 supplementary late claims nor has it calculated the dilutive effect the claims would have on the different categories.

C) RSA Late Claim Motion

29. The RSA Late Claim Motion for \$312,034.82 is in respect of damages paid by RSA to its insured 9079-7481 Quebec Inc. ("9079") in respect of a Subway franchise located in Lac-Mégantic. This is in fact the second late claim motion filed by RSA, with the first having been filed on April 14, 2015 for \$2,166,142.74 in respect of other insureds ("Initial RSA Late Claim Motion"). Pursuant to the May 27, 2015 Order, the Initial RSA Late Claim Motion was admitted as a claim in the Property and Economic Damages category. RSA is requesting that the claim of 9079 be treated in the same manner. The claims in this category are still under review and it is premature at this time to consider the impact the inclusion of this late claim might have on the overall distribution. However, as previously discussed, additional economic claims will reduce any Economic Savings and will have a dilutive effect on the other categories of creditors.

30. In respect of the RSA Late Claim Motion, the Monitor notes that the reasons cited by RSA for its failure to file its claim in connection with 9079 prior to the Bar Date are similar to the reasons advanced in support of the Initial RSA Late Claim Motion:
- Lack of familiarity with the claims process under the CCAA by the claims adjustor handling the matter;
 - Belief that MMA was bankrupt and that there were no assets available for distribution in respect of RSA's claim;
 - Lack of information about the process including the fact that it was less well publicized in Ontario, where the claim was being handled.
31. RSA further notes that, as their claims offices in Quebec and Ontario operate independently, this is why the late claim of 9079 was not included in the Initial RSA Late Claim Motion.

D) Chapter 11 Late Claims Motions

32. We summarize the Chapter 11 Late Claims Motions as follows:
- **Ricard Claim** – a motion was filed by the estate and heirs of Mr. Yvon Ricard on October 13, 2015 and will be heard by the Bankruptcy Court on December 15, 2015. Mr. Ricard is a suicide victim whose recent suicide is being attributed by his heirs to the Derailment. Mr. Ricard had previously filed a moral damage claim in the CCAA, including a claim for long-term post-traumatic stress. The Ricard Claim has been objected to by the Trustee. However the Trustee has agreed to reconsider his objection and negotiate with the estate and heirs if the Trustee is provided with evidence that the Derailment was the cause of the suicide. In addition, another wrongful death claimant who has filed a timely Chapter 11 claim has objected to the allowance of this late claim;
 - **Jacques Claim** – a motion was filed by the estate and heirs of Mr. Jean Sebastien Jacques on October 13, 2015 and will be heard by the Bankruptcy Court on December 15, 2015. Mr. Jacques is a suicide victim whose recent suicide is being attributed by his heirs to the Derailment. Prior to the filing of this late claim, no claim had been filed in the CCAA or the Chapter 11 by or on behalf of Mr. Jacques. As is the case with the Ricard Claim, the Trustee has filed an objection but may reconsider if additional information is filed. As well, an objection to this late claim has been filed by the same wrongful death claimant who has objected to the Ricard Claim;
 - **Tafisa Claim** – a motion was filed by Tafisa Canada Inc (“Tafisa”) on October 14, 2015 in connection with economic losses suffered as a result of the Derailment and will be heard by the Bankruptcy Court on December 15, 2015. Based on the information which has been provided

by Tafisa to the Monitor (but which has not yet been reviewed), Tafisa quantifies its loss at approximately \$4.2 million. In its claim, Tafisa states that it was unaware of its ability to file a late claim, and that it was continuing to deal with the impact of the Derailment on the company, its employees and the City of Lac-Mégantic. Furthermore, Tafisa states that it was only recently aware of the true extent of its losses (over and above financial assistance it received from a Federal Government aid program). The Trustee has objected to the allowance of this late claim.

- **Individual Claims** – a motion was filed by Isabelle Beaudry, Gessner Blenkhorn, Steven Halle, Jacques Laprise and the estate of Suzanne Custeau on November 20, 2015 and will be heard by the Bankruptcy Court on December 15, 2015. The first four individuals are all owners of businesses that had filed Chapter 11 economic damages claims prior to the Chapter 11 Bar Date. They now claim that they were unaware that they would have to file individual claims for moral damages claims. The claim for the estate of Suzanne Custeau has already been included as a wrongful death victim despite not having filed a Chapter 11 claim. The Trustee has informed the Monitor that the Trustee will likely be filing an objection to these claims.
33. In the event the Ricard Claim and the Jacques Claim are allowed, these claims would be treated as Wrongful Death Claims and valued in accordance with Schedule E to the Amended Plan. This would result in an effective dilution of approximately 5% to existing Wrongful Death Claims who filed a proof of claim prior to the Bar Date.
34. The Tafisa Claim would be included in the Property and Economic Damages category. The claims in this category are still under review and it is premature at this time to consider the impact the inclusion of this late claim might have on the overall distribution, although as noted above, any additional economic claims will reduce any Economic Savings and will have a dilutive effect on the other categories of creditors.
35. The Individual Claims, except for the Estate of Suzanne Custeau, would be included in the Bodily Injury and Moral Damages category and would have a dilutive impact (albeit minimal) on the total distribution in this category. As previously mentioned, the Estate of Suzanne Custeau is already included in the Wrongful Death Claims category and the allowance of this claim would have no dilutive impact.

CLAIMS REVIEW STATUS AND THE PROPOSED CLAIMS OFFICER

36. Following the receipt of more than 5,000 claims (in both the CCAA Proceeding and Bankruptcy Case) and the valuation and distribution mechanisms established in the Amended Plan, the Monitor is continuing to review the filed claims (save and except for Non-Derailment Claims) and wishes to advise the Court and the creditors of the status of this review process:

- **Wrongful Death Claims:** these claims are to be valued in accordance with Schedule E to the Amended Plan. The calculation of the amounts to each claimant in this category is substantially complete;
- **Bodily Injury and Moral Damage Claims:** these claims are to be valued in accordance with Schedule F to the Amended Plan. The calculation of the amounts to each claimant in this category is significantly advanced. The Monitor notes that the deadline for the submission of forms in respect of post-traumatic stress claims is November 30, 2015. As noted below, the Monitor is working on detailed statements of distribution for each creditor in this category;
- **Property and Economic Damages Claims:** the Monitor has performed a preliminary review of the more significant claims in this category and is in contact with the creditors and / or their legal counsel to both provide preliminary comments and request additional information to enable a proper review of the amounts claimed. There remains considerable work to be performed in order to complete the review of these claims;
- **Subrogated Insurer Claims:** the Monitor has received detailed statements of account in respect of all claims in this category and is determining the nature of additional information that may be required to complete the review of these claims;
- **Government Claims:** the review of these claims is in process.

37. The Monitor fully supports the appointment of former Court of Appeal Justice André Rochon to act as the claims officer as set out in the Claims Resolution Order. While the Monitor will endeavor to resolve disputes consensually, the aid of an independent claims officer may be required in order to deal with disputes in an expedited and efficient manner. The fees of the claims officer will be covered by the Administration Charge.

PLAN IMPLEMENTATION AND ESTIMATED DISTRIBUTION

38. Pursuant to Section 6.2 of the Amended Plan, the Plan Implementation Date shall occur upon the Monitor filing a certificate with the Court and the Trustee that all conditions precedent in Section 6.1 of the Amended Plan have been satisfied.

39. We will comment on the status of the conditions precedent set out in Section 6.1:

Condition Precedent	Status
a) Entry of the Canadian Approval Order	Completed
b) Confirmation by the Trustee of the entry of the U.S. Approval Order	Completed (see comment below)
c) Entry of the Class Action Order	Completed
d) Expiry of Appeal Periods	Completed with the exception of the expiry of the appeal period for the entry of the Class Action Order which will occur on December 16, 2015.
e) Contributions	In process. As of the date of this report, settling parties have remitted CDN\$32.4 million and US\$51.5 million for a total of approximately CDN\$101 million at current exchange rates. The majority of the settlement funds are expected to be received on or about December 21, 2015. However, certain settlement funds are only due following the expiry of the appeal period for the Class Action Order and thus may only be remitted by early January 2016.
f) Completion of Necessary Documentation	Substantially completed

40. The Chapter 11 Plan (paragraph 9.3) contains similar but not identical conditions precedent to the occurrence of the Effective Date. The Trustee has confirmed to the Monitor that all conditions precedent to the Effective Date have occurred save and except for the requirement that the implementation of the CCAA Plan has occurred.

41. The Plan Implementation Date is now dependent on the receipt of all of the contributions to the Settlement Funds as noted above.

42. At present, the distribution by category of creditors can be summarized as follows:

**Montreal, Maine & Atlantic Canada Co.
and Montreal, Maine & Atlantic Railway Ltd.
Summary of Estimated Distribution ¹**

Amended Plan	
Wrongful Death Claims	\$ 113,168,000
Bodily Injury and Moral Damages Claims	49,685,000
Property and Economic Damages Claims	42,281,000
Subrogated Insurer Claims	17,142,000
Government Claims	
Province	181,194,000
Attorney General	-
Lac-Megantic	9,502,000
CSST	5,133,000
	195,829,000
Non-Derailment Claims	-
Total	\$ 418,105,000

¹ Estimated Distribution is net of the provision for the Administration Charge and Risk Premium but is prior to any fees that may be payable to (i) Class Counsel for the Class Representatives (for certainty, we note that the amounts payable to Class Counsel are subject to Court approval, and we are advised that pursuant to the engagements executed by the Class Representatives, these amounts will not exceed 25% of the amounts received by Class Members, plus disbursements, plus taxes) or (ii) to the US Legal Representatives (in respect to creditors represented by the US Legal Representatives, they will be subject to fees as indicated in the confidential mandates signed by various creditors).

43. The above noted estimated distribution does not take into account potential priority claims of approximately US\$7.5 million (CAD\$10 million) in respect of administrative/secured claims filed in the Chapter 11 for which a reserve is required although the Trustee is currently contesting these claims. The above noted estimated distribution is based on current exchange rates and includes the recent settlement with Great American.
44. As noted in the Monitor's Twentieth Report to Court dated June 11, 2015, the Settlement Agreements were entered into with all potentially liable third parties with the exception of the Canadian Pacific Railway Company ("CP"). It is expected that litigation against CP will continue in both Canada and the U.S.
45. Section 4.4 of the Amended Plan states that the Monitor shall make distributions to or on behalf of the Creditors within 45 calendar days following the Plan Implementation Date and receipt by the Monitor of any applicable tax ruling or clearance certificate. Based on the state of the claims review as summarized above, and assuming there are no tax matters which may delay distribution, it is

anticipated that the Monitor will proceed with the payment of dividends to categories of creditors (commencing in January 2016) as follows:

- **Wrongful Death Claims:** the Monitor will disburse the allocated amount to the Trustee in accordance with section 4.2(a) of the Amended Plan;
- **Bodily Injury and Moral Damage Claims:** the Monitor will make an interim dividend distribution to this category of creditors and will forward to each creditor a statement of distribution to explain the calculation of their claim amount in accordance with Schedule F to the Amended Plan and to enable creditors to notify the Monitor if they believe an error has been made in the calculation of their claim. The interim distribution will thus allow for the rebalancing of claims in the event of errors in the valuation of claims;
- **Property and Economic Damages Claims:** No interim distribution on account of this category of claims is expected to occur for several months following the Plan Implementation Date due to the scope of work remaining to review and evaluate the claims. Further, this could be further delayed in the event that the valuation of claim values are contested;
- **Subrogated Insurer Claims:** the Monitor expects to make an interim dividend distribution subject to completing a review of the claims;
- **Government Claims:** the Monitor expects to make an interim dividend distribution subject to completing a review of the claims.

EXTENSION REQUEST

46. The Thirteenth Extension Motion seeks an extension of the stay of proceedings through June 17, 2016 to enable the implementation of the Plan, the ongoing review of claims and the distributions of the Settlement Fund to the creditors.

APPROVAL OF PROFESSIONAL FEES

A) Fees Subject to Administration Charge

47. The Professional Fee Motion seeks approval for the payment of the fees secured by the Administration Charge as defined in the Amended Plan. The Administration Charge provided for the following:
- \$12 million plus applicable taxes for the Canadian Professionals (defined as the Monitor, Woods (Monitor's legal counsel), Gowling (Petitioner's legal counsel) and the Claims Officer).
 - \$8 million for the U.S. Professionals (defined as the Trustee, the Trustee's professionals and Paul Hastings as counsel for the Official Committee of Victims in the Chapter 11).

Collectively, the Canadian and U.S. Professionals are referred to as the Professionals.

48. As of October 31, 2015, the amounts owing to the Canadian Professionals can be summarized as follows:

Montreal, Maine & Atlantic Canada Co. Professional Fee Summary As of October 31, 2015			
	Fees /		Total
	Disbursements	Sales Taxes	
Richter	\$ 3,686,000	\$ 552,000	\$ 4,238,000
Gowling	3,307,000	495,000	3,802,000
Woods	1,016,000	152,000	1,168,000
Verrill Dana ⁽¹⁾	158,000	-	158,000
	<u>8,167,000</u>	<u>1,199,000</u>	<u>9,366,000</u>
Administration Charge	<u>12,000,000</u>	<u>1,797,000</u>	<u>13,797,000</u>
Balance of Administration Charge to complete the CCAA	<u>\$ 3,833,000</u>	<u>\$ 598,000</u>	<u>\$ 4,431,000</u>

¹ US counsel for Chapter 15, no sales taxes applicable.

49. As of October 31, 2015, there remains approximately \$3.8 million to cover the remaining work to be performed by the Canadian Professionals (which will include the engagement of a Claims Officer) to fully implement the Amended Plan and to complete the administration of the CCAA. The remaining work can be summarized as follows:

- Preparation of motion materials / reports to court;
- Claims analysis (as noted above): requiring communication and dealings with creditors and analysis of supporting documentation, in particular with respect to the more than 3,000 claims included in the Property and Economic Damages category;
- Claims objections: including notification to creditors, resolution discussions and where necessary, hearings with the Claims Officer / Court in both the CCAA and the Chapter 11;
- Dividend distributions including creation of statements of distribution for all creditors (in excess of 4,000) and responding to creditors inquiries regarding the distributions;
- Communications and meetings with major stakeholders including the Province of Quebec ("Province"), Class Representatives, US Legal Representatives as well as frequent communications with and response to creditors inquiries;
- Litigation support regarding claims against CP;

- Ensuring compliance with releases and injunctions provided in the Amended Plan.

50. As of October 31, 2015, the amounts owing to the U.S. Professionals can be summarized as follows:

Montreal, Maine & Atlantic Railway Ltd. Professional Fee Summary As of October 31, 2015	
(in Canadian \$)	Fees / Disbursements
Trustee ⁽¹⁾	\$ 3,679,000
Trustee's Professionals ⁽²⁾	1,887,000
Paul Hastings ⁽³⁾	<u>999,000</u>
	6,565,000
Administration Charge	<u>8,000,000</u>
Balance of Administration Charge to complete the Chapter 11	<u>\$ 1,435,000</u>
<p>¹ The Trustee is paid a 3% commission on funds disbursed plus disbursements.</p> <p>² Consists of the Trustee's financial advisor, Canadian counsel and other U.S. based counsel.</p> <p>³ Fee Application has not yet been filed by Paul Hastings. An estimate of US \$750,000 was used for this summary.</p>	

51. As of October 31, 2015, there remains approximately \$1.4 million to cover the remaining work to be performed by the Trustee and his professionals to fully implement the Chapter 11 Plan and to complete the administration of the Chapter 11. The remaining work can be summarized as follows:

- Preparation of motion materials / reports to court;
- Claims analysis where required including assistance to the Monitor;
- Claims objections: including notification to creditors, resolution discussions and where necessary, hearings with the Court in the Chapter 11;
- Coordination of matters and assistance where required to the WD Trustee in connection with the payment of dividends in respect of Wrongful Death Claims;
- Litigation regarding claims against CP in the U.S. Court;
- Pursuit of preference actions in the Chapter 11;
- Communications with and response to creditors' inquiries;

- Litigation regarding the scope of Wheeling Lake & Erie's security interest and objection to their claims;
 - Ensuring compliance with releases and injunctions provided in the Chapter 11 Plan.
52. With the exception of Paul Hastings who has not yet filed their fee application, the Trustee and the other U.S. Professionals will seek approval of their fees from the Bankruptcy Court on December 8, 2015.
53. At the present time, based on the remaining work to be completed, it is expected that the unused portions of the Administration Charge in support of the Canadian and U.S. Professionals will be fully utilized to complete the administration of the respective estates. Further, in light of the Risk Premium discussed below, the Canadian and U.S. Professionals will not seek any further payment from the Settlement Funds in the event that the work to be performed exceeds the remaining balance under the Administration Charge except in the event of further recoveries from CP. In the event that the Administration Charge is not fully utilized, the unused portion will, as specified under the Amended Plan be added to the Settlement Funds and used to pay dividends to the Derailment creditors.

B) Risk Premium

54. In addition to the above noted fees, the Canadian Professionals are also seeking a risk premium in the amount of \$10 million to be allocated among the Canadian Professionals ("Risk Premium") excluding the Claims Officer. As the Trustee is compensated on a commission basis and as the commission being sought exceeds the fees of the Trustee on an hourly rate basis, the Trustee has indicated he is not seeking a similar type risk premium in the Chapter 11.
55. As this Court is aware, since the commencement of both the CCAA Proceedings and the Bankruptcy Case and as a result of the insufficient cash flow of the Petitioner and MMAR, the fees of the Canadian Professionals (as well as the U.S. Professionals) have not been paid by the Petitioner in order to preserve cash flow to enable the continued operations to service the Petitioner's many clients and enable the continued payment of the Petitioner's employees through to the sale of the assets in June 2014. Although part of the fees of the Canadian Professionals were paid further to the sale of the assets of the Companies and with the sale proceeds thereof as well as the collection of business interruption insurance, the Canadian Professionals have not been paid since then and have for the past 18 months been at risk of not being paid at all for their work which has led to the Amended Plan.
56. Notwithstanding, the Canadian Professionals have since the commencement of the CCAA (through to October 31, 2015) devoted in excess of 20,000 hours to achieve the following:

- **Stabilization and continued operations of MMAC and MMAR** – following the commencement of the CCAA Proceedings and the Bankruptcy Case considerable efforts were deployed to enable MMAC and MMAR to continue their operations to the fullest extent possible while the various restructuring alternatives were considered. This required the intervention of the Canadian Professionals (in coordination with the Trustee) in many areas including the maintenance of MMAC's operating certificate, insurance matters, coordination and negotiation with the City of Lac-Mégantic as well as the Province. The failure to continue the operations of MMAC would have resulted in the potential loss of employment among the thousands of employees who work for the many companies that rely on the railroad for their operations;
- **Sale of assets of MMAC and MMAR** – as it was evident that both MMAC and MMAR could not continue their operations, the Professionals and MMAC immediately launched a sale process which included the utilization of an investment banker to sell the companies on a going concern basis. Following an expedited sale process including an auction in Portland, Maine, approval to sell the assets from both the CCAA Court and the Bankruptcy Court was obtained in January 2014 with an eventual closing in May and June 2014. The Professionals remained actively involved to ensure the successful closing of the sale transactions and the transition of operations;
- **Creation of an Indemnity Fund** – it was also obvious from early in the restructuring process that the sale of the assets would be wholly insufficient to enable the Derailment creditors to obtain any meaningful recovery, or indeed any recovery at all. As a result, from the early stages of the restructuring process, the Professionals engaged in settlement discussions with the various parties identified as potentially liable third parties for the damages resulting from the Derailment (and who were named in litigation in both Canada and the U.S.). The alternative to settlements was litigation in both Canada and the U.S. which would be both lengthy (estimated at five to ten years), extremely expensive and uncertain. These negotiations which took place over an extended period of time, ultimately resulted in approximately twenty-five (25) entities or groups of affiliated entities entering into settlement agreements, under the terms of which, in exchange for a contribution to the Settlement Funds, the settling party will receive a full and final release of all claims arising out of the Derailment, which releases were incorporated into the Amended Plan as well as the Chapter 11 Plan. The result was the recovery of the Settlement Funds of approximately \$452 million (based on current exchange rates) which will be used to compensate the many victims of the Derailment;
- **Claims Administration** – in order to ascertain the quantum of the damages which would be sought as a result of the Derailment and which would be a key element in the negotiation of the many settlements, the Court approved a comprehensive claims process which the Monitor implemented. As part of this claims process, the Canadian Professionals working with the Trustee first identified the types of damages which could have been incurred and then created

a detailed and tailored claims package which was made available to the residents of Lac-Mégantic and the surrounding areas. The claims package also allowed for the filing of claims in the CCAA to be deemed filed in the Chapter 11 thereby making it easier for creditors to also file their claim in the Chapter 11. Extensive efforts were undertaken to ensure that all potential claimants were identified including the issuance of area wide mailings via Canada Post, social media, coordination of publicity with the Class Representatives and the City of Lac-Mégantic, newspaper advertisements (in Canada by the Monitor and in the U.S. by the Trustee) and a general media campaign. Further, in order to assist creditors in the completion of their claims, the Monitor conducted four (4) public information sessions in Lac-Mégantic and staffed a temporary office in Lac-Mégantic to aid and assist creditors in the completion of their claim forms. The Monitor also worked closely with the Class Representatives throughout the claims process. Following the receipt of more than 5,000 claims, the Monitor has created a comprehensive data base of all potential creditors, which information was extensively relied upon in the construction of the Plan. The Monitor has and continues to review the claims filed and is in frequent contact with creditors and their representatives to obtain information to enable a complete evaluation of all claims filed. This work is ongoing;

- **Filing of Plan of Arrangement** – on March 31, 2015, MMAC filed its Plan, in coordination with the Trustee's Chapter 11 Plan which was filed on the same date. Following the successful negotiation of additional and important settlement agreements, and based on input from various stakeholders, MMAC filed the Amended Plan on June 8, 2015. The Canadian Professionals conducted two information sessions in Lac-Mégantic to explain the Amended Plan to creditors and to respond to their questions. At the meeting of creditors held in Lac-Mégantic on June 9, 2015, the Amended Plan was unanimously approved by the creditors with 3,879 positive votes representing approximately \$694 million of claims. Similarly, the Chapter 11 Plan was approved by the creditors in the Chapter 11 in August 2015 (again unanimously save for a negative vote by CP). Following CCAA Court approval of the Amended Plan, Bankruptcy Court approval of the Chapter 11 Plan and the Chapter 15 recognition order, the Professionals responded to the various appeals filed by CP and ultimately resolved the appeals with the addition of certain agreed upon judgment reduction language, such that the Plan Implementation Date may potentially occur in late December 2015 with interim distributions expected to follow in January 2016;
- **Chapter 15** – in support of the Plan, on July 20, 2015, the Monitor, acting as Foreign Representative filed a voluntary Chapter 15 proceeding as well as a motion for the recognition of the Amended Plan. The Bankruptcy Court granted the motion and issued an order recognizing the Amended Plan including the releases provided therein in the U.S.;
- **CCAA Administration** – the Canadian Professionals have worked closely with the U.S. Professionals to carefully coordinate and advance the proceedings in both countries to ensure

the most efficient and effective outcome possible. Included in these efforts are the implementation of a Cross Border Protocol approved by both courts in September 2013 to assist in the coordination and harmonization of proceedings in the two courts, the holding of a historic cross-border settlement conference involving both courts in Bangor, Maine in February 2014, the availability of documentation for both the CCAA and Chapter 11 proceedings on the Monitor's website, as well as a dedicated 1-800 number to respond to creditors' inquiries.

57. It should be noted that the Canadian Professionals did ultimately obtain a \$4 million administrative charge (taxes included) on certain assets of MMAC (despite the vigorous and continuous objections of the Federal Railroad Administration) which enabled them to pay a portion of their fees for the first time in July 2014, a full year after the commencement of the CCAA Proceedings. Similarly, the Trustee negotiated a carve-out to secure partial payment of the U.S. professional fees at approximately the same time. Nonetheless, the administrative charge was insufficient to cover the actual costs incurred to the date of payment of the various professionals. Further, after the partial payment of fees, the Canadian Professionals have continued their extensive work which was required to enable the recovery and ultimate distribution of the \$452 million Settlement Funds without any assurance of being paid. The respective professionals have invested substantial resources since the commencement of the CCAA and have done so completely at risk. The Derailment creditors have benefitted greatly by the significant efforts of the Canadian Professionals since the beginning of the CCAA Proceedings.
58. In total, the fees for the Canadian Professionals (\$12 million Administration Charge and \$10 million Risk Premium) amounts to approximately 5% of the Settlement Funds, rising to 7% with the inclusion of the \$8 million Administration Charge for the U.S. Professional's fees.
59. The Canadian Professionals have discussed this Risk Premium with both the Province and Class Counsel to the Class Representatives. While the Province has not provided a formal response, Class Counsel to the Class Representatives have indicated that they fully support the payment of a Risk Premium to the Canadian Professionals.

APPROVAL OF CLASS COUNSEL FEES

60. The Monitor has been informed that Class Counsel, with the approval of the Class Representatives is seeking fees of 25% of the dividends paid to creditors who are represented by the Class Representatives plus disbursements plus taxes. As the claims review is ongoing (in particular the Property and Economic Damage Claims), a definitive calculation, using the 25% is not possible, however, based on the claims review process to date, we estimate that based on a fee of 25%, this would result in a fee of approximately \$12 million if calculated on the expected dividend which will be payable with respect to Wrongful Death and Bodily Injury and Moral Damage Claims and an

estimate of \$2 million to \$4 million in respect of Property and Economic Damage Claims, the whole prior to taxes and disbursements and with no fees being charged on the portion of the Settlement Funds related to the XL Insurance proceeds (\$25 million).

61. The Monitor recognizes the extensive efforts undertaken by Class Counsel throughout these proceedings including but not limited to the claims process, both the filing of claims and assistance to creditors in calculation of claim amounts, communications with creditors, and involvement in the approval of the various settlement agreements negotiated by the Professionals, and the drafting of the Amended Plan.
62. As well, the ability for the Derailment creditors to communicate effectively through the Class Representatives and Class Counsel enabled decisions to be taken in a more efficient and expedited manner that might otherwise have necessitated more timely, costly and broader based consultation.

CHAPTER 15 PROCEEDINGS

63. On July 20, 2015, the Monitor filed a Verified Petition for Recognition of Foreign Proceedings and Related Relief pursuant to Chapter 15 of the U.S. Bankruptcy Code. On August 20, 2015, the Bankruptcy Court issued the Order Granting Recognition and Relief.
64. The Monitor, in its capacity as the authorized foreign representative under the CCAA Proceeding, filed for the recognition of the Canadian Approval Order under Chapter 15 of the U.S. Bankruptcy Code and sought the recognition in the United States of the releases being provided to Contributing Third Parties. On August 26, 2015, the Bankruptcy Court granted the Order Recognizing and Enforcing the Plan Sanction Order of the CCAA Court.
65. On September 8, 2015, CP filed a Notice of Appeal of the Order Recognizing the Enforcing the Plan Sanction Order of the CCAA Court.
66. Following resolution of the CP appeals and the October 9, 2015 Amended Plan Order, on October 21, 2015, the Bankruptcy Court entered an Order Supplementing Order Recognizing and Enforcing the Plan Sanction Order of the Quebec Superior Court, thus incorporating the revised language contained in the Amended Plan.

ACTIVITIES OF THE MONITOR

67. The Monitor's activities have included the following:
 - Continued frequent contact with the Trustee and his professionals and Petitioner's 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 MMAR through the review of Chapter 11 motions and orders;

- Maintaining regular contact with the major stakeholders in this restructuring process to seek their input and provide assistance in various areas;
- The Monitor has devoted substantial resources to its preliminary review of all claims filed before the Bar Date as well as those claims admitted pursuant to the May 27, 2015 Order, including communicating with creditors and/or their representatives to obtain additional information required to review their claim;
- The Monitor has responded to numerous queries from creditors regarding the status of their claim, the filing of post-traumatic stress forms, and timing of distributions;
- The Monitor has participated in settlement discussions with CP, as well as the drafting and resolution of language in respect of amendments to the Amended Plan to enable the successful resolution of appeals to both the Amended Plan and the Chapter 15 recognition order;
- The Monitor has been coordinating the receipt of the Settlement Funds;
- The Monitor continues to post copies of Court materials filed in the CCAA and Chapter 11 Proceedings on its website;
- The Monitor has prepared and filed this Twenty-First Report;
- Other administrative and statutory matters relating to the Monitor's appointment.

RECOMMENDATIONS OF THE MONITOR AND CONCLUSION

A) Claims Officer and Extension Motion

68. The appointment of an independent Claims Officer to review the decisions of the Monitor will provide a mechanism for creditors who see their claims reduced or disallowed in its entirety to efficiently appeal those decisions.
69. The Monitor is of the opinion that the Court should grant the extension request to June 17, 2016 for the following reasons:
- Since the commencement of the CCAA proceedings, the Petitioner has and continues to act in good faith and with diligence;
 - Further time is required for the Plan implementation which includes the collection of the balance of the Settlement Funds, the continued review and final determination of claims and the distribution of the Settlement Fund;

- The extension will not cause any prejudice to the various stakeholders.

B) Additional Late Claim Motions / RSA Late Claims Motion

70. The Monitor believes the following factors should be considered in determining whether the additional late claims and the RSA late claim should be allowed to be filed:

- The reasons included with the affidavits filed in support of the additional late claim are similar to the affidavits filed with the admitted late claims in the May 27, 2015 Order:
- The RSA late claim cites similar reasoning to the other insurers late claims admitted in the May 27, 2015 Order:
- The dilution impact of claims in the Property and Economic Damages category if the additional late claims belonging to that category are allowed to be filed; and
- The consent of the Class Representatives to the filing of the other late claims in the Bodily Injury and Moral Damages category.

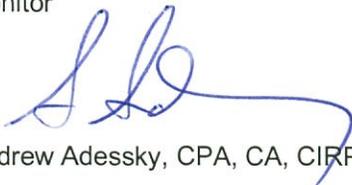
C) Professional Fee Motion

71. The Monitor fully supports the Motion for the approval of professional fees and believes that it is the work performed by the Canadian Professionals (in coordination with the Trustee) that has enabled the recovery of the extraordinary amount of Settlement Funds which shall be shortly used to pay the distribution to the Derailment victims far ahead of any timeline which litigation could have produced. The Canadian Professionals have devoted enormous resources to achieve the results expressed in the Amended Plan and have done so despite the risk of not being paid. As mentioned in the Motion for the approval of professional fees, the Canadian Professionals will devote all the time required to complete the full implementation of the Amended Plan, including the review and resolution of all claims, in order to bring these CCAA Proceedings to closure without requiring any further financial resources.

Respectfully submitted at Montreal, this 24th day of November, 2015.

Richter Advisory Group Inc.

Monitor



Andrew Adessky, CPA, CA, CIRP

Exhibit 1

Montreal, Maine & Atlantic Canada Co.
 Potential allocation of moral claims / Répartition
 potentielle des réclamations pour dommages moraux

	Points	As Per Amended Plan including the impact of the 127 Court Approved Late Claims and Other Adjustments / Selon le Plan alternatif, compte tenu de l'incidence des 127 réclamations hors délai approuvées par la Cour et d'autres ajustement			Number of claims per Additional Late Claims Motion / Nombre de réclamations selon la Requête visant à autoriser le dépôt de réclamations hors délai supplémentaires	Includes the impact of the Additional Late Claims Motion / Compte tenu de l'incidence de la Requête supplémentaire visant à autoriser le dépôt des réclamations hors délai supplémentaires (Note)			Dilution	
		Estimated # of claimants / Nombre estimatifs de réclamants	Estimated Distribution / Distribution estimative	Dist. per claim / Dist. par réclamation		Estimated # of claimants / Nombre estimatif de réclamants	Estimated Distribution / Distribution estimative	Dist. per claim / Dist. par réclamation		
			\$ 431 MM Settlement / Règlement de 431 M\$				\$ 431 MM Settlement / Règlement 431 M\$			
Trouble & Inconvenience / Troubles et inconvénients	5.0	3,835	\$ 12,164,000	\$ 3,172	476	4,311	\$ 12,130,000	\$ 2,814	-11.3%	
Evacuations / Évacuations										
Per day of displacement / par jour de déplacement	1.0	1,963	7,748,000	634	224	2,187	8,145,000	563	-11.2%	
Maximum	30.0			par jour				par jour		
Red Zone/Yellow Zone / Zone rouge et zone jaune	50.0	159	5,044,000	31,723	16	175	4,925,000	28,143	-11.3%	
Grandparents and grandchildren / Grands-parents et petits-enfants	15.0	47	447,000	9,511	-	47	397,000	8,447	-11.2%	
Post Traumatic Stress / Stress post-traumatique à court terme	50.0	201	6,973,000	34,692	29	230	7,085,000	30,804	-11.2%	
Post Traumatic Stress / Stress post-traumatique à long terme	100.0	191	13,252,000	69,382	25	216	13,307,000	61,606	-11.2%	
Post Traumatic Stress in Process - short term / Stress post-traumatique à court terme - en cours	50.0	30	1,041,000	34,700	-	30	924,000	30,800	-11.2%	
Post Traumatic Stress in Process - long term / Stress post-traumatique à long terme - en cours	100.0	30	2,082,000	69,400	-	30	1,849,000	61,633	-11.2%	
Bodily Injury / Lésions corporelles	50.0	3	95,000	31,667	-	3	84,000	28,000	-11.6%	
Total			<u>\$ 48,846,000</u>				<u>\$ 48,846,000</u>			

Note : The calculation does not include the impact of the 68 additional claims as provided for in the Supplementary Late Claims Motion filed on November 23, 2015. /

Le calcul n'inclut pas l'incidence des 68 réclamations additionnelles, tel que fourni dans la Requête supplémentaire visant à autoriser le dépôt des réclamations hors délai supplémentaires en date du 23 novembre 2015.