

June 3, 2016

TO: CREDITORS OF CASTOR HOLDING LTD.

RE: Castor Holdings Ltd. (“Castor” or “Estate”)

Gentlemen,

We are writing to you in our capacity as trustee (the “**Trustee**”) to the bankruptcy (the “**Estate**”) of Castor Holdings Ltd. (“**Castor**” or the “**Bankrupt**”). Our records indicate that you have filed a Proof of Claim (“**Claim**”) with the Trustee in which you have claimed to be a creditor (“**Creditor**”). Without admission as to the acceptance of your Claim, the following is to report to Creditors with regard to the current status of this bankrupt Estate.

This bankruptcy occurred in 1992 and the Estate administration has continued due to outstanding litigation and other administrative matters. It was not anticipated that the Estate administration would take so many years and be so complex. With substantially all of the property of the Bankrupt having been realized and the impending resolution of the outstanding litigation, the Trustee believes that the administration is coming to a conclusion with the eventual possibility of the Trustee paying a dividend from the net realization of the Estate to those Unsecured Creditors whose Claims are ultimately accepted by the Trustee.

Historical Perspective

This has been one of the largest bankruptcies in Canada and certainly one of the longest lasting in Canada. Many of the recipients of this letter may not be familiar with the Trustee’s administration notwithstanding previous communications of the Trustee and references in various news media, including newspapers and television. Also, in view of the significance of the losses incurred, many Creditors were represented by legal counsel who reported to their respective clients.

The administration of the Estate has been extremely complex in that, *inter alia*, at inception of the bankruptcy:

- The business affairs of Castor were extremely complex in that they involved the borrowing and lending of hundreds of millions of dollars which loans were made and incurred by Castor and its subsidiaries located in Canada, the United States, Germany, Cyprus, Netherlands Antilles, Switzerland and Ireland;
- The assets of Castor comprised primarily mortgage loans and other amounts receivable, many of which were made to related corporations and wholly owned subsidiaries located in numerous foreign jurisdictions;
- The administration of the Estate was rendered more difficult by the fact that prior to the bankruptcy, the employees and officers of Castor and its subsidiaries had left their employ and certain books, records and files had been destroyed or exported from Canada and computer files and discs had been erased;

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- The administration was exacerbated because many of the records of Castor were located in offices other than at the head office in Montréal, including offices elsewhere in Canada, Europe and the Caribbean Islands, which offices had been abandoned by Castor or its subsidiaries prior to its bankruptcy. Fortunately, the Trustee subsequently arranged to repatriate most of the relevant books and records. The Trustee was also assisted by firms of attorneys in Canadian and foreign jurisdictions which it retained.

Early in the process, the Trustee was of the view that the realization of the tangible assets of the Bankrupt would be negligible in comparison with the Bankrupt's liabilities and in fact such has proven to be the case.

In carrying on the administration of the Estate, the Trustee gave effect to the decisions made by the Inspectors of the Estate (the Inspectors being individual representatives from significant creditors). In particular, the Inspectors determined that the only reasonable hope of significant recovery for the ordinary Unsecured Creditors was to succeed in legal proceedings against various parties which included, without limitation, the following:

- 1) Legal action against the former auditors of the Bankrupt, Coopers & Lybrand Chartered Accountants (referred to hereinafter interchangeably as ("**Coopers & Lybrand**" or "**CLCA**"), for an amount of \$15,000,000, later increased to \$40,000,000.00 subject to further increase;
- 2) Motion for a Declaratory Judgment with regard to insurance companies which had underwritten liability for Coopers & Lybrand;
- 3) Bulk Sale proceedings against Price Waterhouse Coopers, the successor firm to Coopers & Lybrand;
- 4) Paulian Actions against certain partners of CLCA who appeared to have transferred properties from their names to spouses or third parties for nominal amounts upon learning of the likelihood of the Castor-related litigation against CLCA;
- 5) Various former employees of the Bankrupt for the recovery of loans;
- 6) The directors of the Bankrupt for dividends declared and paid during the year preceding the date of the bankruptcy;
- 7) Legal proceedings against Mr. Wolfgang Stolzenberg, the chairman, president and chief executive officer of the Bankrupt for approximately \$44,000,000.00 plus other amounts;
- 8) Legal proceedings against former officers, directors, employees and consultants of the Bankrupt.

The Trustee and Inspectors assessed that the greatest potential source of recovery to the Estate would be the Estate's legal action against CLCA (item 1 above) in respect of the negligent audits of Castor's financial statements as well as negligence in other professional services provided to Castor. It should be pointed out that the initial claim by the Estate against Coopers & Lybrand was made for \$15 million, and subsequently increased to \$40 million. The constraint on the amount claimed by the Estate was due to the possibility of "court costs" being awarded against the Estate in the event of a loss, which costs would, in part, be calculated as a percentage of the amount of the Estate's lawsuit. It is interesting to note that when the Widdrington estate finally won its case (winning in lower court first instance in 2011 and becoming final in early 2014 when the Supreme Court of Canada refused to hear Coopers & Lybrand's appeal), court costs in excess of \$21 million (including legal interest) were awarded against Coopers & Lybrand. More will be said later in this letter on the Estate's claim and award of court costs.

After the institution of legal proceedings against Coopers & Lybrand, the Inspectors authorized legal proceedings against CLCA's insurers (who had been funding the costs of the defence) and against PricewaterhouseCoopers which, as a result of a merger in 1998, had acquired the assets of CLCA but had left the liabilities and contingent liabilities (such as the Castor-related lawsuits against CLCA) in a company with no assets and no employees (items 2 and 3 above).



Statement of Receipts and Disbursements (“Statement”)

Below is a summary of the funds received and disbursed by the Trustee from July 9, 1992 to March 8, 2016, the whole as reviewed and approved by the Inspectors of the Estate. This Statement has been prepared on a cash basis and does not include accrued liabilities, or possible additional realization. It is important to note that the Statement does not include provision for any potential liabilities pending the finalization of the Trustee’s administration. **We therefore caution the Reader that notwithstanding the reporting of the Trustee having “Funds on Hand”, such funds are not available for immediate distribution and the eventual quantum thereof is unknown, until the Trustee fully completes its administration.** Ongoing costs of administration of the Estate will be charged against the Funds on Hand .The Trustee will outline later in this letter some of the remaining administrative matters.

**Abridged Summary of Statement of Receipts and Disbursements
for the Period July 9, 1992 to March 8, 2016**

Receipts

• Participating Creditors’ Loans	\$102,167,622	
• Distribution from Monitor in accordance with CCAA Plan	\$95,000,000	
• Proceeds from CCAA – dividend	\$7,749,440	
• Other Litigation Recoveries	\$17,275,563	
• GST/QST Litigation Recovery	\$4,861,325	
• Tangible Asset Recoveries	<u>\$25,522,997</u>	
Total Receipts		\$252,576,947

Disbursements

• Directed Payment of Participating Creditors’ Loans	\$95,000,000	
• Legal Fees	\$70,023,103	
• Trustees Fees	\$26,127,566	
• Accounting Experts and Other Professional Fees	\$14,414,755	
• Reimbursement to Estate Peter Widdrington	\$1,231,518	
• Goods & Services Taxes (GST/QST)	\$13,997,758	
• Investigation, Discovery, Rogatory Commission Costs	\$1,752,721	
• Estate Administration Costs	\$4,996,964	
• Diverse Other Expenses	\$2,084,769	
• Asset Realization Expenses	<u>\$1,885,579</u>	
Total Disbursements		<u>\$231,514,733</u>

Funds on Hand at March 8, 2016

\$21,062,214



The above Statement reflects an abridged summary of the tangible assets realized as well as the results of various categories of litigation referred to above. It also summarizes various disbursements incurred by the Estate. We comment on some of the more significant elements of the Statement, as follows:

- **Participating Creditors' Loans**

In view of the extreme anticipated expense for the Estate to prosecute its legal claims, very early in the process the Estate entered into an agreement with numerous creditors ("**Participating Creditors**") who had for their own account initiated legal claims against Coopers & Lybrand ("**Coopers & Lybrand**" or "**Defendants**"). This agreement ("**Participation Agreement**") allowed all prosecuting creditors and the Estate (collectively "**Plaintiffs**") to join forces against Coopers & Lybrand. You may recall that the Judge chose the case of plaintiff Mr. Peter Widdrington (later the estate of Peter Widdrington – deceased), to be the first action to proceed to trial and to serve as a test case with regard to certain common issues, including the issue of professional negligence, for all Plaintiffs (the "**Test Case**"). A finding of professional negligence was required in order for the Plaintiffs to claim damages and proceed with their own individual cases. To fund the Test Case, and other related litigation, the Participating Creditors made loans to the Estate which over 22 years of litigation amounted to \$102 million.

Pursuant to a recent settlement ("**Settlement**") arrived at with Coopers & Lybrand, its insurers, and Price Waterhouse Coopers (collectively the "**Defendants**"), which was implemented through the mechanism of CCAA Proceedings (discussed below), \$95 million of these loans have been repaid. The balance owing by the Estate is being written off as forgivable debt. In this latter regard, from an "accounting perspective", the Trustee will be issuing invoices for the equivalent amount to each Participating Creditor, together with GST/QST if applicable to specific creditors. The Participating Creditors will not be required to make payment to the Trustee, except for the portion of GST/QST, if applicable. The Trustee has no intention, at this time, to make any further funding requests from the Participating Creditors. Additionally, the CCAA Settlement included the court costs of more than \$21 million which were ordered as a result of the Test Case litigation and paid by Coopers and Lybrand to FFMP as counsel of the Test Case plaintiff. Such cost award funds are being paid by FFMP to those remaining Participating Creditors which had not withdrawn from the Participation Agreement.

- **Tangible Assets Recovery**

The gross amount of recovery from several "tangible" assets of Castor was \$25,522,997.

- **Litigious Claims of the Estate**

As can be seen from the above summary, \$17,275,563 has been recovered from the Estate's litigation against various parties. Additionally, as noted above, the Estate has collected \$7,749,440 from the CCAA Settlement with Coopers & Lybrand; this in addition to the millions of dollars paid to the Creditors by the CCAA Monitor (more details discussed below).

- **Expenses**

The expenses required to result in the above recoveries are similarly summarized on the Statement. As mentioned above, \$95 million expense is with respect to the repayment of Participating Creditors' Loans. \$84,437,858 expenses relate to attorneys' and experts' fees incurred in the litigation against Coopers & Lybrand and others. Approximately \$26 million has been spent on Trustee's fees and approximately \$1,752,000 on investigation costs. The significant amount of all such expenditures clearly support the initial decision of the Estate to receive funding from the Participating Creditors pursuant to the Participation Agreement.



CCAA Proceedings

During the fall of 2014, the Plaintiffs and Defendants entered into a mediation process in an attempt to resolve all the outstanding Castor related litigation. Previously, notwithstanding the continuance of litigation, other mediation efforts had not been successful. Although the 2014 mediation was not entirely successful, it provided a basis for further discussions which did lead to the eventual Settlement of the litigation through the CCAA Proceedings, as more fully described below. Had the Settlement not been arrived at, it is estimated that trials by the plaintiffs, including the Estate, would have continued for years, in a sequential order, at a cost of many more millions of dollars to all parties. The Estate's case in the Quebec Superior Court (court of first instance), although not definitively scheduled, was to take place sometime after three of the German bank cases which was to be followed by Chrysler's case. Accordingly, the Estate's case would likely have been heard many years after the initial favorable judgment in the Test Case, and certainly would not have been heard as of this date.

On December 8, 2014, 4519922 Canada Inc. (the "**Applicant**"), an entity related to CLCA, was granted protection by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") under the Companies' Creditors Arrangement Act (the "**CCAA**"). Pursuant to an Order of Mr. Justice Newbould dated December 8, 2014 (the "**Initial Order**"), Ernst & Young Inc. ("**EY**" or the "**Monitor**") was appointed as Monitor of the Applicant in the CCAA Proceedings. Through the mechanism of the CCAA, the various stakeholders sought to resolve, on a global basis, the Castor Litigation, the Bulk Sales Action, the Insurance Action and the Paulian Actions (collectively referred to as the "**Outstanding Litigation**").

The Applicant, CLCA and most of the plaintiffs involved in the Castor Litigation (designated in the CCAA proceedings as the German Bank Group, the Canadian Bank Group) agreed upon a term sheet (the "**Term Sheet**") which set out a proposed framework for a potential Plan of Arrangement under the CCAA ("**Plan**") which would finally settle the liabilities with respect to the Castor Litigation and would involve a substantial contribution from the Defendant former partners and certain non-defendant former partners, the CLCA Group as well as various insurers and others. The Term Sheet contemplated total contributions of US\$99,250,000 and CDN\$107,728,800 (the "**CCAA Plan Contribution**"). In general, the contributions were divided into three tranches, as follows:

- (i) The monies paid by CLCA as a result of the awards of costs in the Test Case litigation (the "**Cost Award Funds**");
- (ii) The monies paid to correspond to the amount of the loans made to the Castor Trustee by the Participating Creditors who had not withdrawn from the Participation Agreement; and
- (iii) The remaining contributed funds to be distributed to the claimants with accepted claims (the "**General Distribution Pool**").

FCA Canada Inc. and CIBC Mellon Trust Company (collectively, "**Chrysler**") were not parties to the Term Sheet. However, after further negotiations, on April 7, 2015, the Applicant, CLCA and Chrysler entered into a support agreement (the "**Support Agreement**") in which Chrysler agreed to support a Plan based on the terms of the Term Sheet along with certain additional conditions. The Support Agreement increased the Canadian currency amount in the CCAA Plan Contribution to \$113,453,800. In Canadian funds equivalent, the entire CCAA Plan Contribution as at the date that the Plan was approved by the Castor claimants, amounted to approximately CAD\$250 Million.

The Term Sheet is a schedule to the Plan that was approved by the Castor claimants and which Plan has been sanctioned by the Court.

The Applicant and CLCA, in consultation with the Monitor and the Creditors' Committee, developed a claims process in order to identify the claims against the Applicant and CLCA. The Creditors' Committee consists of a representative of the German Bank Group, a representative of the Canadian Bank Group, a representative of Chrysler and the Castor Trustee. The law firm Fishman Flanz Meland Paquin LLP ("**FFMP**") is counsel for the Creditors' Committee.



The Applicant and CLCA have been reviewing all claims filed (except for those Castor claims previously accepted by the Applicant and CLCA as described in the Term Sheet and the Support Agreement which include the claims of the German Bank Group, the Canadian Bank Group, the Castor Trustee and Chrysler). Each of the previously accepted Castor claims was subsequently reviewed by the Monitor and its counsel and, with minor modifications, such claims were found to have been reasonably accepted.

To date, the Monitor has paid out the above referred to tranches (i, ii, and iii) and has held back a reserve in respect of disputed claims or those claims requiring further review. A reserve of approximately \$27 million was set aside to protect the claimants with disputed claims in the event that, as a result of an appeal, such claims were adjudicated valid in whole or in part. To the extent this reserve is not utilized for the disputed claimants, it will be paid into the General Distribution Pool.

With regard to the preceding comment, eleven claims totaling \$365,104,593.55 (the "**Gambazzi Group Claimants**") were disallowed in their entirety by the Applicant and CLCA. The Gambazzi Group Claimants disputed the disallowances and a hearing was held in December 2015 before the Honourable James Farley, a retired Judge of the Ontario Superior Court of Justice and the appointed claims officer (the "**Claims Officer**"). The Claims Officer upheld the decision to disallow these claims and ordered that the Gambazzi Group Claimants pay the significant costs of the Applicant, the Creditors' Committee and the Monitor in connection with that adjudication process. Immediately after this decision, the Gambazzi Group Claimants indicated their intention to appeal the decision of the Claims Officer. Motions were then made before the Court by FFMP as counsel to the Creditors' Committee and by the Monitor's counsel to request that the Gambazzi Group Claimants deposit substantial monetary security in order for the Gambazzi Group Claimants to be allowed to proceed with their appeal, the whole to support the eventual costs to be awarded against them, in the event such appeal would be unsuccessful. Upon receiving these Motions, on or about May 31, 2016 Council for the Gambazzi Group Claimants advised that they will be withdrawing their appeal. As such, the disallowance of the Gambazzi Group Claimants' claims are final. Accordingly as mentioned above, it is expected that the reserved funds will be distributed in the near future by the Monitor as part of the General Distribution Pool.

Of the remaining seven Castor claims, a settlement was reached with four of the claimants and two of the claimants did not dispute the disallowances of their claims. The last of the Castor claims, is a relatively small claim that was accepted by the Applicant and CLCA and is presently under review by the Monitor.

With respect to the Cost Award Funds (i), they have been paid to FFMP and held in its trust account. FFMP had represented that the Cost Award Funds would be distributed by it to the Participating Creditors and, in all but two cases, this distribution has been made. With respect to one specific case, FFMP is awaiting Court determination on the refusal of the Creditor to sign an indemnification agreement; the second case not refusing its indemnity and expected to be signed and paid, it only being a timing issue. Pending the foregoing, the associated undisbursed share of the Cost Award Funds will remain in FFMP trust.

Remaining Trustee's Administration

There are various matters still to be dealt with by the Trustee prior to distribution of any residual funds in the Estate to the Unsecured Creditors in this bankruptcy ("**Dividend**"). It should also be noted that the Trustee only pays a Dividend to the Unsecured Creditors. The Trustee assumes that any "secured" creditors have dealt with their respective security outside of the Bankruptcy and do not have any entitlement to a Dividend, unless such creditor(s) files an unsecured claim for the shortfall between the amount of its secured advances and the amount it had realized.



Without limitation, the following are some of the more important remaining administrative steps to be concluded:

- The Estate is endeavoring to conclude a settlement with the Minister of Revenue (“**MRQ**”) concerning value-added taxes (referred to in Canada & Québec as GST/QST) which would put an end to significant financial exposure and potential litigation with MRQ which otherwise could take years to complete.
- The financial year-end of the Castor Estate is March 31st. We shall be filing 2016 Corporation tax returns on a basis consistent with the past as recommended by tax attorneys. These tax returns should be filed within the next three months. In accordance with our past tax planning, we hope that there will be no surprise assessments which could otherwise involve liability to the Estate and delays in the closure of the file. It usually takes approximately 6 to 12 months to receive confirmation from the governments. A further tax return will be required to be filed next year, for March 31, 2017, which hopefully may be our last or penultimate tax return.
- The Trustee continues to review Proofs of Claim filed by Creditors and to utilize legal counsel where necessary with regard to the acceptance or rejection of Claims. This is a relatively arduous process in that it involves, at least in part, reviewing in excess of \$1.3 billion of Claims and in many cases reverting to historical records of Castor. If applicable, the Trustee sends out Notices of Disallowance to various Creditors for those Claims the Trustee is not prepared to accept, or sends out letters to selected creditors where the Trustee requires additional clarification of Claims. The Trustee is diligently working on this, however, if disallowances are appealed, this will result in delays.
- The Trustee is making every effort to avoid any potential Estate liability, including environmental liability, with respect to oil and gas joint ventures acquired by Castor, prior to its bankruptcy, in the Western Provinces of Canada. The Trustee has sought legal counsel and is working with an expert attorney, in this domain.
- Upon the conclusion of the above matters or any others which may arise, the Trustee will present to the Inspectors for their approval, a final detailed Statement of Receipts and Disbursements and projected Dividend Distribution (“**Dividend List**”) for the benefit of Unsecured Creditors, to the extent residual funds exist.
- The Trustee will then send a copy of the approved Statement and Dividend List to Creditors whose claims have been accepted, (and to other relevant parties). Additionally, an appropriate application will be made to the Bankruptcy Division of the Superior Court of Québec as well as to the Superintendent of Bankruptcy (Federal authorities) with regard to their approval of the Statement and Trustee's Discharge. The foregoing entails statutory, but reasonable, legal delays, unless there are any objections by Creditors or third parties. Thereafter, the Trustee can distribute any available Dividend to the Creditors and proceed to the closure of its file.

We trust that the above concisely summarizes the current status of this bankruptcy Estate in its historical context. We would point out that while certain administrative steps can be performed concurrently, others must proceed consecutively. Our best guesstimate of the Trustee's closure of the file and final distribution to Creditors, is that it will take a further 18 to 24 months, providing there are no delays caused by legal matters, tax issues, or unexpected problems. **We reiterate that at this time it is premature to project with any degree of accuracy the amount of funds which may be available for Dividend distribution and the percentage on the dollar which each Unsecured Creditor may expect on its Claim.** We will of course keep the Inspectors apprised of all developments and inform the Creditors of delays if the Trustee determines the latter to be relevant.



To date the Trustee has held 124 Meetings of Inspectors, the purpose of which has been to keep the Inspectors fully informed of all significant developments and for them to make important decisions relating to the Estate. There are currently four Inspectors and one Observer, who have diligently participated. These individuals have assisted the Trustee for many years, with some dating back to the inception, or nearly the inception of the Trustee's mandate. Their efforts on behalf of the Unsecured Creditors are greatly appreciated.

The Trustee remains available to respond to inquiries.

Respectfully submitted,

RICHTER ADVISORY GROUP INC.,
in its capacity as Trustee to the bankruptcy
of Castor Holdings Ltd.

Per:

Philip Manel, CPA, CA, CIRP

PM/vc