

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL  
COURT NO. : 500-11-022700-047

## SUPERIOR COURT

(Sitting as Tribunal designated under the  
*Companies' Creditors Arrangement Act*)

IN THE MATTER OF THE PLAN OF  
ARRANGEMENT OF:

**9161-5849 Québec Inc. (formerly known as Eaux Vives Harricana Inc.)**, legal person duly constituted under the laws of Québec, having its head office at 11 Chemin des Sablières, Saint-Mathieu-d'Harricana, Province of Québec, District of Abitibi, J0Y 1M0;

- and -

**41902 Delaware Inc. (formerly known as EVH U.S.A. Inc.)**, legal person, duly constituted under the laws of Delaware, U.S.A., having a place of business at 17821 East 17<sup>th</sup> Street, Suite 193, Tustin, California, 92780, U.S.A.;

- and -

**9161-5286 Québec Inc. (formerly known as Les Sources Périgny Inc.)**, legal person duly constituted under the laws of Québec, having its head office at 11 Chemin des Sablières, Saint-Mathieu-d'Harricana, Province of Québec, District of Abitibi, J0Y 1M0;

**Debtors**

- and -

**RSM Richter Inc.**, a body politic and corporate, duly incorporated according to law, having a place of business at 2 Place Alexis-Nihon, 3500 de Maisonneuve Blvd. West, 22<sup>nd</sup> Floor, in the City of Montréal, Province of Québec, H3Z 3C2;

**Monitor**

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### NINTH REPORT OF THE DESIGNATED MONITOR ON THE STATE OF DEBTORS' FINANCIAL AFFAIRS (December 15, 2005)

#### I. INTRODUCTION

1. On March 19, 2004, 9161-5849 Québec Inc. formerly known as Eaux Vives Harricana Inc. ("EVH INC."), 41902 Delaware Inc., formerly known as EVH U.S.A. Inc. ("EVH USA") and 9161-5286 Québec Inc., formerly known as Les Sources Périgny Inc. ("Sources Périgny") (collectively "Debtors" or "EVH") filed with the Québec Superior Court, a "Motion for the Issuance of an Initial Order" pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA"). On that same date, the Honourable Justice François Rolland (as he then was) issued an Initial Order (hereinafter the "Initial Order"), *inter alia* appointing RSM Richter Inc. (formerly known as Richter & Associés Inc.) as monitor ("Richter" or the "Monitor");

2. The Debtors have filed to date eight (8) motions for the extension of time for the filing of the Plan of Arrangement which have all been granted. The last Order was rendered on July 29, 2005, extending the Initial Order, as amended and extended, and the stay of proceedings included therein until Friday, December 16, 2005;
3. This Ninth Report of the Monitor is to report and inform the Court of the following:
  - Activities of the Monitor;
  - Current operations;
  - Current financial situation;
  - Filing of a Plan of Arrangement;
  - Motion for the extension of time for the filing of the Plan of Arrangement;
4. We hereby inform the Court that the Monitor has not conducted an audit or investigation of the books and records or the receipts and disbursements of Debtors and that, accordingly, it cannot render an opinion regarding the accuracy or completeness of the information contained herein. The present information emanates from the books and records that have been made available to the Monitor, as well as from discussions with the Management of Debtors;

## II. ACTIVITIES OF THE MONITOR

- **Communication**

5. The Monitor has replied on a timely basis, to all queries from creditors;
6. The Monitor deployed efforts to ensure that any affected parties would have access to the relevant available information on a timely manner. This included, amongst others, the posting of all relevant documentary information on the Monitor's website ([www.rsmrichter.com](http://www.rsmrichter.com));

- **Monitoring**

7. The Monitor has maintained its procedures to insure a proper monitoring of the receipts and disbursements, as provided by the CCAA;
8. The Monitor reported on a monthly basis to Royal Bank of Canada ("RBC"), the DIP lender, on the use of funds;
9. The Monitor has assisted the Debtors' Management in dealing with any important issues that have arisen from time to time;

- **Sale Process**

10. The Monitor was involved in the sale process and assisted the Debtors in dealing with the offers submitted for the purchase of its assets;
11. The Monitor issued on July 28, 2005 a report recommending that the sale to Eaux Vives Water Bottling Corp. ("EVWB") be authorized by the Court;
12. On July 29, 2005, the Superior Court of Quebec authorized the sale to EVWB and appointed Richter as Interim Receiver to complete the transaction (the "Sales Order");
13. The transaction was finalized on September 15, 2005;
14. The Monitor collocated and deposited in its trust account, the related sale proceeds of \$18,000,000 from which the Monitor reimbursed the DIP loan and settled the amounts owing to the Municipality of St-Mathieu d'Harricana and School Board of Harricana, the whole in accordance with the Sale Order;

### III. **CURRENT OPERATIONS (July 26 to September 15, 2005)**

- **Activities**

15. The Debtors' principal activities, until the sale transaction was completed, consisted in the safeguarding of the facility located in Saint-Mathieu d'Harricana (the "Facility"), maintaining it in a good operating state and preserving the operating permits;

- **Employees**

16. Until the sale transaction was completed, there remained only two (2) employees working from the Saint-Mathieu d'Harricana premises, as well as an independent security firm;

- **Assets**

17. The Monitor (in its capacity as Interim Receiver) delivered the Debtors' assets (save for those excluded from the transaction) to EVWB on September 15, 2005;

### IV. **CURRENT FINANCIAL SITUATION**

- **Funding**

18. Since June 2004, the Debtors have financed their post-filing expenses with the benefit of the DIP financing provided by the RBC (as authorized by the Court on June 15, 2004);

19. As at September 15, 2005, a total of \$2,848,717 had been drawn on the DIP facility, including accrued interests, bank charges and fees. On September 16, 2005 in accordance with the Sale Order, the DIP facility was reimbursed from the sale proceeds;

20. As at December 13, 2005, the Monitor had \$14,875,000 on deposit in his trust account;

• **Cash Flow**

21. The Debtors' use of funds since the rendering of the Initial Order is summarized as follows:

<b>EVH</b>			
<b>Statement of Receipts and Disbursements</b>			
<b>from March 19, 2004 to December 13, 2005</b>			
(in \$'000)	EVH Accounts	RSM "In Trust" Account	Total Actual
<b>RECEIPTS (Note 1)</b>			
Sale of Assets	\$ -	\$18,000	\$18,000
Dip Financing	2,500	-	2,500
Forfeited deposit	-	1,000	1,000
Contributions to expenses	-	235	235
Collection of accounts receivable/sale of inventory	845	-	845
Sales taxes and other government receivable	372	64	436
Transfer from Richter trust account	183	(183)	-
Interest	-	117	117
<b>TOTAL RECEIPTS</b>	<b><u>\$3,900</u></b>	<b><u>\$19,233</u></b>	<b><u>\$23,133</u></b>
<b>DISBURSEMENTS</b>			
<b>Operating expenses</b>			
Payroll costs	\$1,671	\$ -	\$ 1,671
Utilities and safeguard measures	703	(18)	685
Property taxes, permits and others	<u>202</u>	<u>283</u>	<u>485</u>
	2,576	265	2,841
<b>Professional fees</b>			
Davies Ward Phillips & Vineberg	627	543	1,170
Scotia Capital	117	273	390
Richter	394	428	822
Others	<u>148</u>	<u>-</u>	<u>148</u>
	1,286	1,244	2,530
<b>DIP Financing costs</b>			
Interest, charges and fees	195	349	544
Capital repayment	<u>-</u>	<u>2,500</u>	<u>2,500</u>
	<u>195</u>	<u>2,849</u>	<u>3,044</u>
<b>TOTAL DISBURSMENTS</b>	<b><u>4,057</u></b>	<b><u>4,358</u></b>	<b><u>8,415</u></b>
	(157)	14,875	14,718
<b>Cash at beginning</b>	<b><u>157</u></b>	<b><u>-</u></b>	<b><u>157</u></b>
<b>Cash at end</b>	<b><u>\$ -</u></b>	<b><u>\$14,875</u></b>	<b><u>\$14,875</u></b>

**Note 1** EVH has no remaining assets to be realized upon other than the recovery of GST/QST credits.

- **Cash Flow Projection**

22. **Appendix A** of this report is a summary of Debtors' cash flow projections for the period of December 14, 2005 to February 24, 2006;
23. EVH's cash flow projections for the period ending December 16, 2005 indicate that the funds on deposit with the Monitor will be sufficient to support the ongoing professional fees;

- **Post-Filing Obligations**

24. The Debtors have been paying the post-filing obligations as they became due;

## **VI. FILING OF PLAN OF ARRANGEMENT**

25. In view of preparing the filing of a Plan of Arrangement, the following measures were completed:
  - a) The books and records of the Debtors were updated;
  - b) The Monitor analyzed the proofs of claims received in accordance with the Claim Process Order rendered by this Court on June 8, 2004. The Monitor is still in the process of reviewing these proofs of claims;
  - c) The Monitor reviewed or disallowed various proofs of claims, entered into negotiations with various creditors and settled various disputed proofs of claims;
26. A Plan of Arrangement was filed with the Court on December 14, 2005;
27. A creditors' meeting is scheduled for February 2, 2006;

## **VIII. MOTION FOR THE EXTENSION OF TIME FOR THE FILING OF THE PLAN OF ARRANGEMENT**

28. Pursuant to the Extension Order rendered on July 29, 2005, the stay period expires on December 16, 2005. The Debtors are now seeking an extension of the stay period to February 28, 2006, inclusively;
29. An extension of the stay period is necessary to allow time for the convening of a creditors' meeting to vote on the Plan of Arrangement and to seek the sanction of the Plan of Arrangement by the Court;
30. During this reference period, the Debtors will rely on the funds presently available and held on deposit in the Monitor's trust account to finance ongoing professional fees;
31. The cash flow projections for the period December 14, 2005 to February 24, 2006 indicate that the Debtors will have sufficient funds to support their current obligations, which relate principally to fees for professional services rendered or to be rendered;

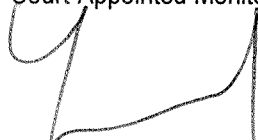
**IX. MONITOR'S RECOMMENDATION**

32. Based on our review of the information provided to us, as previously discussed in this Report, as well as our assessment of the Debtors' good faith in dealing with its affairs, the Monitor recommends that Debtors' request for an extension of time for the filing of the Plan of Arrangement to February 28, 2006 be granted.

All of which is respectively submitted by RSM Richter Inc. in its capacity as Court-Appointed Monitor in conformity with the provisions of the CCAA and the various Orders rendered in this matter.

DATED AT MONTREAL, this 15<sup>th</sup> day of December 2005.

**RSM Richter Inc.**  
Court-Appointed Monitor



Yves Vincent, FCA, CIRP

# EAUX VIVES HARRICANA INC.

## Cash flow projections

For the period December 14, 2005 to February 24, 2006

	CASH FLOW RANGE	
<b>FUNDS ON DEPOSIT (OPENING BALANCE)</b>	<b>\$14,875,000</b>	<b>\$14,875,000</b>
<b>INFLOWS</b>		
Interest revenue (Note 1)	100,000	100,000
<b>TOTAL INFLOWS</b>	<b>100,000</b>	<b>100,000</b>
<b>CASH OUTFLOWS</b> (Note 2)		
<b>Professional Fees</b>		
Davies, Ward Phillips & Vineberg	75,000	125,000
RSM Richter	75,000	125,000
Legal advisor to Monitor	10,000	20,000
<b>Subtotal</b>	<b>160,000</b>	<b>270,000</b>
<b>Other Expenses</b>		
Operations	Nil	Nil
Government Canada & Québec (capital tax) (Note 3)	460,000	500,000
<b>Subtotal</b>	<b>460,000</b>	<b>500,000</b>
<b>TOTAL OUTFLOWS</b>	<b>620,000</b>	<b>770,000</b>
<b>FUNDS ON DEPOSIT (CLOSING BALANCE)</b>	<b>\$14,355,000</b>	<b>\$14,205,000</b>

### Note 1: Interest

Interest revenue is calculated for the period ended February 24, 2006.

### Note 2: Professional fees

Since EVH has no commercial activities nor any assets to secure, the only expenses to be incurred relate to the finalization of the Plan of Arrangement and the filing of tax returns.

### Note 3: Government Canada & Québec (capital tax)

EVH must file corporate tax returns for 2004 and 2005.

DATED AT MONTREAL, this 14 day of December, 2005

**RSM Richter Inc.**  
Court-appointed Monitor

Yves Vincent, FCA