

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS
N°: 450-11-000167-134

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

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

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Debtor-PETITIONER

-and-

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Monitor

**MOTION FOR AN ORDER APPROVING THE DISTRIBUTION OF THE PROCEEDS
OF SETTLEMENT WITH TRAVELERS PROPERTY
CASUALTY COMPANY OF AMERICA
(Sections 9, 10 and 11 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985,
c. C-36 ("CCAA"))**

TO THE HONOURABLE JUSTICE MARTIN BUREAU OF THE SUPERIOR COURT, SITTING
IN COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF SAINT-FRANÇOIS, THE
PETITIONER RESPECTFULLY SUBMITS AS FOLLOWS:

PREAMBLE

1. On August 8, 2013, this Honourable Court issued an order extending the protection of the *Companies' Creditors Arrangement Act* ("CCAA") to the Montreal Maine & Atlantic Canada Co. (the "Petitioner" or "MM&A") pursuant to section 11.02 of the CCAA (as amended on August 23, 2013, the "Initial Order");

2. Pursuant to the Initial Order, Richter Advisory Group Inc. (Richter Groupe Conseil Inc.) was appointed as monitor of the Petitioner (the "**Monitor**");
3. MM&A's filing under the CCAA was precipitated by the tragic train derailment in Lac-Mégantic on July 6, 2013 (the "**Derailment**"). The Derailment also precipitated the filing of Chapter 11 bankruptcy proceedings by Montreal, Maine & Atlantic Railway Ltd ("**MM&AR**"), (the Petitioner's parent company), in the United States Bankruptcy Court, District of Maine (the "**Chapter 11 Case**");
4. On August 21, 2013, the United States trustee appointed Robert J. Keach to serve as trustee in the Chapter 11 Case (the "**Chapter 11 Trustee**");
5. By the present Motion, Petitioner seeks an order approving the distribution of the proceeds following the settlement reached with Travelers Property Casualty Company of America ("**Travelers**") on the terms set forth hereafter;

BACKGROUND

6. On December 19, 2013, the Court entered an Order approving a compromise and settlement with Travelers (the "**Travelers Settlement**"), the whole as appears from the Court record (the "**Canadian Travelers Judgment**"). A similar order was entered in the Chapter 11 Case on December 24, 2013 (the "**US Travelers Judgment**"). Copies of the Canadian Travelers Judgment and US Travelers Judgment are filed in support hereof as **Exhibits R-1** and **R-2** respectively;
7. The Travelers Settlement resolves a dispute between MM&A and the Chapter 11 Trustee, on the one hand, and Travelers, on the other hand, concerning the coverage under a commercial property insurance policy which Petitioner claims provides, among certain other coverages, business interruption coverage to Petitioner and MM&AR (more fully outlined in Petitioner's *Motion for an Order Approving Compromise and Settlement with Travelers Property Casualty Company of America*);
8. Pursuant to the Travelers Settlement, an amount of US\$3,800,000 ("**Settlement Payment**") has been paid to MM&A and MM&AR as a full and final settlement, allocated as follows:
 - a). US\$2,470,000 or 65% has been paid to the Monitor in respect of amounts due to MM&A ("**Canadian Settlement Amount**");
 - b). US\$1,330,000 or 35% has been paid to the Chapter 11 Trustee in respect of amounts due to MM&AR;
9. As appears from the orders approving the Travelers Settlement, the Canadian Settlement Amount was to remain in trust with the Monitor until further order of this Court;
10. Within the scope of the Chapter 11 Case, Wheeling & Lake Erie Railway Company ("**Wheeling**") filed a contestation in respect of, inter alia, the allocation of the Settlement Payment between MM&A and MM&AR;

11. Once again within the scope of the Chapter 11 Case, the Chapter 11 Trustee and Wheeling agreed that they would first argue whether Wheeling holds a valid security interest over the business interruption policy and its proceeds in light of the fact that, in the negative, the debate on the allocation of those proceeds would become moot;
12. On April 15, 2014, a judgment was rendered in the Chapter 11 Case dismissing Wheeling's contestation (the "**Wheeling Judgment**"). More specifically, said judgment states as follows:

Wheeling did not perfect a security interest in the business interruption policy or its proceeds. Accordingly, [MM&AR] and [MM&A] are entitled to the proceeds of that policy free of any claim of Wheeling. In light of this conclusion, there is no need to address Wheeling's objection to the allocation of the proceedings among [MM&AR] and [MM&A].

A copy of the Wheeling Judgment is filed in support hereof as **Exhibit R-3**;

13. On April 29, 2014, Wheeling filed a *Notice of Appeal from the Decision and Order Regarding the Proceeds of the Traveler's Insurance Policy Dated April 15, 2014* (the "**Notice of Appeal**") in relation to the Wheeling Judgment;
14. While a Notice of appeal has been filed, Wheeling has not sought an order staying the execution of the Wheeling Judgment or otherwise affecting the enforceability of same;
15. The Wheeling Judgment is therefore entirely enforceable and nothing prevents the Court from dealing with the Canadian Settlement Amount;
16. Moreover, Wheeling did not contest Petitioner's *Motion for an Order Approving Compromise and Settlement with Travelers*, nor has it sought to contest the Canadian Travelers Judgment;

DISTRIBUTION OF THE CANADIAN SETTLEMENT AMOUNT

17. Pursuant to the Order of March 14, 2014 approving an increase to the amount of the Administration Charge, the amount of the Administration Charge (as defined in said Order) was increased to \$4,000,000;
18. The Administration Charge secures the professional fees and disbursements incurred by the Petitioner's counsel, the Monitor and the Monitor's counsel (the "**Professionals**");
19. As of February 28, 2014, the fees and disbursements of the Professionals totaled approximately \$3,819,126, including taxes;
20. To date, the Professionals have yet to receive any payment for services duly rendered following the Initial Order;
21. As such, Petitioner submits that the Monitor should be authorized to distribute the Canadian Settlement Amount in the amount of US\$2,470,000.00 as follows:

- a) US\$790,600 (representing \$853,850 CDN) to the Monitor as partial payment for services rendered;
 - b) US\$507,690 (representing \$548,310 CDN) to the Monitor's counsel, Woods LLP as partial payment for services rendered;
 - c) US\$1,171,710 (representing \$1,265,440 CDN) to Petitioner's counsel, Gowling Lafleur Henderson LLP as partial payment for services rendered;
22. It is in the interest of Petitioner and all stakeholders that the Monitor be permitted to distribute the Canadian Settlement Amount and proceed with a partial payment of the amounts owing to the Professionals;

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:

1. **ORDER** that the Motion is properly presentable on May 9, 2014;
2. **GRANT** the Motion;
3. **ORDER** the Monitor to distribute the amount of US\$2,470,000.00, currently being held in trust following the Order of this Court dated December 19, 2014, as follows :
 - a) US\$790,600 to the Monitor as partial payment for services rendered;
 - b) US\$507,690 to the Monitor's counsel, Woods LLP as partial payment for services rendered;
 - c) US\$1,171,710 to Petitioner's counsel, Gowling Lafleur Henderson LLP as partial payment for services rendered;
4. **GRANT** such further relief as this Honourable Court may deem appropriate;
5. **ORDER** the provisional execution of the Order notwithstanding any appeal, without the necessity of furnishing any security;
6. **THE WHOLE** without costs, except if contested.

MONTREAL, May 7, 2014

(s) Gowling Lafleur Henderson LLP

GOWLING LAFLEUR HENDERSON LLP
Attorneys for Petitioner

CANADA

PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS
N°: 450-11-000167-134

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

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

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Debtor-PETITIONER

and

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Monitor

NOTICE OF PRESENTATION

TO: **Service list**

TAKE NOTICE that the present *Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America* will be presented for adjudication before the Honourable Justice Martin Bureau of the Superior Court of Quebec on **May 9, 2014** in room 7 of the Courthouse located at 375 King St. West in Sherbrooke, at 10:00 am or so soon as counsel may be heard

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, May 7, 2014

(s) Gowling Lafleur Henderson LLP

GOWLING LAFLEUR HENDERSON LLP
Attorneys for Petitioner

EXHIBIT R-1

(Motion for an Order Approving the Distribution
of the Proceeds of Settlement with Travelers)

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUEBEC
DISTRICT OF ST-FRANCOIS

Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C. C.
C-36, as amended)

N°: 450-11-000167-134

Sherbrooke, December 19, 2013

PRESENT: The Honourable Justice Gaétan
Dumas, J.S.C.

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

MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)

Debtor-Petitioner

and

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA

Respondent

and

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)

Monitor

ORDER

SEEING Petitioner's *Motion for an order approving compromise and settlement with Travelers Property Casualty Company of America*, the exhibits, the affidavit of Mr. Robert C. Grindrod, and the Monitor's fourth report filed in support thereof, as well as the submissions of counsel present at the hearing;

GIVEN the provisions of the CCAA;

WHEREFORE, THE COURT:

1. ORDERS that the Motion is properly presentable on December 19, 2013 [and that the time for service of the Motion herein be and is hereby abridged];
2. GRANTS the Motion;
3. APPROVES the following compromise and settlement :
 - a) Travelers Property Casualty Company of America ("**Travelers**") shall pay a total of Three Million Eight Hundred Thousand United States Dollars (U.S.\$3,800,000.00) to Montreal Maine & Atlantic Canada Co. ("**MM&A**") and Montreal, Maine & Atlantic Railway Ltd ("**MM&AR**") (the "**Settlement Payment**"). The Settlement Payment shall be allocated 65% to MM&A and 35% to MM&AR. The Settlement Payment shall be paid by Travelers in immediately available funds at the latest five 5 business days after the settlement being approved by both the U.S. Bankruptcy Court and this Court and the time to appeal or seek leave to appeal from both of those orders has expired, or any such appeals or motions for leave to appeals have been fully and finally resolved;
 - b) The Settlement Payment shall be made in two payments to account for the allocation described above: (i) one payment in the amount of U.S.\$2,470,000.00 shall be paid to MM&A through the Monitor to the order of Richter Advisory Group Inc. IN TRUST and shall be kept in trust by the Monitor until further order of this Court; and (ii) one payment in the amount of U.S.\$1,330,000.00 shall be paid to MM&AR IN TRUST and shall be kept in trust by MM&AR until further order of the U.S. Bankruptcy Court for the District of Maine;
 - c) The Settlement Payment shall be in full and final satisfaction of any and all claims of the named insureds arising under the Policy and resulting from the Derailment and Travelers shall be released from any and all liability arising under or relating to the Policy in relation to such claims of the named insureds, including any claims for costs and fees related to the Travelers Motions and appeals in Quebec and Maine;

- d) The settlement is conditioned on LMS Acquisition Corporation, Montreal, Maine & Atlantic Corporation and Rail World, Inc., as named insureds under the Policy, executing a release of any claim they may have under the Policy and resulting from the Derailment;
 - e) Travelers shall desist from its Appeals without cost, within seven (7) days of payment of the Settlement Payment;
4. ORDERS that the settlement contemplated herein is conditioned upon approval of the similar relief sought by MM&AR in the Chapter 11 Case;
 5. AUTHORIZES the parties to enter into any documents reasonably necessary to effectuate the terms of the settlement described in conclusion three (3) hereof;
 6. GRANTS such further relief as this Honourable Court may deem appropriate;
 7. ORDERS the provisional execution of the Order notwithstanding any appeal, without the necessity of furnishing any security;
 8. THE WHOLE without costs.

GAËTAN DUMAS

THE HONOURABLE GAËTAN DUMAS, J.S.C.

EXHIBIT R-2

(Motion for an Order Approving the Distribution
of the Proceeds of Settlement with Travelers)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**ORDER APPROVING CHAPTER 11 TRUSTEE'S MOTION FOR ORDER
APPROVING COMPROMISE AND SETTLEMENT WITH TRAVELERS
PROPERTY CASUALTY COMPANY OF AMERICA**

This matter came before this Court on the Chapter 11 Trustee's Motion for Order Approving Compromise and Settlement with Travelers Property Casualty Company of America (the "Motion")¹ and, this Court having held a hearing to consider the Motion on December 18, 2013, and upon consideration of the objections and/or responses to the Motion filed by the Wheeling & Lake Erie Railway Company ("Wheeling") and the Federal Railroad Administration (the "FRA"), and after agreement reached between the Trustee, Wheeling, the FRA and Travelers, and after this Court finding that the United States District Court for the District of Maine has entered its Order dated December 20, 2013 remanding this matter to this Court for the purposes of entering this Order granting the Motion and approving the compromise described therein on the terms set forth below, it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. The Motion is granted to the extent and upon the terms set forth herein.
2. Travelers shall pay a total of Three Million Eight Hundred Thousand United States Dollars (\$3,800,000.00) to the Debtor and MMAC (the "Settlement Payment"). Subject to the reservation of rights granted herein relating to allocation of the Settlement Payment, the

¹ Capitalized terms used, but not defined in this Order, have the meanings ascribed to such terms in the Motion.

Settlement Payment shall be allocated 35% to the Debtor and 65% to MMAC. The Settlement Payment shall be made in two payments to account for the allocation described above: (a) one payment in the amount of \$1,330,000.00 shall be paid directly to the Trustee; and (b) one payment in the amount of \$2,470,000.00 shall be paid directly to the Monitor. The Settlement Payment, and each portion thereof, shall be held in escrow pending further Order of this Court or pending an agreement reached between the Trustee, MMAC, Wheeling and the FRA.

3. Notwithstanding the procedures set forth herein relating to the adjudication of the rights of the Trustee, MMAC, Wheeling and the FRA in the Settlement Payment, if no appeal is taken from this Order or the Order approving the settlement issued by the Quebec Superior Court on December 19, 2013 (the "Canadian Order"), the Settlement Payment shall be paid by Travelers by wire transfer on the later of (a) January 15, 2014; or (b) 17 days after the entry of this Order. If an appeal (including a motion for leave to appeal) is taken from this Order or the Canadian Order, payment shall be made within five (5) business days after any such appeals are finally resolved.

4. The Settlement Payment shall be in full and final satisfaction of any and all claims of all of the named insureds arising under the Policy and resulting from the Derailment and Travelers shall be released from any and all liability under the Policy to the named insureds relating to the Derailment.

5. Travelers shall cause the Appeal to be dismissed, with prejudice, within seven (7) days of payment of the Settlement Payment.

6. The Trustee, MMAC and Travelers are authorized to enter into any documents reasonably necessary to effectuate the terms of the settlement of the claims against Travelers, as

described herein, including certain release of claims agreements to be signed by LMS Acquisition Corporation, Montreal, Maine & Atlantic Corporation and Rail World, Inc. (the "Remaining Named Insureds") and the relief granted herein is conditioned upon the Remaining Named Insureds entering into such releases of claims.

7. Subject to the availability of this Court and the Superior Court (Commercial Division) for the Province of Quebec, Canada before which the bankruptcy proceeding of MMAC is pending (the "Canadian Court"), a joint hearing to determine the rights of the Trustee, MMAC, Wheeling and FRA shall be held at the location of this Court, after February 25, 2013, and on or before March 7, 2014 (the date of the final hearing as scheduled hereinafter referred to as the "Hearing Date" and the final hearing proceeding hereinafter referred to as the "Final Hearing"). The Final Hearing shall be conducted in accordance with the terms of that certain Cross-Border Insolvency Protocol approved by this Court and the Canadian Court and docketed by this Court on August 30, 2013.

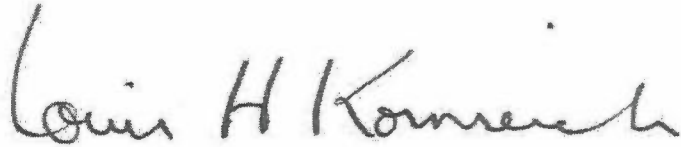
8. The Final Hearing shall determine the following: (a) the respective rights of MMA, MMAC, the FRA and Wheeling, if any, in and to the Settlement Payment in its entirety and/or any portion thereof, including the priority of each party's rights in the same; and (b) the appropriate allocation of the Settlement Payment as between MMA and MMAC. All of the parties' claims, rights and defenses in relation to these issues are hereby expressly preserved.

9. From and after the date of this Order, the Trustee, MMAC, Wheeling and the FRA shall cooperate in relation to engaging in any and all discovery reasonably requested by a party in relation to the Final Hearing. One week prior to the Hearing Date, Wheeling, the FRA, the Trustee and MMAC shall simultaneously file briefs in support of their positions on the

matters to be determined at the Final Hearing. Two days prior to the Hearing Date, the Trustee, MMAC, Wheeling and the FRA shall file with this Court and the Canadian Court a list of witnesses and exhibits to be presented at the Final Hearing.

10. That certain adversary proceeding (No. 13-01033) initiated by Wheeling (the "Adversary Proceeding") shall be stayed only in relation to matters involving Travelers, the Policy and claims relating to the Policy and proceeds of the Policy pending the outcome of the Final Hearing. Wheeling shall dismiss Travelers as a defendant in the Adversary Proceeding within seven (7) days of Travelers' payment of the Settlement Payment as provided for herein.

Dated: December 24, 2013



The Honorable Louis H. Kornreich
United States Bankruptcy Judge for the
District of Maine

EXHIBIT R-3

(Motion for an Order Approving the Distribution
of the Proceeds of Settlement with Travelers)

CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

PROVINCE DE QUÉBEC
DISTRICT DE SAINT-FRANÇOIS
N°: 450-11-000167-134

*(Loi sur les arrangements avec les créanciers des
compagnies, L.R.C. C-36, telle qu'amendée)*

DANS L'AFFAIRE DU PLAN D'ARRANGEMENT
ET DE COMPROMIS DE:

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Débitrice-Requérante

-et-

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Contrôleur

ATTESTATION D'AUTHENTICITÉ
Selon l'art. 82.1 du C.p.c.

J'atteste que la copie de l'affidavit est conforme au facsimilé de cet acte reçu par
télécopieur:

Nature du document : Affidavit de Robert J. Keach
Numéro de Cour : 450-11-000167-134
Nom de l'expéditeur : Robert J. Keach
Numéro du télécopieur émetteur : 207-774-1127
Lieu de la transmission : Portland, Maine
Date de la transmission : Le 7 mai 2014
Heure de transmission : 11:32

Montréal, ce 8 mai 2014


Alexander Bayus
GOWLING LAFLEUR HENDERSON S.E.N.C.R.L., S.R.L.

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS
N°: 450-11-000167-134

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

IN THE MATTER OF THE PLAN OF
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**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Debtor-PETITIONER

and

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Monitor

AFFIDAVIT OF ROBERT J. KEACH


I, the undersigned, Robert J. Keach, shareholder, Bernstein Shur, carrying on business at 100 Middle Street, Portland, Maine, USA, solemnly declare as follows:

1. I am the trustee in the Chapter 11 bankruptcy proceedings of Montreal, Maine & Atlantic Railway Ltd;
2. I have reviewed the Petitioner's *Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America* (the "**Motion**");
3. All capitalized terms not otherwise defined herein shall have the definitions ascribed to them in the Motion;
4. For the following reasons, the Wheeling Judgment (exhibit R-3 to the Motion) is enforceable notwithstanding the Notice of Appeal filed by Wheeling on April 29, 2014:
 - a. Under Rule 6004(h) of the US Federal Rules of Bankruptcy Procedure (the "**US Rules**"), "*An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.*";
 - b. The same result pertains under Rule 7062 of the US Rules if the Wheeling Judgment is considered a final order within an adversary proceeding;
 - c. Under both Rule 7062 (applicable only in adversary proceedings) and Rule 8005 of the US Rules, a party may seek from the bankruptcy court a stay pending

appeal. Absent such a new stay, the 14 day stay simply expires and the order is enforceable;

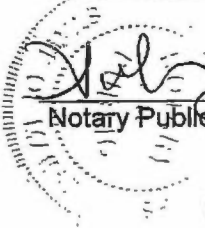
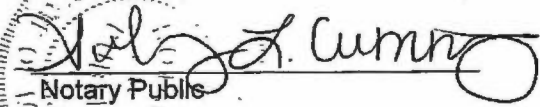
- d. The 14 day stay imposed on the Wheeling Judgment by Rule 6004(h) of the US Rules has expired and no new stay has been sought or obtained by Wheeling;
 - e. The relevant excerpts from the US Rules are attached hereto as Schedule A;
5. All the facts alleged in the present affidavit are true.

AND I HAVE SIGNED:



Robert J. Keach

SWORN TO before me in Portland, Maine
this 7th day of May, 2014

Notary Public
AUBREY L. CUMMINGS
Notary Public, Maine
My Commission Expires October 21, 2017

SCHEDULE A

FEDERAL RULES
OF
BANKRUPTCY PROCEDURE

DECEMBER 1, 2013



Printed for the use
of
THE COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

PART VI—COLLECTION AND LIQUIDATION OF THE ESTATE

Rule 6001. Burden of Proof As to Validity of Postpetition Transfer

Any entity asserting the validity of a transfer under § 549 of the Code shall have the burden of proof.

Rule 6002. Accounting by Prior Custodian of Property of the Estate

(a) ACCOUNTING REQUIRED. Any custodian required by the Code to deliver property in the custodian's possession or control to the trustee shall promptly file and transmit to the United States trustee a report and account with respect to the property of the estate and the administration thereof.

(b) EXAMINATION OF ADMINISTRATION. On the filing and transmittal of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, after notice and a hearing, the court shall determine the propriety of the administration, including the reasonableness of all disbursements.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993.)

Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case—Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts

Except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting the following:

(a) an application under Rule 2014;

(b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition, but not a motion under Rule 4001; or

(c) a motion to assume or assign an executory contract or unexpired lease in accordance with § 365.

(Added Apr. 30, 2007, eff. Dec. 1, 2007; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 26, 2011, eff. Dec. 1, 2011.)

Rule 6004. Use, Sale, or Lease of Property

(a) NOTICE OF PROPOSED USE, SALE, OR LEASE OF PROPERTY. Notice of a proposed use, sale, or lease of property, other than cash collateral, not in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c)(1), (i), and (k) and, if applicable, in accordance with § 363(b)(2) of the Code.

(b) OBJECTION TO PROPOSAL. Except as provided in subdivisions (c) and (d) of this rule, an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action or within the time fixed by the court. An objection to the proposed use, sale, or lease of property is governed by Rule 9014.

(c) SALE FREE AND CLEAR OF LIENS AND OTHER INTERESTS. A motion for authority to sell property free and clear of liens or other interests shall be made in accordance with Rule 9014 and shall be served on the parties who have liens or other interests in the property to be sold. The notice required by subdivision (a) of this rule

shall include the date of the hearing on the motion and the time within which objections may be filed and served on the debtor in possession or trustee.

(d) **SALE OF PROPERTY UNDER \$2,500.** Notwithstanding subdivision (a) of this rule, when all of the nonexempt property of the estate has an aggregate gross value less than \$2,500, it shall be sufficient to give a general notice of intent to sell such property other than in the ordinary course of business to all creditors, indenture trustees, committees appointed or elected pursuant to the Code, the United States trustee and other persons as the court may direct. An objection to any such sale may be filed and served by a party in interest within 14 days of the mailing of the notice, or within the time fixed by the court. An objection is governed by Rule 9014.

(e) **HEARING.** If a timely objection is made pursuant to subdivision (b) or (d) of this rule, the date of the hearing thereon may be set in the notice given pursuant to subdivision (a) of this rule.

(f) **CONDUCT OF SALE NOT IN THE ORDINARY COURSE OF BUSINESS.**

(1) *Public or Private Sale.* All sales not in the ordinary course of business may be by private sale or by public auction. Unless it is impracticable, an itemized statement of the property sold, the name of each purchaser, and the price received for each item or lot or for the property as a whole if sold in bulk shall be filed on completion of a sale. If the property is sold by an auctioneer, the auctioneer shall file the statement, transmit a copy thereof to the United States trustee, and furnish a copy to the trustee, debtor in possession, or chapter 13 debtor. If the property is not sold by an auctioneer, the trustee, debtor in possession, or chapter 13 debtor shall file the statement and transmit a copy thereof to the United States trustee.

(2) *Execution of Instruments.* After a sale in accordance with this rule the debtor, the trustee, or debtor in possession, as the case may be, shall execute any instrument necessary or ordered by the court to effectuate the transfer to the purchaser.

(g) **SALE OF PERSONALLY IDENTIFIABLE INFORMATION.**

(1) *Motion.* A motion for authority to sell or lease personally identifiable information under §363(b)(1)(B) shall include a request for an order directing the United States trustee to appoint a consumer privacy ombudsman under §332. Rule 9014 governs the motion which shall be served on: any committee elected under §705 or appointed under §1102 of the Code, or if the case is a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under §1102, on the creditors included on the list of creditors filed under Rule 1007(d); and on such other entities as the court may direct. The motion shall be transmitted to the United States trustee.

(2) *Appointment.* If a consumer privacy ombudsman is appointed under §332, no later than seven days before the hearing on the motion under §363(b)(1)(B), the United States trustee shall file a notice of the appointment, including the name and address of the person appointed. The United States trustee's notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with

the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

(h) **STAY OF ORDER AUTHORIZING USE, SALE, OR LEASE OF PROPERTY.** An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009.)

Rule 6005. Appraisers and Auctioneers

The order of the court approving the employment of an appraiser or auctioneer shall fix the amount or rate of compensation. No officer or employee of the Judicial Branch of the United States or the United States Department of Justice shall be eligible to act as appraiser or auctioneer. No residence or licensing requirement shall disqualify an appraiser or auctioneer from employment.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991.)

Rule 6006. Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease

(a) **PROCEEDING TO ASSUME, REJECT, OR ASSIGN.** A proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of a plan, is governed by Rule 9014.

(b) **PROCEEDING TO REQUIRE TRUSTEE TO ACT.** A proceeding by a party to an executory contract or unexpired lease in a chapter 9 municipality case, chapter 11 reorganization case, chapter 12 family farmer's debt adjustment case, or chapter 13 individual's debt adjustment case, to require the trustee, debtor in possession, or debtor to determine whether to assume or reject the contract or lease is governed by Rule 9014.

(c) **NOTICE.** Notice of a motion made pursuant to subdivision (a) or (b) of this rule shall be given to the other party to the contract or lease, to other parties in interest as the court may direct, and, except in a chapter 9 municipality case, to the United States trustee.

(d) **STAY OF ORDER AUTHORIZING ASSIGNMENT.** An order authorizing the trustee to assign an executory contract or unexpired lease under §365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.

(e) **LIMITATIONS.** The trustee shall not seek authority to assume or assign multiple executory contracts or unexpired leases in one motion unless: (1) all executory contracts or unexpired leases to be assumed or assigned are between the same parties or are to be assigned to the same assignee; (2) the trustee seeks to assume, but not assign to more than one assignee, unexpired leases of real property; or (3) the court otherwise authorizes the motion to be filed. Subject to subdivision (f), the trustee may join requests for authority to reject multiple executory contracts or unexpired leases in one motion.

(f) **OMNIBUS MOTIONS.** A motion to reject or, if permitted under subdivision (e), a motion to assume or assign multiple executory

Rule 7062. Stay of Proceedings to Enforce a Judgment

Rule 62 F.R.Civ.P. applies in adversary proceedings.

CODE REFERENCE: §§ 362, 363, 364, 1201, 1301

F. R. Civ. P. Rule 62. Stay of Proceedings to Enforce a Judgment

(a) **Automatic Stay; Exceptions for Injunctions, Receiverships, and Patent Accountings.** Except as stated in this rule, no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 14 days have passed after its entry. But unless the court orders otherwise, the following are not stayed after being entered, even if an appeal is taken:

- (1) an interlocutory or final judgment in an action for an injunction or a receivership; or
- (2) a judgment or order that directs an accounting in an action for patent infringement.

RULE 7064 (FRCP 64)

(b) **Stay Pending the Disposition of a Motion.** On appropriate terms for the opposing party's security, the court may stay the execution of a judgment — or any proceedings to enforce it — pending disposition of any of the following motions:

- (1) under Rule 50, for judgment as a matter of law;
- (2) under Rule 52(b), to amend the findings or for additional findings;
- (3) under Rule 59, for a new trial or to alter or amend a judgment; or
- (4) under Rule 60, for relief from a judgment or order.

(c) **Injunction Pending an Appeal.** While an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights. If the judgment appealed from is rendered by a statutory three-judge district court, the order must be made either:

- (1) by that court sitting in open session; or
- (2) by the assent of all its judges, as evidenced by their signatures.

(d) **Stay with Bond on Appeal.** If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in an action described in Rule 62(a)(1) or (2). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond.

(e) **Stay Without Bond on an Appeal by the United States, Its Officers, or Its Agencies.** The court must not require a bond, obligation, or other security from the appellant when granting a stay on an appeal by the United States, its officers, or its agencies or on an appeal directed by a department of the federal government.

(f) **Stay in Favor of a Judgment Debtor Under State Law.** If a judgment is a lien on the judgment debtor's property under the law of the state where the court is located, the judgment debtor is entitled to the same stay of execution the state court would give.

(g) **Appellate Court's Power Not Limited.** This rule does not limit the power of the appellate court or one of its judges or justices:

- (1) to stay proceedings — or suspend, modify, restore, or grant an injunction — while an appeal is pending; or
- (2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(h) **Stay with Multiple Claims or Parties.** A court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered.

Rule 8005. Stay Pending Appeal

A motion for a stay of the judgment, order, or decree of a bankruptcy judge, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance. Notwithstanding Rule 7062 but subject to the power of the district court and the bankruptcy appellate panel reserved hereinafter, the bankruptcy judge may suspend or order the continuation of other proceedings in the case under the Code or make any other appropriate order during the pendency of an appeal on such terms as will protect the rights of all parties in interest. A motion for such relief, or for modification or termination of relief granted by a bankruptcy judge, may be made to the district court or the bankruptcy appellate panel, but the motion shall show why the relief, modification, or termination was not obtained from the bankruptcy judge. The district court or the bankruptcy appellate panel may condition the relief it grants under this rule on the filing of a bond or other appropriate security with the bankruptcy court. When an appeal is taken by a trustee, a bond or other appropriate security may be required, but when an appeal is taken by the United States or an officer or agency thereof or by direction of any department of the Government of the United States a bond or other security shall not be required.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987.)

Rule 8006. Record and Issues on Appeal

Within 14 days after filing the notice of appeal as provided by Rule 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Within 14 days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal and, if the appellee has filed a cross appeal, the appellee as cross appellant shall file and serve a statement of the issues to be presented on the cross appeal and a designation of additional items to be included in the record. A cross appellee may, within 14 days of service of the cross appellant's statement, file and serve on the cross appellant a designation of additional items to be included in the record. The record on appeal shall include the items so designated by the parties, the notice of appeal, the judgment, order, or decree appealed from, and any opinion, findings of fact, and conclusions of law of the court. Any party filing a designation of the items to be included in the record shall provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk shall prepare the copy at the party's expense. If the record designated by any party includes a transcript of any proceeding or a part thereof, the party shall, immediately after filing the designation, deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties

CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

PROVINCE DE QUÉBEC
DISTRICT DE SAINT-FRANÇOIS
N°: 450-11-000167-134

*(Loi sur les arrangements avec les créanciers des
compagnies, L.R.C. C-36, telle qu'amendée)*

DANS L'AFFAIRE DU PLAN D'ARRANGEMENT
ET DE COMPROMIS DE:

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Débitrice-Requérante

-et-

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Contrôleur

ATTESTATION D'AUTHENTICITÉ
Selon l'art. 82.1 du C.p.c.

J'atteste que la copie de l'affidavit est conforme au facsimilé de cet acte reçu par
télécopieur:

Nature du document : Affidavit de Robert C. Grindrod
Numéro de Cour : 450-11-000167-134
Nom de l'expéditeur : Gaynor Ryan
Numéro du télécopieur émetteur : 207-848-4345
Lieu de la transmission : Portland, Maine
Date de la transmission : Le 8 mai 2014
Heure de transmission : 10h40

Montréal, ce 8 mai 2014

Alexander Bayus
GOWLING LAFLEUR HENDERSON S.E.N.C.R.L., S.R.L.

CANADA

PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS
N°: 450-11-000167-134

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

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

MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)

Debtor-PETITIONER

and

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)

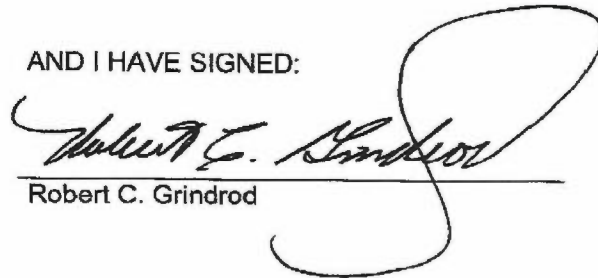
Monitor

AFFIDAVIT OF ROBERT C. GRINDROD

I, the undersigned, Robert C. Grindrod, businessman, doing business at 15 Iron Road, Herman, Maine, USA, 04401, solemnly declare as follows:

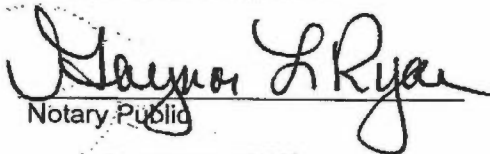
1. I am the President and Chief Executive Officer of Petitioner;
2. All the facts alleged in the present *Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America* are true.

AND I HAVE SIGNED:



Robert C. Grindrod

SWORN TO before me in Bangor, Maine
this 8th day of May, 2014



Notary Public

GAYNOR L. RYAN
Notary Public, Maine
My Commission Expires May 4, 2015