

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 PARTIAL DISTRIBUTION OF THE
PROCEEDS OF THE SALE OF THE ASSETS OF MONTREAL, MAINE & ATLANTIC
CANADA CO.**

**(Sections 9, 10 and 11 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985,
c. C-36 ("CCAA"))**

**TO THE HONOURABLE JUSTICE GAÉTAN DUMAS 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 partial distribution of the proceeds of the sale of MM&A's assets to allow a partial payment of the amounts owing to the Petitioner's counsel, the Monitor and the Monitor's counsel (the "**Professionals**") on the terms set forth hereafter;

PARTIAL DISTRIBUTION OF THE SALE PROCEEDS

6. 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;
7. The Administration Charge secures the professional fees and disbursements incurred by the Professionals;
8. On June 16, 2014, this Honourable Court granted the *Amended Motion of the Petitioner and of the Monitor for an Order Approving the Distribution of the Proceeds of a Settlement with Travelers Property Casualty Company of America* and ordered the Monitor to distribute the Canadian portion of the amount of the settlement previously reached with Travelers, namely the sum of US\$2,470,000, in partial payment of the amounts owing to the Professionals, as follows:
 - a) US\$790,600 (CAD\$840,590) to the Monitor as partial payment for services rendered;
 - b) US\$507,690 (CAD\$551,637) to the Monitor's counsel, Woods LLP, as partial payment for services rendered;
 - c) US\$1,171,710 (CAD\$1,234,617) to Petitioner's counsel, Gowling Lafleur Henderson LLP, as partial payment for services rendered;

(the "First Partial Payment of CAD\$2,626,844")
9. In view of said partial payments, this Court also ordered, pursuant to its judgment of June 16, 2014 (the "**Distribution Order**"), that the Administration Charge be reduced to the sum of CAD\$1,500,000. The relevant conclusion of the judgment reads as follows:

"[52] ORDERS that in light of the fact that the amount of US\$2,470,000 currently being held in trust following the Order of this Court dated December 19, 2013, will be distributed to pay in part the fees and disbursements of the Monitor, the Monitor's legal counsel and the Petitioner's legal counsel, the Administration Charge created by paragraph 41 of the Initial Order as amended is to be reduced to the sum of CA\$1,500,000;"
10. Shortly after the Distribution Order, namely on or about June 30, 2014, the closing of the transaction whereby the assets of MM&A and of MM&AR were sold to Railroad Acquisition Holdings LLC ("**RAH**") for an amount of US\$14,250,000 occurred;

11. As a result of the closing of this transaction and based on RAH's allocation of the purchase price between the assets of MM&A and MM&AR (i.e. US\$3,200,000 for the assets of MM&A and US\$11,050,000 for the assets of MM&AR) and after deduction of the closing adjustments as per the terms of the Assets Purchase Agreements entered into with RAH, the Monitor received an amount of US\$1,885,309.23 (representing CAD\$2,063,659.48 as of September 18, 2014) to be held in trust pending a further order of this Honourable Court (the "**Canadian Sale Proceeds**");
12. As it appears from the Court record, a dispute is pending between the Government of Quebec and other parties as to whether the allocation of the purchase price for the assets of MM&A and the assets of MM&AR established by RAH should govern or, rather, if a more significant portion of said purchase price should be allocated to the assets of MM&A;
13. However, no party contends that the portion of the purchase price paid by RAH to be allocated to the assets of MM&A should be less than US\$3,200,000;
14. As a result, the amount of US\$1,885,309.23 held in trust by the Monitor further to the closing of the transaction with RAH is not subject to any potential reduction but only to a potential increase, depending on the outcome of the above-mentioned pending litigation between the Government of Quebec and other parties;
15. As of July 31, 2014, the accrued and unpaid fees and disbursements of the Professionals approximates CAD\$2,000,000, including taxes but excluding fees and disbursements incurred after mid-March 2014 in connection with the claims process and related matters, the whole as appears from the invoices filed *en liasse* and under seal in support hereof as **Exhibit R-1**;
16. To date, the Professionals have not received any payment for services duly rendered following the Initial Order apart from the First Partial Payment of CAD\$2,626,844;
17. As such, Petitioner submits that the Monitor should be authorized to distribute from the Canadian Sale Proceeds an amount of CAD\$1,373,156.00 as follows:
 - a) CAD\$ 439,410.00 to the Monitor as partial payment for services rendered;
 - b) CAD\$288,363.00 to the Monitor's counsel, Woods LLP as partial payment for services rendered;
 - c) CAD\$645,383.00 to Petitioner's counsel, Gowling Lafleur Henderson LLP as partial payment for services rendered;
18. 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 September 24, 2014;
2. **GRANT** the Motion;
3. **ORDER** the Monitor to distribute the amount of CAD\$1,373,156.00, currently being held in trust following the Order of this Court dated December 19, 2014, as follows :
 - a) CAD\$ 439,410.00 to the Monitor as partial payment for services rendered;
 - b) CAD\$288,363.00 to the Monitor's counsel, Woods LLP as partial payment for services rendered;
 - c) CAD\$645,383.00 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, September 19, 2014


GOWLING LAFLEUR HENDERSON LLP
Attorneys for Petitioner

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
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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 partial distribution of the proceeds of the sale of the assets of Montreal, Maine & Atlantic Canada Co.* will be presented for adjudication before the Honourable Justice Gaétan Dumas of the Superior Court of Quebec on **September 24, 2014** in room 1 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, September 19, 2014


GOWLING LAPLEUR/HENDERSON LLP

Attorneys for Petitioner

No. 450-11-000167-134

**SUPERIOR COURT
(COMMERCIAL DIVISION)
DISTRICT OF ST-FRANÇOIS**

(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)

Petitioner

and

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

Monitor

BL0052

**MOTION FOR AN ORDER APPROVING THE PARTIAL DISTRIBUTION OF THE PROCEEDS OF THE SALE OF THE ASSETS OF MONTREAL, MAINE & ATLANTIC CANADA CO.
(Sections 9, 10 and 11 of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 ("CCAA"))**

ORIGINAL

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CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 450-11-000167-134

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
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IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:

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

Petitioner

and

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

Monitor

ATTESTATION OF AUTHENTICITY
(Article 82.1 of the *Code of Civil Procedure*)

I, the undersigned, Alexander Bayus, lawyer, practicing my profession at 1 Place Ville Marie, Suite 3700, in the City and District of Montreal, Province of Québec, H3B 3P4, attest the following :

Nature of document :	Affidavit of Robert C. Grindrod
Court Number :	450-11-000167-134
Name of the sender :	Gaynor Ryan
Fax number of the transmitting fax machine :	207-848-4252
Place of transmission :	Hermon, Maine, USA
Date of transmission :	September 23, 2014
Time of transmission :	11:27

Montréal, September 23, 2014



ALEXANDER BAYUS
Gowling Lafleur Henderson LLP
Attorneys for Petitioner

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUÉBEC
DISTRICT OF SAINT-FRANÇOIS

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

N°: 450-11-000137-134

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

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

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, Hermon, Maine, USA, 04401, solemnly declare as follows:

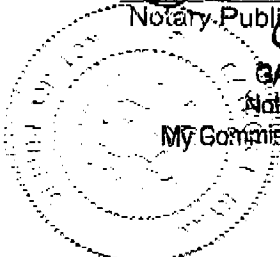
1. I am the President and Chief Executive Officer of Petitioner;
2. All the facts alleged in the present *Motion for an order approving the partial distribution of the proceeds of sale of the assets of Montreal, Maine & Atlantic Canada Co.* are true **TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.**

AND I HAVE SIGNED:


ROBERT C. GRINDROD

SWORN TO before me in Bangor, Maine,
this 23 day of September 2014


Notary Public



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