

CANADA
PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS
No.: 450-11-000167-134

SUPERIOR COURT
(Commercial Division)
The Companies' Creditors Arrangement Act

IN THE MATTER OF THE PLAN OF
ARRANGEMENT WITH RESPECT TO:

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

Petitioner

-and-

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.) a duly incorporated legal
person having its principal place of business at
1981 McGill College, 12th Floor, in the city and
district of Montreal, Quebec, H3A 0G6

Monitor

SIXTEENTH REPORT OF THE MONITOR
April 13, 2015

INTRODUCTION

1. On August 6, 2013, Montreal, Maine & Atlantic Canada Co. (hereafter in this report "MMAC" or "Petitioner") filed with the Quebec Superior Court a Motion for the Issuance of an Initial Order ("Motion") pursuant to Section 11 of the Companies' Creditors Arrangement Act, R.S.C. 1985, C-36, as amended (the "CCAA"). On August 8, 2013, the Honourable Martin Castonguay, J.S.C., issued an initial order (the "Initial Order"), which *inter alia* appointed Richter Advisory Group Inc. ("Richter") as Monitor (the "Monitor"). An initial stay of proceedings was ordered until September 6, 2013 ("Stay Period").
2. The Stay Period was extended by the Court eleven times with the most recent extension to May 15, 2015 having been granted by the Court on January 12, 2015.

3. We refer to the Monitor's prior reports for an overview of the CCAA proceedings and a summary of all motions issued and orders granted to date.
4. Capitalized terms not defined in this Report have the meaning ascribed thereto in the Monitor's previous reports and all amounts reflected in this report are stated in Canadian currency unless otherwise noted.
5. On March 30 and 31, 2015, three insurance companies filed motions seeking to file claims after the bar date ("Late Claim Motions").
6. On April 10, 2015, the Petitioner filed a Motion for an Order for the Convening, Holding and Conduct of a Creditors' Meeting and for a Twelfth Extension of the Stay Period ("Creditors' Meeting and Extension Motion").
7. On April 10, 2015, the Petitioner filed a Motion for an Order Establishing a Procedure for the Review and Determination of Claims ("Claims Resolution Motion").
8. The Creditors' Meeting and Extension Motion and the Claims Resolution Motion will be heard on April 15, 2015.
9. A hearing date for the Late Claim Motions will be determined on April 15, 2015 and the Monitor will provide his comments on these motions in a subsequent report.
10. The purpose of this Sixteenth Report of the Monitor is to inform the Court on the following subjects:
 - Financial Position;
 - Plan of Compromise and Arrangement;
 - Creditors' Meeting and Extension Motion;
 - Claims Resolution Motion;
 - Late Claims;
 - Chapter 11 Proceedings;
 - Activities of the Monitor;
 - Conclusion.
11. We inform the Court that the Monitor has not conducted an audit or investigation of the information which has been provided to it by the Petitioner and that accordingly, no opinion is expressed regarding the accuracy, reliability or completeness of the information contained within this Report.

The information contained herein is based on a review of unaudited financial information provided to the Monitor by the Petitioner's management and the Chapter 11 Trustee's Financial Advisor as well as discussions with the Petitioner's management and employees, the Chapter 11 Trustee ("Trustee") and the Trustee's Financial Advisor.

FINANCIAL POSITION

- 12. As noted in the Monitor's Thirteenth and Fourteenth Reports, following the sale of MMAC's assets on June 30, 2014, there are no further operations. MMAC continues to pay its post-filing obligations (which are nominal) except for the fees of the Canadian Professionals (as defined in prior reports) and is collecting its outstanding receivables.

- 13. The following table summarizes the actual cash flow results of MMAC for the period January 3, 2015 to April 3, 2015:

Montreal Maine & Atlantic Canada Co. Reported Cash Flow Results For the period January 3, 2015 to Apr 3, 2015	
(in CAD)	Jan 3-Apr 3/15
MMAC Cash Receipts:	
Deposits	\$ 97,786
Total	97,786
MMAC Disbursements:	
Miscellaneous costs	19,728
Total	19,728
Net Cash Flow	78,058
Opening Cash Balance - MMAC	180,798
Closing Cash Balance - MMAC	\$ 258,855

- 14. As detailed in the Monitor's Thirteenth and Fourteenth Reports, the Monitor retains approximately US\$0.6 million in trust following the sale of MMAC's assets, which remain the subject of a dispute between the Province of Quebec and the Federal Railroad Administration.

PLAN OF COMPROMISE AND ARRANGEMENT

- 15. On March 31, 2015, the Petitioner filed a *Plan of Compromise and Arrangement* ("Plan") which provides for an Indemnity Fund (as defined in the Plan) of approximately \$300 million to compensate victims of the derailment. The Monitor will submit a report to creditors providing a summary of the Plan as well as its comments in a mailing to be sent on or before May 6, 2015 to all creditors pursuant to the conclusions of the Creditors' Meeting and Extension Motion. The Monitor

will also provide an overview of the Plan of Liquidation and Disclosure Statement filed by the Trustee of Montreal, Maine & Atlantic Railway Ltd. ("MMA").

CREDITORS' MEETING AND EXTENSION MOTION

Creditors' Meeting

16. Pursuant to the Creditors' Meeting and Extension Motion, a meeting of creditors to consider the Plan is to be scheduled for May 27, 2015 at 2:00 p.m. at the *Centre sportif Mégantic* ("Creditors' Meeting").
17. As described in the Plan, all creditors who have filed a proof of claim by the Claims Bar Date (as defined below) will be entitled to vote and participate in the Creditors' Meeting.
18. The Monitor will undertake the following steps pursuant to the issuance of the Creditors' Meeting Order to inform all creditors and interested parties of the filing of the Plan, the information sessions and the Creditors' Meeting:
 - Placement of newspaper notices in the following newspapers – La Presse, L'Echo de Frontenac, La Tribune, The Sherbrooke Record and the Montreal Gazette. All notices will be published twice in each publication and the Chapter 11 Trustee will publish notices in the U.S.;
 - Mailing to all known creditors and parties on the service list which shall include:
 - i. A copy of the Plan in English and French;
 - ii. Voting letter and proxy letter in English and French (to be completed only by those who have opted out or otherwise do not meet the definition of Class Member under the terms of the April 4, 2014 Representation Order) ("Representation Order");
 - iii. Notification of the various information session / meeting dates;
 - iv. The Monitor's report on the Plan in English and French;
 - v. Post-traumatic stress form to be filed, where applicable, with the Monitor by June 30, 2015. The Monitor is in the process of preparing this form with the assistance of the Class Action Petitioners;
 - vi. A copy of the Creditors' Meeting Order in English and French;
 - Publication of all documents on the Monitor's website including the Chapter 11 Plan of Liquidation and Disclosure Statement.

Value of Claims and Voting

19. While the Plan provides that all creditors will vote as a single class, the creditors have been divided into seven categories to which have been ascribed the following voting values:

Montreal, Maine & Atlantic Canada Co. Allocation between Categories		
	For Voting and Distribution	Maximum % for Voting
Wrongful Death Claims	\$ 200,000,000	22.2%
Bodily Injury and Moral Damages Claims	100,000,000	11.1%
Property and Economic Damages Claims	75,000,000	8.3%
Subrogated Insurer Claims	33,701,000	3.8%
<u>Government Claims</u> ¹		
Province	409,313,000	45.5%
Attorney General	21,000,000	2.3%
Lac-Megantic	5,000,000	0.6%
CSST	314,000	0.0%
	<u>435,627,000</u>	<u>48.5%</u>
Non-Derailment Claims	<u>55,000,000</u>	<u>6.1%</u>
Indemnity Claims	<u>-</u>	<u>-</u>
Total	<u>\$ 899,328,000</u>	<u>100.0%</u>

¹ The value of Government claims is adjusted for duplication among the claims filed.

20. Each creditor shall have one vote with the value of its vote being equal to the face value of its proof of claim divided by the total face value of all proofs of claim filed in a given category multiplied by the total amount allocated to claims in a category for voting purposes, with two exceptions:
- Non-derailment claims are not entitled to a distribution and as such are deemed to vote against the Plan;
 - Creditors having filed Indemnity Claims (as defined in the Plan) will have no right to vote or receive a distribution under the Plan.

We refer to paragraph 26 of the Creditors' Meeting and Extension Motion for further details.

21. The Class Action Petitioners appointed pursuant to the Representation Order shall vote on behalf of all Class Members as defined in the Representation Order except those who opted out of the representation by May 30, 2014.

22. The Plan and Plan of Liquidation and Disclosure Statements while separate and distinct, are designed to operate on an integrated basis. Consequently, as set out in the Creditors' Meeting and Extension Motion:

- Creditors who filed Bodily Injury and Moral Damages Claims or Property and Economic Damages Claims only in the Chapter 11 will be deemed to have filed them in the CCAA as well for voting and distribution purposes only and will vote individually in the corresponding category in the CCAA;
- Creditors who filed Wrongful Death Claims in the Chapter 11 are already included as creditors in the CCAA in virtue of the Protective Claim filed by the Class Action Petitioners. These creditors will vote individually, only to the extent that they have opted out of the class representation within the prescribed delay, otherwise their vote will be cast by the Class Action Petitioners.

Extension Motion

23. The Creditors' Meeting and Extension Motion seeks an extension of the stay of proceedings through December 15, 2015 ("Extension Period") to enable the implementation of the Plan and the payment of distributions taking into account the following timeline:

- Creditors' meeting on May 27, 2015;
- Plan sanction hearing on June 9, 2015 (assuming approval of the Plan by the required majorities);
- Approval order in the Chapter 11 proceedings or a Chapter 15 recognition order in June/July 2015;
- Payment of the settlement funds to the Monitor by the various Released Parties within a delay of up to thirty days following the various orders becoming Final Orders as defined in the Plan.

24. Based on the foregoing timeline and subject to the terms of the Plan, it is expected that the Monitor will be in a position to proceed with a disbursement to the creditors within forty-five days of receipt of the settlement funds, which could therefore occur in the fall of 2015.

CLAIMS RESOLUTION MOTION

25. Pursuant to the Amended Claims Procedure Order dated March 28, 2014, the Court approved a process to solicit claims and established a claims bar date of June 13, 2014 at 5:00 p.m. for all creditors generally and of July 14, 2014 at 5:00 p.m. for Wrongful Death Victims ("Claims Bar Date").

26. The Monitor has previously provided a summary of the claims received in both the CCAA and the Chapter 11 in its Twelfth and Thirteenth Reports and will provide further information in its report on the Plan to be sent to all creditors.
27. While the Monitor has performed a preliminary analysis of the claims received in both the CCAA and the Chapter 11, a Claims Resolution Order is required to permit the review of and treatment of claims by the Monitor. The draft Claims Resolution Order provides the following:
- The Monitor, assisted by the Petitioner, shall, where applicable, review the various proofs of claim filed in the CCAA. The Monitor will also assist the Trustee in the review of claims filed in the Chapter 11. Given that Wrongful Death Claims and Bodily Injury and Moral Damages Claims will be valued using a point system as set out in Schedules E and F to the Plan, it is expected that the majority of the claims review will focus on Property and Economic Damages Claims. The analysis of the Property and Economic Damages Claims will include an analysis of supporting documentation, meeting with creditors, valuation of losses, etc;
 - The amendment or disallowance of claims through the issuance of a Notice of Disallowance or Amendment by the Monitor pursuant to the terms of the Claims Resolution Order. In respect of Chapter 11 claims, the Monitor will work with the Trustee to identify claims that should be disallowed in whole or in part by the Trustee. It should be noted that the majority of claims to be reviewed have been filed in the CCAA and thus the majority of the claims review, amendment and disallowance will occur in the CCAA process;
 - Creditors who wish to dispute any Notice of Disallowance or Amendment will have twenty calendar days to send a Notice of Dispute to the Monitor. Failing a consensual resolution between the Monitor and the creditor, the Monitor, after consultation with the Petitioner, shall refer the disputed proof of claim to a Claims Officer (appointed pursuant to the provisions of the Claims Procedure Order) or to the Court;

LATE CLAIMS

28. On March 30, 2015 and March 31, 2015, motions were filed by the following insurance companies seeking permission to file claims after the Claims Bar Date in the subrogated insurer category:
- *La Garantie, Compagnie d'assurance de L'Amérique du Nord* ("La Garantie") – for \$2,697,005;
 - *La Capitale Assurances Générales Inc.* ("La Capitale") – for \$1,057,584;
 - *L'Unique Assurances Générales Inc.* ("L'Unique") – for \$656,943;
- (hereafter the "Late Insurance Claims").

29. These three claims total \$4.4 million, or 13% of the subrogated insurance claims that were filed before the Claims Bar Date.
30. If these claims are allowed, the creditors in this category will receive approximately 29.5% of their claim value versus 33.4% prior to the allowance of the Late Insurance Claims. In other words, the dilution to subrogated insurers who properly filed their claim by the Claims Bar Date will be approximately 4%.
31. To the extent that the three insurance companies allege that they were unaware of the potential release of Third Party Defendants (as defined in the Plan) in exchange for contributions to an Indemnity Fund and only became aware in March 2015, the Monitor notes that this matter has been specifically addressed in the Monitor's Eighth Report (dated March 26, 2014) as well as in the Monitor's Eleventh, Thirteenth, Fourteenth and Fifteenth Reports (dated between June 27, 2014 and January 9, 2015). Further, the draft term sheet annexed to the Petitioner's ninth motion for an extension of the stay (dated September 19, 2014) and the draft plan annexed to the Petitioner's eleventh motion for an extension of the stay (dated January 9, 2015) dealt with this in detail and this was widely reported in the media. The Monitor will provide further comments on the Late Insurance Claims in a subsequent report.
32. In addition to the above motions, the Monitor has received other late filed claims, for which no motion to court has been filed seeking permission to accept these claims. We summarize these claims as follows:
 - 24 claims for Bodily Injury and Moral Damages in the approximate amount of \$2.8 million, which amount does not take into account how these claims would be determined if the criteria in Schedule F to the Plan were applied;
 - 16 claims for Property and Economic Damages in the approximate amount of \$335,000;
 - 1 claim for Subrogated Insurers in the approximate amount of \$21,000.
33. 23 of the 24 late claims for Bodily Injury and Moral Damages as well as 15 of the 16 late claims for Property and Economic Damages were filed by the attorneys for the Class Action Petitioners.
34. On various occasions and formally in writing on April 13, 2015, the Monitor informed the attorneys for the Class Action Petitioners that these late claims will not be allowed absent an order from the Court. Further, on April 13, 2015, the Monitor also notified the other late claimants in writing that these late claims will not be allowed absent an order from the Court.

CHAPTER 11 PROCEEDINGS

35. We refer to prior reports for an overview of the Chapter 11 proceedings in respect of MMA.
36. As noted above, on March 31, 2015, Mr. Robert J. Keach, the Trustee to MMA filed his Plan of Liquidation and Disclosure Statement. The Monitor will provide an overview of the Plan of Liquidation and Disclosure Statement in the report to be mailed to all creditors pursuant to the conclusions of the Creditors' Meeting and Extension Motion and the Claims Resolution Motion. The Monitor notes that the hearing for the approval of the Disclosure Statement is scheduled for June 3, 2015 at the Bankruptcy Court in Portland, Maine.
37. The Monitor is continuing to post the various relevant motions and orders in respect of MM&AR's Chapter 11 proceedings to its website to permit all stakeholders to follow these proceedings. Recent motions and orders include:
 - Motions for allowance and payment of administrative claims filed by various parties;
 - Motion of the Trustee to extend the Plan Moratorium Period;
 - Motion to extend deadlines on rule 2004 examinations;
 - Filing of monthly operating reports;
 - Filing of reports on CCAA proceedings;
 - Order staying adversary proceeding against Irving Oil Limited.

ACTIVITIES OF THE MONITOR

38. The Monitor's activities have included the following:
 - Continued frequent contact with the Trustee and his professionals and Petitioner's legal counsel all with a view to keeping apprised of material developments and to seek input with respect to the restructuring process. In addition, the Monitor has kept apprised of the restructuring proceedings of MM&AR through the review of Chapter 11 motions and orders;
 - Maintaining regular contact with the major stakeholders in this restructuring process to seek their input and provide assistance in various areas;
 - The Monitor has prepared various plan distribution scenarios in consultation with counsel for MMAC, the Trustee, the Province, legal counsel for the Class Representatives and US Legal Representatives and has met with all of these groups in the context of obtaining input and consensus regarding the filing of the Plan;

- The Monitor has participated in numerous settlement discussions with Third Party Defendants (as defined in the Plan), reviewed the terms and conditions of proposed settlements, all in connection with the funding of a plan of arrangement and has intervened in the settlement agreements to the extent required;
- The Monitor has participated in the drafting and finalization of the Plan and has provided comments to the Trustee in respect of the preparation of the Chapter 11 Plan of Liquidation;
- The Monitor reviewed the Petitioner's financial affairs and results for the period January 3, 2015 to April 3, 2015;
- The Monitor continues to post copies of all Court materials filed in the CCAA and Chapter 11 Proceedings on its website;
- The Monitor has prepared and filed this Sixteenth Report;
- Other administrative and statutory matters relating to the Monitor's appointment.

CONCLUSION

Creditors' Meeting and Extension Motion

39. The Monitor supports the conclusions sought in respect of the Creditors Meeting including the conduct of the Creditors' Meeting as well as the method of valuation and determination of the votes to be cast at the Creditors' Meeting.
40. The Monitor is of the opinion that the Court should grant the extension request to December 15, 2015 for the following reasons:
 - Since the commencement of the CCAA proceedings, the Petitioner has and continues to act in good faith and with diligence;
 - Further time is required for the Plan implementation which includes the distribution of the Indemnity Fund;
 - The Petitioner has not prejudiced its creditors as it is paying post-filing liabilities incurred since the date of filing as they become due, except for the fees of the Canadian Professionals;
 - The extension will not cause any prejudice to the various stakeholders.

Claims Resolution Motion

41. The claims resolution order is necessary and the next step in the implementation of the Plan that is being presented to creditors.

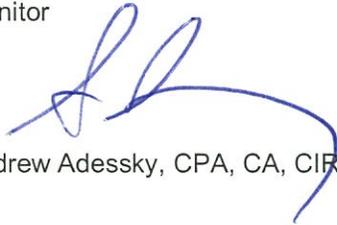
42. In order to ensure the correct and fair treatment of creditors, it is now necessary to formally review some of the claims filed, in particular the Property and Economic Damages Claims, and to seek amendments or disallowance of claims where necessary.
43. The appointment of an independent Claims Officer to review the decisions of the Monitor will provide a mechanism for creditors who see their claims reduced or disallowed in its entirety to efficiently appeal those decisions.

Late Claim Motions

44. The Monitor will provide its comments on the Late Claim Motions in a subsequent report to be issued in advance of any hearing on the merits of the Late Claim Motions.

Respectfully submitted at Montreal, this 13th day of April, 2015.

Richter Advisory Group Inc.
Monitor



Andrew Adessky, CPA, CA, CIRP