

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

**NINETEENTH REPORT OF THE MONITOR
ON THE PETITIONER'S PLAN OF ARRANGEMENT
May 14, 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 twelve times with the most recent extension to December 15, 2015 having been granted by the Court on April 15, 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 or in the Plan. All amounts reflected in this report are stated in Canadian currency unless otherwise noted.
5. The purpose of this Nineteenth Report of the Monitor is to inform the Court on the following subjects:
 - Background and Overview of Restructuring Proceedings;
 - CCAA Plan of Compromise and Arrangement;
 - Administration Charge;
 - Chapter 11 Trustee's Plan of Liquidation;
 - Monitor's Recommendations on the Plan.

BACKGROUND AND OVERVIEW OF RESTRUCTURING PROCEEDINGS

6. MMAC operated a shortline railroad of approximately 250 route miles servicing customers in the Province of Quebec. MMAC's parent company, Montreal, Maine & Atlantic Railway Limited ("MMAR") (together the "Companies") operated a shortline railroad of approximately 250 route miles servicing customers in Maine and Vermont.
7. Following the tragic train derailment on July 6, 2013 in the City of Lac-Mégantic, Quebec ("Derailment"), MMAC, on August 6, 2013, filed for protection under the CCAA. MMAR similarly filed for protection under Chapter 11 of the U.S. Bankruptcy Code on August 7, 2013. On August 21, 2013, Robert J. Keach was appointed Chapter 11 Trustee of MMAR ("Trustee").
8. Following the commencement of the restructuring proceedings, the immediate focus was to preserve the operations of the railroad in order to service the many customers and municipalities located along its route and who were dependent on the railway for the operations of their business as well as preserve the employment of the Companies' work force.
9. In September 2013, the Petitioner and the Chapter 11 Trustee engaged an investment banker to conduct a sale process of the assets of the Companies to be sold as a going concern. A purchaser was identified and following an auction, the sale of the operating assets to the purchaser was approved by the Court and the U.S. Bankruptcy Court in January 2014. The sale of assets was

concluded in May/June 2014, and the operations of MMAC were terminated effective June 30, 2014.

10. Following the Derailment, a class action was commenced in Canada against a large number of defendants and multiple law suits were filed in the United States on behalf of the estates and various family members of deceased victims.
11. In order to compensate creditors for damages suffered as a result of the Derailment, it was clear to all concerned from the outset that this could only be accomplished through contributions from potentially liable third parties ("Third Parties") in exchange for full and final releases in respect of all litigation relating to the Derailment.

CCAA PLAN OF COMPROMISE AND ARRANGEMENT

12. On March 31, 2015, the Petitioner filed the Plan. Similarly, on March 31, 2015, the Trustee filed the Trustee's Plan of Liquidation ("U.S. Plan") (collectively the "Plans").
13. The Plan is the result of many months of multilateral discussions between the Petitioner's counsel, the Monitor and its counsel, the Trustee, Petitioner's principal stakeholders, namely the Province of Quebec ("Province"), the Class Representatives, the attorneys for derailment victims in the Chapter 11 case ("US Legal Representatives") and the attorney for the Official Victims Committee (in the Chapter 11 ("Official Committee") (collectively the "Major Stakeholders") and the Third Parties, the purpose of which was to negotiate contributions by the Third Parties to a Settlement Fund to be distributed to derailment victims. Accordingly:
 - The allocation of the Settlement Funds, as described in section 4.2 of the Plan, among and within the categories of creditors has been the result of intensive discussions with and compromises among the Major Stakeholders;
 - That even if at the time of the filing of the Plan a complete consensus had not been achieved, in particular with the Class Representatives, the Monitor considers the Plan to be fair and reasonable for all creditors and has ensured that the Plan was filed by the end of March 2015 in order to permit a vote and ratification before the summer holiday period and a distribution in October/November 2015;
 - In formulating the Plan, consideration was given to the competing interests of the Major Stakeholders with the knowledge that an increased allocation for one category of creditors would result in a reduction of the amounts available for the other categories of creditors;
 - The Monitor believes that a consensus will be reached with the Major Stakeholders prior to the meeting of creditors.

14. Pursuant to the Plan, agreements have been executed with most of the Third Parties (“Contributing Third Parties”). Under the terms of these agreements, the Contributing Third Parties will deliver total contributions of CA\$182.3 million and US\$89.4 million which represent a total contribution of approximately CA\$300 million as of the date of the filing of the Plan on March 31, 2015 (USD have been converted at a rate of 1.26 as at March 31, 2015). In exchange for these contributions to the Settlement Funds, Contributing Third Parties will receive a full, complete and final release in both Canada and the United States from all litigation relating to the Derailment.
15. Contributing Third Parties include Irving Oil, the Federal Government and companies that can be described as oil producers, tank car lessors, insurance companies, as well as all of the directors and officers of the Petitioner including Edward Burkhardt and various companies related to Edward Burkhardt. A complete list of Contributing Third Parties is provided in Schedule A to the Plan.
16. Schedule A of the Plan also lists the non-settling third parties which include:
 - Canadian Pacific Railway Company;
 - World Fuel Services Corporation and related entities;
 - SMBC Rail Services, LLC;which are hereinafter referred to as the Non-Settling Third Parties.
17. If settlements with any or all of the Non-Settling Third Parties are executed before the meeting of creditors, an Amended Plan will be submitted to the creditors. In the event that any or all of the Non-Settling Third Parties do not reach an agreement to contribute to the Settlement Funds, all of the litigation already commenced in Canada and the United States against the Non-Settling Third Parties may be continued and all parties will be free to institute fresh litigation in any jurisdiction.
18. The Plan provides that the Settlement Funds, to the exclusion of the XL Indemnity Payment, shall be subject to an Administration Charge in the amount of \$20 million (plus taxes in respect of the Canadian Professionals) to secure the payment of the fees and disbursements owed or which may become owed to the Canadian Professionals in connection with the CCAA Proceedings and to the U.S. Professionals (as defined in the Plan) owed or which may become owed to them in connection with the Chapter 11. We refer to page 11 of this report for further details regarding the Administration Charge.
19. The following is only a summary of important terms of the Plan and creditors should refer to the Plan and its terms for all legal purposes. In the case of any discrepancy between the Plan and this summary, the terms of the Plan shall prevail. For the purpose of this report, we have employed the same terminology as defined and used in the Plan.

Classification, Voting and Related Matters

- Subject to the Plan, the Claims Procedure Order, the Claims Resolution Order and the Meeting Order, each Creditor shall have the right to vote the face value of his claim subject to the following:
 - i. The aggregate votes of all “Wrongful Death Claims” shall not represent more than 22.2% of all Creditors’ votes or \$200,000,000;
 - ii. The aggregate votes of all “Bodily Injury and Moral Damages Claims” shall not represent more than 11.1% of all Creditors’ votes or \$100,000,000;
 - iii. The aggregate votes of all “Property and Economic Damages Claims” shall not represent more than 8.3% of all Creditors’ votes or \$75,000,000;
 - iv. The aggregate votes of all “Subrogated Insurer Claims” shall not represent more than 3.8% of all Creditors’ votes or \$33,701,000;
 - v. The aggregate votes of all “Government Claims” shall not represent more than 48.5% of all Creditors’ votes or \$435,627,000;
 - vi. The “Indemnity Claims” shall have no right to vote;
 - vii. The aggregate votes of all “Non-Derailment Claims” shall not represent more than 6.1% of all Creditors’ votes or \$55,000,000;

- The value of each creditors’ vote will be calculated in accordance with the following formula:

$$\frac{\text{Face value of the Creditor's Proof of Claim}}{\text{Aggregate face value of all Proofs of Claim in the relevant category}} \times \text{Maximum total value attributed to the vote of the relevant category} = \text{Value of the Creditor's claim for voting purposes}$$

Distributions

- All contributions to the Settlement Funds shall be remitted initially to the Monitor for distribution in accordance with the Plan.
- Based on the information available as of the date hereof, the distribution to the various categories of claims can be summarized as follows:

| Montreal, Maine & Atlantic Canada Co. and Montreal, Maine & Atlantic Railway Ltd. Summary of Estimated Distribution | | | | | |
|--|--|--|--|--|--|
| | Estimated Distribution (prior to redistribution) | % Distribution (prior to redistribution) | Reallocated Dividends from Governments | Total Estimated Distribution ¹ | |
| Wrongful Death Claims | \$ 66,178,000 | 24.1% | \$ 11,025,000 | \$ 77,203,000 | |
| Bodily Injury and Moral Damages Claims | 28,558,000 | 10.4% | 5,512,000 | 34,070,000 | |
| Property and Economic Damages Claims | 24,714,000 | 9.0% | 4,134,000 | 28,848,000 | |
| Subrogated Insurer Claims | 11,259,000 | 4.1% | - | 11,259,000 | |
| Government Claims | | | | | |
| Province | 135,198,000 | 49.2% | (13,735,000) | 121,463,000 | |
| Attorney General | 6,936,000 | 2.5% | (6,936,000) | - | |
| Lac-Megantic | 1,652,000 | 0.6% | - | 1,652,000 | |
| CSST | 104,000 | 0.0% | - | 104,000 | |
| | <u>143,890,000</u> | <u>52.4%</u> | <u>(20,671,000)</u> | <u>123,219,000</u> | |
| Non-Derailment Claims | - | - | - | - | |
| Total | <u>\$ 274,599,000</u> | <u>100.0%</u> | <u>\$ -</u> | <u>\$ 274,599,000</u> | |

¹ Estimated Distribution is net of the provision for the Administration Charge but is prior to any fees that may be payable to (i) Class Counsel for the Class Representatives (for certainty, we note that the amounts payable to Class Counsel are subject to Court approval, and we are advised that pursuant to the engagements executed by the Class Representatives, these amounts will not exceed 25% of the amounts received by Class Members, plus disbursements, plus taxes) or (ii) to the US Legal Representatives (in respect to creditors represented by the US Legal Representatives, they will be subject to fees as indicated in the confidential mandates signed by various creditors).

- We comment as follows on the distributions to the various categories of creditors:
 - i. **Creditors holding Wrongful Death Claims** shall in the aggregate receive 24.1% excluding Reallocated Dividends (as defined below) of the Funds for Distribution in full and final satisfaction of their Proven Claims. That portion of the Funds for Distribution will be remitted by the Monitor to the Trustee who in turn will remit that portion of the Funds for Distribution to a trust which is being set up by the Trustee pursuant to the U.S. Plan. The amounts paid to the Creditors holding Wrongful Death Claims will be calculated in accordance with the points based matrix set forth in Schedule E of the Plan. For clarity, this will apply to Wrongful Death Claims filed in the CCAA or as stipulated in the U.S. Plan, in the Chapter 11. Based on the current level of the Settlement Funds, this will result in a distribution of approximately \$77.2 million to 230 creditors.
 - ii. **Creditors holding Bodily Injury and Moral Damages Claims** shall in the aggregate receive 10.4% excluding Reallocated Dividends (as defined below) of the Funds for Distribution in full and final satisfaction of their Proven Claims. This amount will be distributed by the Monitor in accordance with the points based matrix set forth in Schedule F of the Plan. For clarity, this will apply to Bodily Injury and Moral Damages Claims filed in the CCAA or as stipulated in the U.S. Plan, in the Chapter 11. Based on the current level of Settlement Funds, this will result in a distribution of approximately \$34.1 million to approximately 3,700 creditors, with respect to the following types of claims:

- Trouble and Inconvenience – which are assumed to be claimed by all of those claimants who have filed a moral damages claim. The distribution with respect to these damages is estimated at \$3,100 per person;
- Evacuation indemnities (based on information provided by the Province) – up to a maximum of 30 days at an estimated amount of \$620 per person per day;
- Red Zone / Yellow Zone – for all of those claimants who resided in the red zone / yellow zone at the time of the Derailment (based on information provided by the Province). The distribution with respect to these damages is estimated at \$31,000 per person;
- Grandparents / Grandchildren – of the deceased victims of the Derailment. The distribution with respect to these damages is estimated at \$9,300 per person;
- Post-Traumatic Stress
 - a. Short Term – will require completion of a form signed by a health-care professional confirming treatment lasting between 3 months and one year or can be claimed by persons who were present in the red zone at the time of the Derailment. Estimated at \$31,000 per person;
 - b. Long Term – will require completion of a form signed by a health-care professional confirming treatment lasting more than one year. Estimated at \$62,000 per person;
- Bodily Injury – estimated at \$31,000 per person based on claims filed.

The types of claims listed above are cumulative and creditors holding Bodily Injury and Moral Damages Claims may qualify for more than one and potentially for all of those types of claims. However, creditors holding Wrongful Death Claims are not entitled to claim for post-traumatic stress.

Included in the \$34.1 million dedicated to this category of claims is a buffer amount of \$2 million to allow for an adjustment in the event that post-traumatic stress claims are higher than forecasted.

The above distribution does not take into account any potential dilution should the Class Representatives' motion to allow late claims be approved by the Court nor the impact of higher than forecasted post-traumatic stress claims (i.e. greater than the \$2 million buffer).

- iii. **Creditors having Property and Economic Damages Claims** shall in the aggregate receive 9.0% excluding Reallocated Dividends (as defined below) of the Funds for Distribution in full and final satisfaction of their Proven Claims. This amount will be

distributed by the Monitor in accordance with the mechanism set forth in Schedule G of the Plan. For clarity, this will apply to Property and Economic Damages Claims filed in the CCAA or as stipulated in the U.S. Plan, in the Chapter 11. Based on the current level of the Settlement Funds and the estimated claims amount of \$75 million, a distribution of approximately \$28.8 million will be paid to this group of creditors.

Pursuant to the Claims Resolution Order dated April 15, 2015, the Monitor has commenced a review of the Property and Economic Damages Claims filed in both the CCAA and the Chapter 11. As set out in the Plan, in the event that the Property and Economic Damages Claims are reduced below \$75 million, the difference between the estimated amount of \$75 million and the final aggregate amount of Proven Claims will be redistributed on a pro-rata basis to the other categories of creditors.

The above distribution does not take into account any potential dilution should the Class Representatives motion to allow late claims be approved by the Court.

- iv. **Creditors having Subrogated Insurer Claims** shall in the aggregate receive 4.1% of the Funds for Distribution in full and final satisfaction of their Proven Claims. This amount will be distributed by the Monitor on a pro-rata basis of their Proven Claims. Based on the current level of the Settlement Funds and the current level of estimated claims, a distribution of approximately \$11.3 million will be paid to this group of creditors. As noted in the Monitor's Eighteenth Report dated May 8, 2015, six motions have been filed to allow certain late filed subrogated insurer claims to be filed. In the event these motions are granted, this will dilute the amount to be received by the members of this class as described in the Monitor's Eighteenth Report.
 - v. **Creditors having Government Claims** shall in the aggregate receive 52.4% of the Funds for Distribution in full and final satisfaction of their Proven Claims. This amount will be distributed by the Monitor to the Province, the City of Lac-Mégantic ("Lac-Mégantic"), the Attorney General of Canada ("Attorney General") and the Commission de la Santé et de la Sécurité au Travail on a pro-rata basis of their Proven Claims.
 - vi. **Creditors having Indemnity Claims** shall not receive any distribution in the Plan or in the U.S. Plan from the Settlement Funds.
 - vii. **Creditors having Non-Derailment Claims** shall not receive any distribution in the Plan. However, creditors having Non-Derailment Claims may be entitled to a distribution in the U.S. Plan in accordance with its terms from any available net proceeds resulting from the liquidation of MMAR's assets.
- Distributions in respect of creditors who are represented by the Class Representatives will be made to the attorneys for the Class Representatives who in turn will distribute the funds to

individual Class Members, net of their fees. The amounts payable to the attorneys of the Class Representatives are subject to Court approval and we are advised that pursuant to the engagements executed by the Class Representatives these fees will not exceed 25% of the amounts received by the Class Members, plus disbursements and plus taxes.

- Distributions in respect of creditors, who are represented by the US Legal Representatives, will be subject to fees as indicated in the confidential mandates as signed by the various creditors. We refer these creditors to their signed mandates to determine the amount that will be withheld from their distributions.
- The Province and the Federal Government of Canada have each agreed to redistribute a portion of the distribution they are to receive (“Reallocated Dividends”) as follows:
 - i. \$13.7 million from the Province from its share of the XL Indemnity Payment;
 - ii. The full dividend to be received by the Attorney General (currently estimated at \$6.9 million) in respect of their Proven Claim;
 - iii. The Reallocated Dividends will be distributed to creditors as follows:
 - 53.3% to Creditors holding Wrongful Death Claims;
 - 26.7% to Creditors holding Bodily Injury and Moral Damages Claims;
 - 20.0% to Creditors holding Property and Economic Damages Claims.
- Under an agreement between the parties, the Reallocated Dividends from the Province from its share of the XL Indemnity Payment are not subject to any fees by the attorneys for the Class Representatives or the US Legal Representatives.

Releases, Implementation and Timeline

- Pursuant to the Plan, all Affected Claims shall be fully, finally, irrevocably and forever compromised, remised, released, discharged, cancelled and barred on the Plan Implementation Date as against the Released Parties.
- The Released Parties are listed in Schedule A of the Plan.
- The current estimated timeline to completion of the process is as follows:
 - i. Information sessions at the Centre Sportif Mégantic in Lac-Mégantic on May 27, 2015 and June 3, 2015 to explain the Plan to all interested parties;
 - ii. Creditors’ Meeting on June 9, 2015 to vote on the Plan;
 - iii. Assuming the Plan is approved on June 9, 2015, the Court will hold a hearing on June 17, 2015 to sanction the Plan;

- iv. Recognition in the United States of the Canadian Approval Order pursuant to Chapter 15 of the US Bankruptcy Code will be sought in the summer of 2015;
- v. A parallel process to approve the U.S. Plan with the following timetable:
 - o Hearing to approve the disclosure statement on June 23, 2015 at the Bankruptcy Court in Portland, Maine;
 - o Creditors wishing to vote on the U.S. Plan must do so by August 10, 2015. Similar to voting requirements under the CCAA, to be approved, the US Plan must be approved by a majority in number of creditors representing two-thirds in value of the creditors who vote;
 - o Assuming the U.S. Plan is approved, the hearing to approve the U.S. Plan will take place on August 20, 2015 at the Bankruptcy Court in Portland, Maine;
- vi. Initial distributions to creditors are expected to occur in October/November 2015 to allow for appeal periods to expire, receipt of the Settlement Funds and substantial completion of the Claims Resolution process although distributions could be further delayed in the event of appeals or delays that may be experienced in the review, analysis and final determination of Proven Claims.

Preferences

- 20. Pursuant to Section 8.11 of the Plan, sections 38 and 95 to 101 of the *Bankruptcy and Insolvency Act* (“BIA”) relating to preferences and transfers at undervalue shall not apply to this Plan, with the exception of the preservation of the ability to potentially avoid and/or recover transfers from the Petitioner, MM&A Railway or Montreal, Maine & Atlantic Corporation to the holders of notes and warrants originally issued pursuant to a Note and Warrant Purchase Agreement dated January 8, 2003. We refer you to section 3.3(b) of the Plan for further details of this transaction.
- 21. The Monitor confirms that it has performed a review of payments and transfers made in the three months and twelve months (for related parties) prior to August 8, 2013 and has not noted any payments or transfers that could be considered preferential and subject to avoidance. In addition, regarding any potential transfers at undervalue between related parties for the five years prior to the commencement of the CCAA proceedings, the Monitor has reviewed available information and has had discussions with the Chapter 11 Trustee and his financial advisor in order to identify any such transfers. The Monitor is not aware of any transaction that could be a transfer at undervalue other than the transaction referred to in section 3.3(b) of the Plan. In the Monitor’s opinion it is reasonable in the circumstances to exclude the application of sections 38 and 95 to 101 of the BIA to the Plan.

ADMINISTRATION CHARGE

22. As set out in the Plan, the Administration Charge will be allocated as follows:
- \$12 million of the Administration Charge plus taxes will be allocated to fees and disbursements of the Canadian Professionals;
 - \$8 million to cover the fees and disbursements of the U.S. Professionals.
23. As of April 30, 2015, the total unpaid fees and disbursements of the Canadian Professionals, prior to unapplied retainers is approximately \$5.8 million (including sales taxes) summarized as follows:
- | | |
|---|-------------|
| • Gowling Lafleur Henderson LLP (counsel to MM&A) | \$2,603,000 |
| • Richter Advisory Group Inc. (Monitor) | \$2,437,000 |
| • Woods LLP (counsel to the Monitor) | \$746,000 |
24. The Administration Charge in favor of the Canadian Professionals will be used to cover: i) the fees and expenses accrued through the end of April 2015 and ii) the estimated fees and expenses to cover all work required to the completion of the CCAA and full implementation of the Plan which includes, but is not limited to:
- Finalization and implementation of all matters relating to settlements with Contributing Third Parties;
 - Potential ongoing negotiations with Non-Settling Third Parties;
 - Amendments to the Plan, if required;
 - Ongoing and frequent communications and meetings with the Major Stakeholders;
 - Coordination of the mailing of the Creditors' Meeting notice, the Meeting Order, the proxy and voting letter, the Plan and related documents to all creditors and other parties;
 - Review, analysis and determination of the Property and Economic Damages Claims including meetings and communications with creditors and their representatives;
 - Issuance of notices of amendment and/or rejection as required in respect of all claims received and participation in any hearings to be conducted by the Claims Officer and/or the Court;
 - Coordination of the claims review and the Plan implementation with the Chapter 11 necessitating frequent communication with the U.S. Professionals;
 - The Monitor to act as foreign representative in the Chapter 15 filing including drafting of materials, reporting and attendance as required by the Bankruptcy Court;

- Preparation for and conducting information sessions and Creditors' Meeting in Lac-Mégantic;
 - Further extensions as required of the stay period under the CCAA initial order including the preparation of all motions and reports related thereto;
 - Distribution of the Funds for Distribution in accordance with the Plan.
25. The Administration Charge will also cover the fees and expenses of the independent Claims Officer to be appointed pursuant to the Claims Resolution Order as well as U.S. counsel to the Monitor in connection with the Chapter 15 proceedings in the Bankruptcy Court.
26. The Administration Charge in favor of the U.S. Professionals covers the accrued and future fees and expenses of the: i) Trustee, ii) his professionals which includes his financial advisor, Canadian counsel and others and iii) Paul Hastings LLP as counsel to the Official Committee. The Trustee's professionals and Paul Hastings are compensated on an hourly basis, whereas the Trustee is paid a 3% commission on funds that are disbursed by the Trustee.
27. Many of the ongoing matters in the Chapter 11 are similar to those in the CCAA including finalization and implementation of settlement agreements, amendments to the U.S. Plan (if required), matters relating to the review and rejection of claims, approval of the disclosure statement, conducting a vote for plan approval, participation in the Chapter 15 proceedings, and other matters. In addition, the Trustee is dealing with various litigation in the Chapter 11 proceedings and is pursuing the Non-Settling Third Parties.
28. We refer to section 7.1 of the Plan for additional details concerning the Administration Charge. For greater clarity, the full amount of the \$25 million XL Indemnity Payment will be distributed to creditors without any deduction for any professional fees in either the CCAA or the Chapter 11.

CHAPTER 11 TRUSTEE'S PLAN OF LIQUIDATION

29. The following is only a summary of important terms of the U.S. Plan and creditors should refer to the U.S. Plan and its terms for all legal purposes. In the case of any discrepancy between the U.S. Plan and this summary, the terms of the U.S. Plan shall prevail. For the purpose of this report, we have employed the same terminology as defined and used in the U.S. Plan.
30. As noted above, on March 31, 2015, the Trustee filed the U.S. Plan which is designed to function in tandem with the Plan. The creditors in the U.S. Plan have been separated into 15 classes on which we comment as follows:
- Classes 1 through 7 are designated as secured claims and/or claims that have a priority (such as tax claims) and as such are deemed unimpaired, meaning the amounts claimed will not be

compromised by the U.S. Plan. These creditors will either retain their liens, receive the residual cash value of the assets on which they are secured or may be entitled to be treated as a general unsecured claim in the U.S. Plan. These classes of creditors are not entitled to vote on the U.S. Plan;

- Classes 8 through 12 correspond to the following categories respectively in the Plan: i) Bodily Injury and Moral Damages Claims; ii) Property and Economic Damages Claims; iii) Government Claims; iv) Subrogated Insurer Claims; and v) Wrongful Death Claims. These classes of creditors shall receive the distributions as determined by the Plan. These classes of creditors are entitled to vote on the U.S. Plan;
- Class 13 represents general unsecured claims. According to the Disclosure Statement for the U.S. Plan, general unsecured claims will receive a distribution of between 3% and 71% of the aggregate claim value in this class. The high end of the recovery range assumes a substantial recovery on potential preferential actions that may be initiated by the Trustee. This class of creditors will be entitled to vote on the U.S. Plan;
- Classes 14 and 15 represent subordinated claims and equity interests and will not receive any distribution and are deemed to reject the U.S. Plan.

Chapter 15

31. In accordance with the Plan, the Monitor, in its capacity as the authorized foreign representative under the CCAA Proceeding, will file for the recognition of the Canadian Approval Order under Chapter 15 of the US Bankruptcy Code and seek the recognition in the United States of the releases being provided to Contributing Third Parties.
32. It is expected that these proceedings will be commenced within the next 30 days.

MONITOR'S RECOMMENDATIONS ON THE PLAN

33. The Monitor supports the Plan and recommends its acceptance. As noted above, this Plan has been the subject of intense and very lengthy negotiations involving a wide variety of parties including the Major Stakeholders. The Plan provides for substantial Settlement Funds to be shared by all of the victims of the Derailment.
34. In exchange for contributions to the Settlement Funds, the Plan provides that all Contributing Third Parties will receive full and final releases from all litigation relating to the Derailment in both Canada and the United States. If settlements are not reached with the Non-Settling Third Parties prior to the approval of the Plan, all of the rights and recourses of all the victims are preserved and may be continued or instituted in both Canada and the United States.

35. The alternative to the approval of the Plan will be the termination of the CCAA process and the continuation of litigation in both Canada and the United States, which litigation will be costly, complex and will most likely take many years before any resolution, which resolution is uncertain at this point in time.
36. In light of the foregoing and the discussions the Monitor has had with the Major Stakeholders, the Monitor believes the Plan and the Settlement Agreements are fair and reasonable in the circumstances.
37. The Monitor will conduct information sessions in Lac-Mégantic in advance of the Creditors' Meeting to enable creditors and residents of Lac-Mégantic to receive a full explanation of the Plan and to respond to any questions that they may have.

Respectfully submitted at Montreal, this 14th day of May, 2015.

Richter Advisory Group Inc.
Monitor



Andrew Adessky, CPA, CA, CIRP