

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

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

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

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

TWENTY-SEVENTH REPORT OF THE MONITOR
December 5, 2017

INTRODUCTION

1. On August 6, 2013, Montreal, Maine & Atlantic Canada Co. ("MMAC") filed a Motion for the Issuance of an Initial Order 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. as the Monitor in these CCAA proceedings (the "Monitor"). An initial stay of proceedings was ordered until September 6, 2013 ("Stay Period").
2. The CCAA proceedings have since been supervised by the Honourable Gaétan Dumas, J.S.C. and the Stay Period has been extended sixteen times with the most recent extension having been granted to January 31, 2018.

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 MMAC's Plan of Compromise and Arrangement filed on June 8, 2015 (the "Amended Plan"). All amounts reflected in this report are stated in Canadian currency unless otherwise noted.
5. On August 31, 2017, Promutuel Centre-Sud, Desjardins Assurances Générales Inc., La Personnelle Assurances Générales Inc., L'Unique Assurances Générales Inc., La Capitale Assurances Générales Inc., Intact Assurance, La Compagnie D'Assurance Bélair Inc. and La Garantie Compagnie D'Assurance De L'Amérique du Nord (hereafter "the Insurers") filed the Demande pour Obtenir la Levée de la Suspension des Procédures ("Insurers Lift Stay Motion"). On September 15, 2017 the Court granted the Insurers Lift Stay Motion.
6. On November 16, 2017, MMAC filed an Application for Approval of an Agreement and to Amend a Settlement Agreement ("Settlement Agreement Amendment Motion"). On November 23, 2017, The Court granted MMAC's Settlement Agreement Amendment Motion.
7. On December 5, 2017, the Petitioner filed a Motion for a Seventeenth Extension of the Stay Period and for the Approval of Professional Fees ("Seventeenth Extension Motion"). The Seventeenth Extension Motion will be heard on December 15, 2017.
8. The purpose of this Twenty-Seventh Report of the Monitor is to inform the Court on the following subjects:
 - Claims Review and Status of Distributions;
 - Extension Request;
 - Approval of Professional Fees;
 - CP Document Order;
 - Interest Treatment;
 - Chapter 11;
 - Activities of the Monitor;
 - Recommendations of the Monitor.

CLAIMS REVIEW AND STATUS OF DISTRIBUTIONS

9. The status of the claims review and the payment of distributions under the Amended Plan is as follows:

- **Wrongful Death Claims:** as reported in the Monitor's Twenty-Fifth Report dated February 22, 2017 ("Twenty-Fifth Report") all the projected distributions have been paid by the WD Trustee and the WD Trustee continues to hold an amount of approximately US\$0.2 million for the payment of future fees and expenses of the WD Trust.
- **Bodily Injury and Moral Damage Claims:** as reported in the Monitor's Twenty-Fifth Report, 100% of the total distribution payable to claimants who have Proven Claims in this category have been paid (prior to any possible reallocation under section 4.2 of the Amended Plan). In total, as of the date hereof, an amount of approximately \$47.1 million has been distributed to 4,327 claimants.

As summarized most recently in the Monitor's Twenty-Sixth Report dated June 8, 2017 ("Twenty-Sixth Report"), following the Monitor's review of 4,327 claims and the issuance of 4,327 Avis de Calcul de Votre Distribution et/ou Avis de Rejet Total ou Partiel de Votre Réclamation ("Notices"), the Monitor received 457 contestations with respect to the Notices. The Monitor resolved 410 of those contestations through negotiations with individual claimants, Class Counsel (with respect to the claims of Class Members) and counsel to other claimants.

In respect of the remaining unresolved 47 contestations, hearings before the Claims Officer were held on June 13 to 15, 2017 in Lac-Mégantic for the adjudication of those contestations. Following the hearings, the Claims Officer rendered his decisions on July 27, 2017 and directly notified all claimants of his decision to either allow the contestation or deny the contestation and uphold the decision of the Monitor. Pursuant to the terms of the Claims Resolution Order dated April 15, 2015, claimants whose contestations were denied are able to appeal the decision of the Claims Officer to the Court. Three such appeals have been filed within the prescribed delay. The Monitor has since resolved one of the appeals and is attempting to resolve the remaining two appeals, failing which, a hearing date for the appeals will be established with the Court. In addition, there remains one contestation which was not the subject of a hearing before the Claims Officer.

Consequently, there remain 3 unresolved claims out of a total of 4,327 filed with the Monitor.

As a result of all of the contestations, the Monitor established various reserves to ensure it could pay all Bodily Injury and Moral Damage Claims once the claim amount was finalized. Consequently, once the 3 unresolved claims are finalized, the Monitor will make a supplemental distribution to the category of Bodily Injury and Moral Damages. This supplementary distribution will likely occur in the first quarter of 2018.

A small number of the distribution payments (approximately 30 payments totalling approximately \$90,000) have either not yet been released (due to missing information) or have been returned because some claimants have moved and not notified the Monitor of their new address. The Monitor will continue to try and obtain the necessary information to ensure the payments are received, failing which, the funds will be treated in accordance with Section 8.8 of the Amended Plan and donated to charity.

- **Property and Economic Damages Claims:** As of the date of this Report, the status of the review of the Property and Economic Damages Claims is as follows:

Montreal, Maine & Atlantic Canada Co. Property and Economic Damages Claims Summary As of November 30, 2017				
	# of claims	Claims Value as Filed	Claims Value - as accepted/estimated (by the Monitor)	Estimated distribution amount
Review finalized - distribution paid	1,796	\$ 190,152,883	\$ 42,482,275	\$ 24,044,968
Review finalized - disallowance contested	14	5,571,323	850,359	481,303
Sub-total	1,810	195,724,206	43,332,634	24,526,271
Difference between \$75M and current estimated claim value	-	-	31,667,366	-
Potential reallocation	-	-	-	18,041,176
Total	1,810	\$ 195,724,206	\$ 75,000,000	\$ 42,567,447

As noted above, the Monitor has completed a review of 1,810 claims filed in the category of Property and Economic Damages Claims. Of these, 1,796 claims have become Proven Claims (which includes 84 claims which were resolved since the issuance of the Twenty-Sixth Report as noted below) and their holders have received both their first interim distribution of 50% and the second and final distribution of 50% (issued in the week of November 13, 2017) for a total of \$24.0 million. These distributions are on account of claims that have been allowed, in full or in part, as filed or as amended.

As noted in the Twenty-Sixth Report, there remained 92 unresolved contestations from claimants in respect of total or partial disallowances of Property and Economic Damages Claims as well as claims where the review was not yet completed. As part of the Monitor's efforts to resolve these contestations directly with the claimants before the Monitor would have needed to refer these disputes to the Claims Officer or to the Court, the Monitor scheduled meetings in respect of these contested claims in Lac-Mégantic, which meetings took place either from June 13 to 15, 2017 or from August 15 to 16, 2017. Following these meetings, 78 of the 92 claims were resolved and these claims have been paid in full as noted above.

Consequently, there remain 14 claims which if not resolved, will be the subject of a hearing before the Claims Officer, likely in the first quarter of 2018.

As previously reported including most recently in the Twenty-Sixth Report, based on the current review of the Property and Economic Damage Claims, the total amount of Proven Claims in this category will be significantly below the \$75 million threshold referred to in Section 4.2 of the Amended Plan. As a result, under the terms of Section 4.2 of the Amended Plan, this will entail a reallocation of the distribution relating to the difference between the amount of \$75 million and the final amount of Proven Claims (“Economic Savings”) to other claimants and categories of claimants. As appears in the table above, the amount to be reallocated is currently estimated at \$18 million.

- **Government Claims:** We refer to the Twenty-Fifth Report for a summary of the treatment of claims in the government category. The Province of Quebec (“Province”) initially filed a \$409 million claim (“Initial Claim”) which amount was used in the preparation of the Amended Plan and in the allocation of funds amongst the different categories.

On December 1, 2017, the Province submitted a “Sommaire détaillé des dépenses (incluant les salaires réguliers)” totalling \$340,195,223.56 and confirmed that this will be their final claim (“Final Claim”). The Final Claim can be summarized as follows:

- Expenses incurred to March 31, 2017: \$260,242,387.80
- Provision for future expenses: \$79,952,835.76

- **Subrogated Insurer Claims:** We refer to the Twenty-Fifth Report for a summary of the treatment of claims in the subrogated insurer category.

EXTENSION REQUEST

10. The Seventeenth Extension Motion seeks an extension of the Stay Period to June 29, 2018, to allow for the completion of the ongoing review and adjudication of claims as more fully discussed in this report, the distribution of the remaining Settlement Funds to claimants including the reallocation of Economic Savings and the advancement of various litigation in the Chapter 11 as more fully discussed below.

APPROVAL OF PROFESSIONAL FEES

11. The Seventeenth Extension Motion also seeks approval for the payment of the Canadian Professional Fees incurred for the period of June 1, 2017 to November 30, 2017 which can be summarized as follows:

**Montreal, Maine & Atlantic Canada Co.
Administration Charge Summary
As of November 30, 2017**

	Fees /		
	Disbursements	Sales Taxes	Total
Administration Charge ¹	\$ 13,500,000	\$ 2,022,000	\$ 15,522,000
Accrued Professional Fees as of May 31, 2017	(12,512,160)	(1,849,883)	(14,362,043)
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Balance of Administration Charge to implement the Plan	987,840	172,117	1,159,957
<u>Fees and Disbursements - June 1, 2017 to November 30, 2017</u>			
Richter	479,030	71,735	550,765
Woods	100,673	15,076	115,748
Gowling WLG	102,920	15,412	118,332
Claims Officer	46,360	6,942	53,302
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	728,983	109,165	838,148
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Balance of Administration Charge to complete the CCAA ²	\$ 258,858	\$ 62,952	\$ 321,809

¹ As per the Amended Plan of Compromise and Arrangement dated June 8, 2015 and Order dated March 3, 2017.

² In addition, the Monitor and its counsel still retain a \$150,000 retainer which will be applied to their final invoices.

CP DOCUMENT ORDER

12. We refer to the Twenty-Sixth Report for a summary of the CP Document Order. As of the date of this Report, the Monitor has provided monthly updates (for February 2017 to October 31, 2017) to CP's attorneys as well as to the Class Counsel.

INTEREST TREATMENT

13. As of the date of this report, approximately \$3.0 million has been earned on the Funds for Distribution since the effective date of the Amended Plan.
14. As noted in the Twenty-Sixth Report, following communications between the Monitor, its legal counsel and counsel to MMAC with both the Federal and Provincial revenue agencies, the Monitor has been informed that it will be required to issue tax slips to all creditors whose *pari passu* share of the interest exceeds \$50 in a given calendar year. The issuance of the tax slips can only occur once all claims have been settled and the final allocation of interest can be calculated.

15. Based on the current information, the Monitor estimates that it will issue tax slips to at least an estimated 900 individuals and corporations for each of the 2016 and 2017 taxation years. In addition, as it is unlikely that this can be done prior to March 1, 2018, the Monitor will also have to pay a prescribed tax to the Federal and Provincial tax authorities at a combined rate of 65% for the 2016 tax year on behalf of all claimants.

CHAPTER 11

16. The Monitor refers to the Twenty-Fifth Report for a summary of various matters which have an impact on the Amended Plan both in terms of distribution and in respect of the overall administration and provides the following update from the Estate Representative:
- Proceedings under the Carmack Amendment: a CP motion to dismiss the case was granted in part. The WD Trustee has appealed that decision to the United States Court of Appeals for the Eighth Circuit. Briefing is complete, and the parties are awaiting the scheduling of oral argument. A decision is expected in mid-2018.
 - Estate Representative's separate litigation against CP: The bankruptcy court denied CP's motion to dismiss based upon *forum non conveniens* and other grounds. The United States District Court for the District of Maine also denied CP's motion for leave to appeal the bankruptcy court's order denying the motion to dismiss. The case is now in the discovery phase.
 - Potential administrative/secured claims filed in the Chapter 11: these claims and their quantum continue to be contested by the Estate Representative and it is uncertain if these claims will be definitively determined by the end of the extension period.

ACTIVITIES OF THE MONITOR

17. The Monitor's activities have included the following:
- The Monitor has continued its review of Property and Economic Damage Claims including communicating with creditors and/or their representatives to obtain additional information required to review their claims.
 - The Monitor has continued its review of contestations filed in respect of Notices issued to holders of Property and Economic Damages including the resolution of 84 contestations.
 - The Monitor met with 82 holders of Property and Economic Damage Claims either from June 13 to 15, 2017 or August 15 to 16, 2017 in Lac-Mégantic.

- The Monitor has issued the second and final interim dividend to 1,796 holders of Proven Claims in the category of Property and Economic Damages Claims and has responded to numerous inquiries from creditors regarding the calculation of their Property and Economic Damages Claims.
- The Monitor has resolved a further 45 contestations filed by holders of Bodily Injury and Moral Damage Claims.
- The Monitor attended at formal hearings presided over by the Claims Officer in Lac-Mégantic from June 13 to 15, 2017 in respect of unresolved contestations relating to Bodily Injury and Moral Damage Claims and reviewed the decisions issued by the Claims Officer in connection therewith.
- The Monitor has continued to provide monthly updates (for May 2017 to October, 2017) to CP's attorneys as well as to Class Counsel, the whole pursuant to the CP Document Order (as more fully described in the Twenty-Sixth Report).
- The Monitor has continued to cooperate with the Estate Representative and his professionals and with Petitioner's legal counsel to keep apprised of the Chapter 11 proceedings of MMAR;
- The Monitor has maintained regular contact with the major stakeholders to seek their input and discuss various issues.
- The Monitor continues to post copies of Court materials filed in the CCAA and Chapter 11 Proceedings on its website.
- The Monitor has prepared and filed the Twenty-Seventh Report.
- Other administrative and statutory matters relating to the Monitor's appointment.

RECOMMENDATIONS OF THE MONITOR

A) Extension

18. The Monitor is of the opinion that the Court should grant the extension request to at least June 29, 2018 in order to allow for the completion of the ongoing review and adjudication of remaining claims as more fully discussed in this report, the distribution of the remaining Settlement Funds to claimants including the reallocation of Economic Savings and the advancement of various litigation in the Chapter 11.

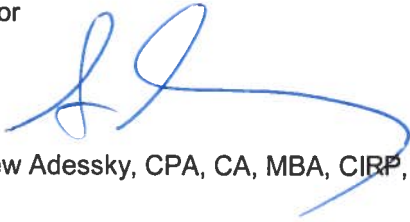
B) Professional Fees

19. The Monitor supports the approval of professional fees for the period of June 1, 2017 to November 30, 2017, which fees are fair and reasonable and are secured by the Administration Charge.

Respectfully submitted at Montreal, this 5th day of December, 2017.

Richter Advisory Group Inc.

Monitor



Andrew Adessky, CPA, CA, MBA, CIRP, LIT