

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670

Chapter 11

**CHAPTER 11 TRUSTEE'S REPORT ON CCAA PROCEEDINGS**

Robert J. Keach, the chapter 11 trustee in the above-captioned case of Montreal Maine & Atlantic Railway, Ltd., files this report, pursuant to the *Cross-Border Insolvency Protocol* adopted by this Court, regarding certain filings in the *Companies' Creditors Arrangement Act* case (the "Canadian Case") of Montreal Maine & Atlantic Canada Co. ("MMAC") currently pending in the Superior Court of Canada, Province of Québec, District of Saint-François (the "Canadian Court"). Specifically, the following filings have been entered in the Canadian Case:

1. The *Fourteenth Report of the Monitor on the State of Petitioner's Financial Affairs* (the "Fourteenth Report"). A true and correct copy of the Fourteenth Report is attached hereto as **Exhibit A**;

2. The *Fifteenth Report of the Monitor on the State of Petitioner's Financial Affairs and Plan of Arrangement* (the "Fifteenth Report"). A true and correct copy of the Fifteenth Report is attached hereto as **Exhibit B**;

3. The *Sixteenth Report of the Monitor* (the "Sixteenth Report"). A true and correct copy of the Sixteenth Report is attached hereto as **Exhibit C**;

4. The *Seventeenth Report of the Monitor* (the "Seventeenth Report"). A true and correct copy of the Seventeenth Report is attached hereto as **Exhibit D**;

5. The *Eighteenth Report of the Monitor* (the "Eighteenth Report"). A true and correct copy of the Eighteenth Report is attached hereto as **Exhibit E**; and

6. The unofficial translation of the *Judgment on the Motion for the Convening of a Creditors' Meeting* entered by the Canadian Court on May 5, 2015 (the "Judgment"). A true and correct copy of the unofficial translation of the Judgment is attached hereto as **Exhibit F**.

Dated: May 11, 2015

ROBERT J. KEACH,  
CHAPTER 11 TRUSTEE OF MONTREAL  
MAINE & ATLANTIC RAILWAY, LTD.

By his attorney:

/s/ Roma N. Desai  
Roma N. Desai, Esq.  
BERNSTEIN, SHUR, SAWYER & NELSON, P.A.  
100 Middle Street  
P.O. Box 9729  
Portland, ME 04104  
Telephone: (207) 774-1200  
E-mail: rdesai@bernsteinshur.com

**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)**, a legal person duly incorporated under the  
laws of the province of Nova Scotia, having a place  
of business at 1, Place Ville Marie, 37<sup>th</sup> Floor,  
Montreal, Quebec H3B 3P4 (at the offices of its  
attorney ("fondé de pouvoir"))

**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, 12<sup>th</sup> Floor, in the city and  
district of Montreal, Quebec, H3A 0G6

**Monitor**

---

**FOURTEENTH REPORT OF THE MONITOR  
ON THE STATE OF PETITIONER'S FINANCIAL AFFAIRS  
November 21, 2014**

---

**INTRODUCTION**

1. On August 6, 2013, Montreal, Maine & Atlantic Canada Co. (hereafter in this Report "MM&A" 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").

2. On August 21, 2013, the Petitioner filed a Motion to Amend the Initial Order and Seek a Charge and Security on the Property of Petitioner to Secure Funds for Self-Insured Obligations ("Charge and Security Motion"). The Monitor filed its First Report in respect of the Charge and Security Motion. On August 23, 2013, the Court granted an order amending the Initial Order to include the Self-Insured Obligation Charge.
3. On September 3, 2013, the Petitioner filed a Motion for an Order Extending the Stay Period and to Approve a Cross-Border Insolvency Protocol ("First Extension Motion"). The Monitor filed its Second Report on September 3, 2013 in support of the First Extension Motion. On September 4, 2013, the Court extended the stay of proceedings until October 9, 2013 and approved the cross-border insolvency protocol.
4. On October 4, 2013, the Petitioner filed a Motion for a Second Order Extending the Stay Period ("Second Extension Motion") requesting an extension of the stay of proceedings to January 28, 2014. The Monitor filed its Third Report on October 4, 2013 in support of the Second Extension Motion. On October 9, 2013, the Court extended the stay of proceedings until January 28, 2014.
5. On October 4, 2013, the Petitioner also filed a Motion to Increase the Amount of the Administration Charge, which increase was approved by the Court on October 9, 2013.
6. On December 13, 2013, the Petitioner filed a Motion for an Order Approving a Compromise and Settlement with Travelers Property Casualty Company of America ("Travelers Motion"), which compromise and settlement was approved by the Court on December 19, 2013 ("Travelers Settlement").
7. On December 13, 2013, the Petitioner filed a Motion for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date ("Claims Motion"). At the request of the Petitioner and other interested parties, the Claims Motion was postponed and was scheduled to be heard on February 11, 2014 ("February 11, 2014 Hearing"). Following several postponements, the Claims Motion was heard on March 28, 2014 ("March 28, 2014 Hearing").
8. On December 13, 2013, the Petitioner and the Monitor jointly filed a Motion to Increase the Amount of the Administration Charge. On December 19, 2013, the Court granted an increase in the Administration Charge.
9. On December 16, 2013, the Petitioner filed a Motion for an order (a) Approving Bid Procedures for the Sale of the Debtor's Assets, (b) Approving a Stalking Horse Bid, (c) Approving a Break-Up Fee and Expense Reimbursement, (d) Scheduling an Auction, (e) Approving Procedures for the Assignment and Assumption of Certain Executory Contracts and Unexpired Leases and

(f) Approving a Form of Notice of Sale ("Sale Motion"). The Sale Motion was approved by the Court on December 19, 2013.

10. On November 1, 2013, the Motion for an Order Appointing Yannick Gagné, Guy Ouellet, Serge Jacques and Louis-Serges Parent as the Representatives of the Class Described in Appendix "A" hereto ("Class Representatives Motion") was filed and was originally scheduled to be heard on December 19, 2013, but after several postponements, was heard at the March 28, 2014 Hearing.
11. On December 17, 2013, the Chapter 11 Trustee filed a Contestation of the Class Representatives Motion.
12. On January 17, 2014, the Petitioner filed a Motion for an Order Approving and Authorizing the Assignment of Contracts ("Contract Assignment Motion"). The Contract Assignment Motion was approved by the Court on January 23, 2014.
13. On January 19, 2014, the Petitioner filed a Motion for the Issuance of (i) An Order Authorizing the Sale of the Assets of the Petitioner and of (ii) a Vesting Order ("Sale and Vesting Motion"). The Sale and Vesting Motion was approved by the Court on January 23, 2014.
14. On January 20, 2014, the Petitioner filed a Motion for a Third Order Extending the Stay Period ("Third Extension Motion"). The Monitor filed its Fifth Report on January 22, 2014 in support of the Third Extension Motion. On January 23, 2014, the Court extended the stay of proceedings until February 11, 2014.
15. On February 4, 2014, the Class Action Plaintiffs filed a Claims Cross-Motion of the Class Action Plaintiffs for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date followed by the filing on February 5, 2014 of the Class Action Plaintiffs Plan of Argument ("Claims Cross-Motion"). The Claims Cross-Motion which was scheduled to be heard at the February 11, 2014 Hearing was postponed and has been withdrawn.
16. On February 5, 2014, Orford Express Inc. filed a Motion to Modify a Prior Order and to Obtain Various Declaratory Orders ("Orford Motion"). The Orford Motion which was scheduled to be heard on February 26, 2014, was postponed by the Court and was heard on March 21, 2014. On March 28, 2014, a judgment was issued denying the Orford Motion.
17. On February 7, 2014, the Petitioner filed a Motion for a Fourth Order Extending the Stay Period to February 26, 2014 ("Fourth Extension Motion"). The Monitor filed its Sixth Report on February 10, 2014 in support of the Fourth Extension Motion. On February 11, 2014, the Court extended the stay of proceedings until February 26, 2014.

18. On February 7, 2014, the Monitor filed a Motion for Directions in respect of a Motion for Joint Status Conference filed on February 7, 2014 by the Official Committee of Victims in the Chapter 11 proceedings ("Directions Motion"). On February 12, 2014, the Court issued a letter notifying the service list of its intention to grant the Directions Motion and further issued an order on February 17, 2014 in support of a Joint Status Conference to be held in Bangor, Maine on February 26, 2014.
19. On February 7, 2014, the Chapter 11 Trustee filed two separate affidavits in connection with the Claims Motion and the Claims Cross-Motion.
20. On February 19, 2014, the Petitioner filed a Motion for a Fifth Order Extending the Stay Period to March 12, 2014 ("Fifth Extension Motion"). Pursuant to instructions from the Court, in the absence of any contestation and with the confirmed support of the largest creditor, the Province of Quebec ("Province") as well as the largest secured creditor, the Federal Railroad Administration ("FRA"), no hearing was held. On February 25, 2014, the Court extended the stay of proceedings until March 12, 2014.
21. On March 10, 2014, the Petitioner filed a Motion for a Sixth Order Extending the Stay Period. On March 12, 2014, the Court extended the stay of proceedings to April 30, 2014 ("Sixth Extension Motion").
22. On March 10, 2014, the Petitioner and the Monitor jointly filed a Motion to Increase the Amount of the Administration Charge. On March 14, 2014, the Court granted an increase in the Administration Charge.
23. On March 24, 2014, Orford filed a "*Requête Pour l'émission d'une ordonnance de sauvegarde*" ("Safeguard Motion") which was to be presented at the March 28, 2014 Hearing. In light of the judgment on the Orford Motion, the Safeguard Motion is no longer applicable and will not be heard.
24. On March 25, 2014, the Petitioner amended its Claims Procedure Order in respect of the Claims Motion as well as amended the Representation Order in respect of the Class Representative Motion.
25. On March 26, 2014, the Petitioner and the Monitor jointly filed a Motion to Request a Supplemental Administration Charge ("Supplemental Administration Charge"). The Supplemental Administration Charge was postponed and will be heard at a later date.

26. The Claims Motion and the Class Representatives Motion were heard at the March 28, 2014 Hearing. On March 31, 2014, the Honourable Gaétan Dumas, J.S.C., issued his judgment granting the Claims Motion and the Class Representative Motion as amended. The orders granting these motions were signed on April 4, 2014.
27. On April 25, 2014, the Petitioner filed a Motion for a Seventh Order Extending the Stay Period to June 30, 2014 ("Seventh Extension Motion"). On April 29, 2014, the Court extended the stay of proceedings to June 30, 2014.
28. On May 8, 2014, the Petitioner filed a Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America ("Distribution Motion").
29. On May 8, 2014, the Petitioner filed a Motion for an Order Approving the Third Amendment to the Asset Purchase Agreement and the Sale of Certain Receivables ("Third Amendment Motion"). On May 9, 2014, the Court approved the Third Amendment Motion.
30. On June 6, 2014, the Petitioner filed an Amended Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America ("Amended Distribution Motion"). The Amended Distribution Motion was heard in Court on June 11, 2014. On June 16, 2014, the Court approved the Petitioner's motion ("Amended Distribution Order").
31. On June 11, 2014, the Petitioner filed with the Court an Amended Claims Procedure Order ("Amended Claims Procedure Order") with an extended Claims Bar Date to July 14, 2014 solely for the Wrongful Death Victims as defined in the aforementioned order. The Court granted the Amended Claims Procedure Order on June 13, 2014.
32. On June 26, 2014, the Petitioner filed a Motion for an Eighth Order Extending the Stay Period to September 30, 2014 ("Eighth Extension Motion"). On June 30, 2014, the Court extended the stay of proceedings to September 30, 2014.
33. On July 18, 2014, the Monitor filed the Twelfth Report to Court to provide a preliminary overview of the proofs of claim filed in the CCAA proceedings pursuant to the claims process approved by the Court.
34. On August 12, 2014, the Attorney General for the Province of Quebec ("Province") filed two motions. One motion for the determination of the allocation of the purchase price of the Debtor's assets in Canada ("*Requête du procureur général du Québec pour faire déterminer l'allocation du prix de vente des actifs de la Débitrice au Canada*") and the second motion to request a joint hearing to consider the motion for the determination of the allocation of the purchase price

*("Requête du procureur général du Québec pour la tenue d'une audition commune sur la Requête pour Faire déterminer l'allocation du prix de vente")* (the "Allocation Hearing Motions"). On September 12, 2014, the Court approved the motion for a joint hearing. The actual date of the joint hearing remains to be determined.

35. On September 19, 2014, the Petitioner filed a Motion for a Ninth Order Extending the Stay Period to November 30, 2014 ("Ninth Extension Motion"). On September 24, 2014, the Court extended the stay of proceedings to November 24, 2014 ("Ninth Extension Order").
36. On September 19, 2014, the Petitioner filed a Motion for an Order Approving the Partial Distribution of the Proceeds of the Sale of the Assets of Montreal, Maine & Atlantic Canada Co. ("Partial Distribution Motion"). On September 26, 2014 the Court approved the Partial Distribution Motion.
37. On November 20, 2014, the Petitioner filed a Motion for a Tenth Order Extending the Stay Period to January 12, 2015 ("Tenth Extension Motion"). The Tenth Extension Motion will be heard on November 24, 2014.
38. All amounts reflected in this report are stated in Canadian currency unless otherwise noted.
39. The purpose of this Fourteenth Report of the Monitor is to inform the Court on the following subjects:
  - General Corporate Information and Purpose of CCAA filing;
  - Financial Position;
  - Plan of Arrangement/Plan Term Sheet;
  - Extension Request;
  - Chapter 11 Proceedings;
  - Activities of the Monitor;
  - Conclusion.
40. 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 and the Chapter 11 Trustee's Financial Advisor.



**GENERAL CORPORATE INFORMATION AND PURPOSE OF CCAA FILING**

41. As noted in the Monitor's prior reports, the Petitioner operated a shortline freight railroad company in the Province of Quebec. It is a wholly owned subsidiary of Montreal, Maine & Atlantic Railway Ltd. ("MM&AR") which operated a shortline railroad in the States of Vermont and Maine (MM&A and MM&AR are hereinafter collectively referred to as the "Companies"). Together, the Companies operated approximately 500 route miles and serviced customers in Canada and the United States. An affiliated company, LMS Acquisition Corp. ("LMS") located in Hermon, Maine, operates a 130,000 square foot warehouse offering warehousing and lumber distribution.
42. We refer to the Monitor's prior reports for a description of the purpose of the CCAA proceedings.

**FINANCIAL POSITION**

43. As noted in the Monitor's Thirteenth Report, the sale of assets for MM&AR was concluded on May 15, 2014 and the sale of MM&A's assets on June 30, 2014. Subsequent to the closing of the sale, only minimal balances are being collected by MM&A. MM&A continues to pay its post-filing obligations.
44. The following table summarizes the actual cash flow results of MM&A for the period September 15, 2014 to November 14, 2014:

Montreal Maine & Atlantic Canada Co. Actual Cash Flow Results For the period September 15, 2014 to November 14, 2014	
(in CAD)	Reported Sept 15-Nov 14
<b><u>MMA Cash Receipts:</u></b>	
Deposits	\$ 20,658
<b>Total</b>	<b>20,658</b>
<b><u>MMA Disbursements:</u></b>	
Materials and supplies	14,427
Other costs	13,447
<b>Total</b>	<b>27,874</b>
Net Cash Flow	<b>(7,215)</b>
Opening Cash Balance - MMA	<b>168,754</b>
Closing Cash Balance - MMA	<b>\$ 161,539</b>

45. As detailed in the Monitor's Thirteenth Report, based on the allocation by the purchaser, after the payment of the closing costs and the accrued and unpaid professional fees which were secured by the Administration Charge, a total of approximately US\$0.6 million is held in trust by the Monitor and is available for distribution in the CCAA ("Net Distribution Proceeds"). The Net Distribution Proceeds should be paid either to the FRA or to the Province of Quebec once their respective rights are determined. A joint hearing will be scheduled following the submission by the FRA and the Province of a proposed form of scheduling order.

#### **PLAN OF ARRANGEMENT/PLAN TERM SHEET**

46. Included in the Ninth Extension Motion was a document entitled "Term Sheet in Respect of the Plan of Compromise and Arrangement of Montreal, Maine and Atlantic Canada Co. ("Plan Term Sheet"). The purpose of the Plan Term Sheet is to summarize the elements of the Plan of Arrangement ("Plan").
47. As discussed in the Monitor's Thirteenth Report, certain key elements of the Plan Term Sheet can be summarized as follows:
- Payment of the Net Distribution Proceeds to either the FRA or the Province, as previously mentioned;
  - Remittance by XL (as defined in the Plan Term Sheet) of the proceeds of the \$25 million insurance policy as well as an additional \$5 million into a trust account to be administered by the Monitor (the "Indemnification Fund");
  - Remittance of additional amounts that could reach \$11.5 million to the Indemnification Fund by certain of the XL insured parties and related entities/insurers;
  - Remittances from remaining XL insured parties (and related entities/insurers) to the Indemnification Fund pursuant to agreements that may be reached prior to the filing of the Plan;
  - Remittances from potentially liable third parties ("Third Parties") to the Indemnification Fund, prior to the filing of the Plan;
  - All of the above-noted remittances to the Indemnification Fund would be made in exchange for full and final releases in the CCAA and Chapter 11 which would prohibit any litigation against these parties arising from the derailment and in the case of XL, would discharge any further obligations under the insurance policy.

48. Since the Ninth Extension Order, the Petitioner (through its counsel), the Chapter 11 Trustee and the Monitor have continued discussions with the Third Parties to determine if they are willing to contribute to the Indemnification Fund in exchange for complete releases from litigation arising from the derailment, the whole to allow for a more meaningful distribution to the derailment victims through a Plan.
49. As a result of the various negotiations, agreements in principle of approximately \$126 million have been reached to date (which amounts may increase by approximately \$37 million to \$163 million pending finalization of various ongoing discussions). The agreements in principle and all other agreements to be reached are of course subject to approval by the creditors and the Court. Included in the proposed settlement agreements, totaling approximately \$126 million, is one which remains subject to required in-house approval by the settling party.
50. In respect of the additional potential settlement amounts of \$37 million, these remain subject to further ongoing discussions with various parties including the Province and the Class Representatives.
51. In respect of those Third Parties who have not reached agreements in principle, discussions may continue but there is no certainty that further agreements will be reached and these Third Parties will be excluded from the Plan and resulting releases should they fail to submit satisfactory offers before the filing of said Plan.
52. The implementation of the Plan will be subject to (i) a Plan Sanction Order in the CCAA, (ii) recognition of the Plan Sanction Order in the United States pursuant to Chapter 15 of the US Bankruptcy Code, with the Monitor serving as Foreign Representative and/or (iii) an implementation of a plan in the Chapter 11.
53. In order to fund the ongoing administration of both the CCAA and the Chapter 11, a portion of the Indemnification Fund will be allocated to accrued and future professional fees. For clarity's sake, the full amount of the \$25 million from XL, if made available for distribution under the Plan, will be distributed to beneficiaries without any deduction.

#### **EXTENSION REQUEST**

54. The Tenth Extension Motion seeks an extension of the stay of proceedings through January 12, 2015 ("Extension Period") to enable the following:
  - Finalization of settlement agreements with Third Parties as well as continued negotiations with other Third Parties;

- Preparation of a Plan, to be filed on or about December 19, 2014, in respect of the distribution of the XL proceeds as well as other amounts to be paid into the Indemnification Fund as described in the Plan Term Sheet filed by MM&A.

## CHAPTER 11 PROCEEDINGS

55. As previously reported, on August 7, 2013, MM&AR commenced proceedings under Chapter 11 of the U.S. Bankruptcy Code in the US Court.
56. On August 21, 2013, the U.S. Trustee appointed Robert J. Keach, attorney, to be the Chapter 11 Trustee of MM&AR and he has assumed day to day control of the operations of MM&AR.
57. The Monitor and its counsel continue to be in frequent contact with the Chapter 11 Trustee and his professionals to coordinate the efficient administration of both estates as well as settlement discussions with third parties that are more fully described elsewhere in this report.
58. As noted in the Monitor's Fourth Report, the United States Trustee appointed a Committee of Derailment Victims ("Official Committee of Victims") which consists of three creditors (who all allege to have claims arising from the Derailment) to assist the Chapter 11 Trustee. In addition, the Province and the City of Lac Mégantic have been added as ex-officio members to the Official Committee of Victims. The Official Committee of Victims has also engaged legal counsel.
59. The Chapter 11 Trustee, to date, has served motions on 13 companies, all of whom are named as defendants in various litigation to compel them to appear for Rule 2004 pre-litigation discovery examinations under the US Bankruptcy Code and to produce documents in connection therewith. Certain of the companies have filed objections to the Rule 2004 motions, which objections have now been resolved by agreement or by order of the US Court. The Chapter 11 Trustee has agreed to extend the deadline to respond to certain of the Rule 2004 orders in light of ongoing settlement discussions with many of these companies. The Chapter 11 Trustee also recently moved the US Court for leave to amend the complaint in a pending adversary proceeding against World Fuel Services, et al. to include counts against Irving Oil and Canadian Pacific arising out of the Derailment.
60. 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 filed with or issued to date by the US Court include the following:
  - Order granting the Chapter 11 Trustee's motion to extend the plan moratorium period;
  - Order establishing the deadline to file Administrative Claims;

- Motions seeking approval of second interim fee applications for various professionals including the Chapter 11 Trustee and Canadian and US counsel of the Chapter 11 Trustee;
- Order granting motion of Official Committee of Victims seeking modification of the committee appointment order to authorize the committee to fully participate in wrongful death proceedings pending before the Maine District Court.

#### **ACTIVITIES OF THE MONITOR**

61. The Monitor's activities have included the following:

- Continued frequent contact with the Chapter 11 Trustee and his professionals, Petitioner's management and 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 representatives of the Province and other stakeholders in this restructuring process to seek their input and provide assistance in various areas;
- The Monitor has been in regular communication with the legal counsel of the Class Representatives;
- The Monitor has prepared various plan distribution scenarios in consultation with the counsel for MM&A, the Chapter 11 Trustee, the Province and legal counsel for the Class Representatives;
- The Monitor continues to respond to queries from creditors and other interested parties;
- The Monitor is responding to various creditors queries regarding proofs of claim filed;
- The Monitor has participated in numerous settlement discussions with Third Parties in connection with the funding of a plan of arrangement;
- The Monitor reviewed the Petitioner's financial affairs and results for the period September 15, 2014 to November 14, 2014;
- 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 Fourteenth Report;
- Other administrative and statutory matters relating to the Monitor's appointment.

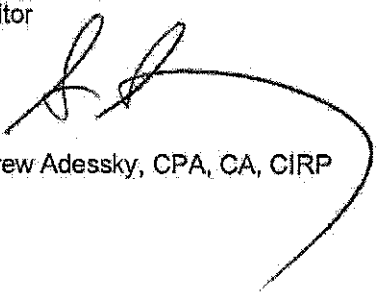
## CONCLUSION

62. The Monitor is of the opinion that the Court should grant the extension request 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 formulation of the Plan to be submitted on or about December 19, 2014;
- Additional time is required to complete settlement agreements with various Third Parties to contribute to a Indemnification Fund in connection with a Plan;
- 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 Professionals;
- A further extension of the stay has been discussed with the Province and the Class Representatives who have expressed their agreement with such an extension;
- The Monitor will continue to monitor the financial affairs of the Petitioner as it continues to wind up its operations and inform the Court and all stakeholders of the use of remaining funds on hand;
- The extension will not cause any prejudice to the various stakeholders.

Respectfully submitted at Montreal, this 21st day of November, 2014.

**Richter Advisory Group Inc.**  
Monitor



Andrew Adessky, CPA, CA, CIRP

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)**, a legal person duly incorporated under the  
laws of the province of Nova Scotia, having a place  
of business at 1, Place Ville Marie, 37<sup>th</sup> Floor,  
Montreal, Quebec H3B 3P4 (at the offices of its  
attorney ("fondé de pouvoir"))

**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, 12<sup>th</sup> Floor, in the city and  
district of Montreal, Quebec, H3A 0G6

**Monitor**

---

**FIFTEENTH REPORT OF THE MONITOR**  
**ON THE STATE OF PETITIONER'S FINANCIAL AFFAIRS AND THE PLAN OF ARRANGEMENT**  
**January 9, 2015**

---

**INTRODUCTION**

1. On August 6, 2013, Montreal, Maine & Atlantic Canada Co. (hereafter in this Report "MM&A" 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 "CCA"). 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").

2. On August 21, 2013, the Petitioner filed a Motion to Amend the Initial Order and Seek a Charge and Security on the Property of Petitioner to Secure Funds for Self-Insured Obligations ("Charge and Security Motion"). The Monitor filed its First Report in respect of the Charge and Security Motion. On August 23, 2013, the Court granted an order amending the Initial Order to include the Self-Insured Obligation Charge.
3. On September 3, 2013, the Petitioner filed a Motion for an Order Extending the Stay Period and to Approve a Cross-Border Insolvency Protocol ("First Extension Motion"). The Monitor filed its Second Report on September 3, 2013 in support of the First Extension Motion. On September 4, 2013, the Court extended the stay of proceedings until October 9, 2013 and approved the cross-border insolvency protocol.
4. On October 4, 2013, the Petitioner filed a Motion for a Second Order Extending the Stay Period ("Second Extension Motion") requesting an extension of the stay of proceedings to January 28, 2014. The Monitor filed its Third Report on October 4, 2013 in support of the Second Extension Motion. On October 9, 2013, the Court extended the stay of proceedings until January 28, 2014.
5. On October 4, 2013, the Petitioner also filed a Motion to Increase the Amount of the Administration Charge, which increase was approved by the Court on October 9, 2013.
6. On December 13, 2013, the Petitioner filed a Motion for an Order Approving a Compromise and Settlement with Travelers Property Casualty Company of America ("Travelers Motion"), which compromise and settlement was approved by the Court on December 19, 2013 ("Travelers Settlement").
7. On December 13, 2013, the Petitioner filed a Motion for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date ("Claims Motion"). At the request of the Petitioner and other interested parties, the Claims Motion was postponed and was scheduled to be heard on February 11, 2014 ("February 11, 2014 Hearing"). Following several postponements, the Claims Motion was heard on March 28, 2014 ("March 28, 2014 Hearing").
8. On December 13, 2013, the Petitioner and the Monitor jointly filed a Motion to Increase the Amount of the Administration Charge. On December 19, 2013, the Court granted an increase in the Administration Charge.
9. On December 16, 2013, the Petitioner filed a Motion for an order (a) Approving Bid Procedures for the Sale of the Debtor's Assets, (b) Approving a Stalking Horse Bid, (c) Approving a Break-Up Fee and Expense Reimbursement, (d) Scheduling an Auction, (e) Approving Procedures for the Assignment and Assumption of Certain Executory Contracts and Unexpired Leases and



(f) Approving a Form of Notice of Sale ("Sale Motion"). The Sale Motion was approved by the Court on December 19, 2013.

10. On November 1, 2013, the Motion for an Order Appointing Yannick Gagné, Guy Ouellet, Serge Jacques and Louis-Serges Parent as the Representatives of the Class Described in Appendix "A" hereto ("Class Representatives Motion") was filed and was originally scheduled to be heard on December 19, 2013, but after several postponements, was heard at the March 28, 2014 Hearing.
11. On December 17, 2013, the Chapter 11 Trustee filed a Contestation of the Class Representatives Motion.
12. On January 17, 2014, the Petitioner filed a Motion for an Order Approving and Authorizing the Assignment of Contracts ("Contract Assignment Motion"). The Contract Assignment Motion was approved by the Court on January 23, 2014.
13. On January 19, 2014, the Petitioner filed a Motion for the Issuance of (i) An Order Authorizing the Sale of the Assets of the Petitioner and of (ii) a Vesting Order ("Sale and Vesting Motion"). The Sale and Vesting Motion was approved by the Court on January 23, 2014.
14. On January 20, 2014, the Petitioner filed a Motion for a Third Order Extending the Stay Period ("Third Extension Motion"). The Monitor filed its Fifth Report on January 22, 2014 in support of the Third Extension Motion. On January 23, 2014, the Court extended the stay of proceedings until February 11, 2014.
15. On February 4, 2014, the Class Action Plaintiffs filed a Claims Cross-Motion of the Class Action Plaintiffs for an Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date ("Claims Cross-Motion"). The Claims Cross-Motion which was scheduled to be heard at the February 11, 2014 hearing was postponed and has been withdrawn.
16. On February 5, 2014, Orford Express Inc. filed a Motion to Modify a Prior Order and to Obtain Various Declaratory Orders ("Orford Motion"). The Orford Motion which was scheduled to be heard on February 26, 2014, was postponed by the Court and was heard on March 21, 2014. On March 28, 2014, a judgment was issued denying the Orford Motion.
17. On February 7, 2014, the Petitioner filed a Motion for a Fourth Order Extending the Stay Period to February 26, 2014 ("Fourth Extension Motion"). The Monitor filed its Sixth Report on February 10, 2014 in support of the Fourth Extension Motion. On February 11, 2014, the Court extended the stay of proceedings until February 26, 2014.

18. On February 7, 2014, the Monitor filed a Motion for Directions in respect of a Motion for Joint Status Conference filed on February 7, 2014 by the Official Committee of Victims in the Chapter 11 proceedings ("Directions Motion"). On February 12, 2014, the Court issued a letter notifying the service list of its intention to grant the Directions Motion and further issued an order on February 17, 2014 in support of a Joint Status Conference to be held in Bangor, Maine on February 26, 2014.
19. On February 7, 2014, the Chapter 11 Trustee filed two separate affidavits in connection with the Claims Motion and the Claims Cross-Motion.
20. On February 19, 2014, the Petitioner filed a Motion for a Fifth Order Extending the Stay Period to March 12, 2014 ("Fifth Extension Motion"). Pursuant to instructions from the Court, in the absence of any contestation and with the confirmed support of the largest creditor, the Province of Quebec ("Province") as well as the largest secured creditor, the Federal Railroad Administration ("FRA"), no hearing was held. On February 25, 2014, the Court extended the stay of proceedings until March 12, 2014.
21. On March 10, 2014, the Petitioner filed a Motion for a Sixth Order Extending the Stay Period. On March 12, 2014, the Court extended the stay of proceedings to April 30, 2014 ("Sixth Extension Motion").
22. On March 10, 2014, the Petitioner and the Monitor jointly filed a Motion to Increase the Amount of the Administration Charge. On March 14, 2014, the Court granted an increase in the Administration Charge.
23. On March 24, 2014, Orford filed a "*Requête Pour l'émission d'une ordonnance de sauvegarde*" ("Safeguard Motion") which was to be presented at the March 28, 2014 Hearing. In light of the judgment on the Orford Motion, the Safeguard Motion was not heard.
24. On March 25, 2014, the Petitioner amended its Claims Procedure Order in respect of the Claims Motion as well as amended the Representation Order in respect of the Class Representative Motion.
25. On March 26, 2014, the Petitioner and the Monitor jointly filed a Motion to Request a Supplemental Administration Charge ("Supplemental Administration Charge"). The Supplemental Administration Charge was postponed.

26. The Claims Motion and the Class Representatives Motion were heard at the March 28, 2014 Hearing. On March 31, 2014, the Honourable Gaétan Dumas, J.S.C., issued his judgment granting the Claims Motion and the Class Representative Motion as amended. The orders granting these motions were signed on April 4, 2014.
27. On April 25, 2014, the Petitioner filed a Motion for a Seventh Order Extending the Stay Period to June 30, 2014 ("Seventh Extension Motion"). On April 29, 2014, the Court extended the stay of proceedings to June 30, 2014.
28. On May 8, 2014, the Petitioner filed a Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America ("Distribution Motion").
29. On May 8, 2014, the Petitioner filed a Motion for an Order Approving the Third Amendment to the Asset Purchase Agreement and the Sale of Certain Receivables ("Third Amendment Motion"). On May 9, 2014, the Court approved the Third Amendment Motion.
30. On June 6, 2014, the Petitioner filed an Amended Motion for an Order Approving the Distribution of the Proceeds of Settlement with Travelers Property Casualty Company of America ("Amended Distribution Motion"). The Amended Distribution Motion was heard in Court on June 11, 2014. On June 16, 2014, the Court approved the Petitioner's motion ("Amended Distribution Order").
31. On June 11, 2014, the Petitioner filed with the Court an Amended Claims Procedure Order ("Amended Claims Procedure Order") with an extended Claims Bar Date to July 14, 2014 solely for the Wrongful Death Victims as defined in the aforementioned order. The Court granted the Amended Claims Procedure Order on June 13, 2014.
32. On June 26, 2014, the Petitioner filed a Motion for an Eighth Order Extending the Stay Period to September 30, 2014 ("Eighth Extension Motion"). On June 30, 2014, the Court extended the stay of proceedings to September 30, 2014.
33. On July 18, 2014, the Monitor filed the Twelfth Report to Court to provide a preliminary overview of the proofs of claim filed in the CCAA proceedings pursuant to the claims process approved by the Court.
34. On August 12, 2014, the Attorney General for the Province of Quebec ("Province") filed two motions. One motion for the determination of the allocation of the purchase price of the Debtor's assets in Canada ("*Requête du procureur général du Québec pour faire déterminer l'allocation du prix de vente des actifs de la Débitrice au Canada*") and the second motion to request a joint hearing to consider the motion for the determination of the allocation of the purchase price

*("Requête du procureur général du Québec pour la tenue d'une audition commune sur la Requête pour Faire déterminer l'allocation du prix de vente")* (the "Allocation Hearing Motions"). On September 12, 2014, the Court approved the motion for a joint hearing. The actual date of the joint hearing remains to be determined.

35. On September 19, 2014, the Petitioner filed a Motion for a Ninth Order Extending the Stay Period to November 30, 2014 ("Ninth Extension Motion"). On September 24, 2014, the Court extended the stay of proceedings to November 24, 2014 ("Ninth Extension Order").
36. On September 19, 2014, the Petitioner filed a Motion for an Order Approving the Partial Distribution of the Proceeds of the Sale of the Assets of Montreal, Maine & Atlantic Canada Co. ("Partial Distribution Motion"). On September 26, 2014 the Court approved the Partial Distribution Motion.
37. On November 20, 2014, the Petitioner filed a Motion for a Tenth Order Extending the Stay Period to January 12, 2015 ("Tenth Extension Motion"). On November 21, 2014, the Monitor filed the Fourteenth Report to Court in connection therewith. On November 24, 2014, the Court extended the stay of proceedings to January 12, 2015 ("Tenth Extension Order").
38. On January 9, 2015, the Petitioner filed a Motion for an Eleventh Order Extending the Stay Period to September 14, 2015 ("Eleventh Extension Motion"). The Eleventh Extension Motion will be heard on January 12, 2015.
39. All amounts reflected in this report are stated in Canadian currency unless otherwise noted.
40. The purpose of this Fifteenth Report of the Monitor is to inform the Court on the following subjects:
  - General Corporate Information and Purpose of CCAA filing;
  - Financial Position;
  - Plan of Compromise and Arrangement;
  - Extension Request;
  - Chapter 11 Proceedings;
  - Activities of the Monitor;
  - Conclusion.
41. 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 and the Chapter 11 Trustee's Financial Advisor.

**GENERAL CORPORATE INFORMATION AND PURPOSE OF CCAA FILING**

- 42. As noted in the Monitor's prior reports, the Petitioner operated a shortline freight railroad company in the Province of Quebec. It is a wholly owned subsidiary of Montreal, Maine & Atlantic Railway Ltd. ("MM&AR") which operated a shortline railroad in the States of Vermont and Maine (MM&A and MM&AR are hereinafter collectively referred to as the "Companies"). Together, the Companies operated approximately 500 route miles and serviced customers in Canada and the United States. An affiliated company, LMS Acquisition Corp. ("LMS") located in Hermon, Maine, operates a 130,000 square foot warehouse offering warehousing and lumber distribution.
- 43. We refer to the Monitor's prior reports for a description of the purpose of the CCAA proceedings.

**FINANCIAL POSITION**

- 44. As noted in the Monitor's Thirteenth and Fourteenth Reports, following the sale of MM&A's assets on June 30, 2014, there are no further operations. MM&A continues to pay its post-filing obligations (which are nominal) and is collecting its outstanding receivables.
- 45. The following table summarizes the actual cash flow results of MM&A for the period November 15, 2014 to January 2, 2015:

Montreal Maine & Atlantic Canada Co. Actual Cash Flow Results For the period November 15, 2014 to January 2, 2015	
(in CAD)	Reported Nov 15-Jan 2/15
<b><u>MM&amp;A Cash Receipts:</u></b>	
Deposits	\$ 19,670
<b>Total</b>	<b>19,670</b>
<b><u>MM&amp;A Disbursements:</u></b>	
Miscellaneous costs	411
<b>Total</b>	<b>411</b>
Net Cash Flow	<b>19,259</b>
Opening Cash Balance - MM&A	<b>161,539</b>
Closing Cash Balance - MM&A	<b>\$ 180,798</b>

46. As detailed in the Monitor's Thirteenth and Fourteenth Reports, based on the allocation by the purchaser, after the payment of the closing costs and the accrued and unpaid professional fees which were secured by the Administration Charge, a total of approximately US\$0.6 million is held in trust by the Monitor ("Net Distribution Proceeds"). The Net Distribution Proceeds should be paid either to the FRA or to the Province of Quebec once their respective rights are determined. A joint hearing will be scheduled following the submission by the FRA and the Province of a proposed form of scheduling order.

#### **PLAN OF COMPROMISE AND ARRANGEMENT**

47. Annexed to the Eleventh Extension Motion is a draft *Plan of Compromise and Arrangement* ("Plan"). The Plan results from many months of negotiations by Petitioner's counsel, the Monitor and its counsel and the Chapter 11 Trustee ("Trustee") with potentially liable third parties ("Third Parties"), the whole to obtain contributions to an Indemnity Fund to be distributed to derailment victims. In addition, key stakeholders in this restructuring, namely the Province of Quebec ("Province"), attorneys for the Class Representatives and attorneys for derailment victims in the Chapter 11 case ("US Legal Representatives") (collectively the "Major Stakeholders") have been consulted and are supportive of the global resolution reached to date.<sup>1</sup> In addition, the Major Stakeholders have been provided with a copy of the draft Plan for their review and comments.

48. Pursuant to the Plan, definitive commitments have been received from various Third Parties ("Contributing Third Parties") which total:

- CA\$107.3 million
- US\$85 million

for a total contribution of approximately CA\$208 million as of the date of this Report (USD have been converted at a rate of 1.18).

49. In respect of Third Parties with whom settlements have not been reached ("Non-Settling Third Parties"), the Petitioner will file an amended Plan in the event that satisfactory agreements can be reached in advance of the meeting of creditors. Certain of the Non-Settling Third Parties are named as defendants in various litigation commenced in Canada and/or the United States.

50. 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 \$15 million to secure the payment of the fees, disbursements, and entitlements of the Canadian Professionals and U.S. Professionals (as

---

<sup>1</sup> One contribution from a group of Third Parties included as a Contributing Third Party is not yet deemed acceptable by the Major Stakeholders and this contribution may be excluded from the Plan.

defined in the Plan) owed to them in connection with the CCAA Proceedings or the Chapter 11. We refer to section 7.1 of the Plan for additional details. For clarity's sake, the full amount of the \$25 million XL Indemnity payment will be distributed to beneficiaries without any deduction.

51. The Plan as annexed to the Eleventh Extension Motion remains subject to review by the Major Stakeholders and the Contributing Third Parties.
52. The following is only a summary of key terms of the Plan and as such, creditors should refer to the Plan filed for complete legal descriptions as well as the complete terms of the Plan. In the case of any discrepancy between the Plan and this summary, the Plan shall take precedence. 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 his claim at the value of his proven claim subject to the following:
  - i. The aggregate votes of all "**Wrongful Death Claims**" having a Proven Claim shall not represent more than **22.3%** of all Creditors' votes;
  - ii. The aggregate votes of all "**Bodily Injury and Moral Damages Claims**" having a Proven Claim shall not represent more than **8.4%** of all Creditors' votes;
  - iii. The aggregate votes of all "**Property and Economic Damages Claims**" having a Proven Claim shall not represent more than **11.1%** of all Creditors' votes;
  - iv. The aggregate votes of all "**Subrogated Insurer Claims**" having a Proven Claim shall not represent more than **3.7%** of all Creditors' votes;
  - v. The aggregate votes of all "**Government Claims**" having a Proven Claim shall not represent more than **48.4%** of all Creditors' votes;
  - vi. The aggregate votes of all "**Indemnity Claims**" having a Proven Claim shall not represent more than **0%** of all Creditors' votes;
  - vii. The aggregate votes of all "**Non-Derailment Claims**" filed shall not represent more than **6.1%** of all Creditors' votes.

#### **Distributions**

- All contributions to the Indemnity Fund shall be remitted to the Monitor for distribution in accordance with the Plan.

- The following Creditors shall be entitled to participate in the distribution under the Plan as follows:
  - i. Creditors having Wrongful Death Claims shall in the aggregate receive 24% of the Funds for Distribution in full and final satisfaction of their Proven Claims. Funds for Distribution will be remitted by the Monitor to the Trustee for distribution by the Trustee to the Creditors having Wrongful Death Claims in accordance with the mechanism set forth in Schedule F of the Plan. For clarity, this will encompass Wrongful Death Claims filed in both the CCAA and the Chapter 11.
  - ii. Creditors having Bodily Injury and Moral Damages Claims shall in the aggregate receive 7.8% 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 encompass Bodily Injury and Moral Damages Claims filed in both the CCAA and the Chapter 11.
  - iii. Creditors having Property and Economic Damages Claims shall in the aggregate receive 12% 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 H of the Plan. For clarity, this will encompass Property and Economic Damages filed in both the CCAA and the Chapter 11.
  - iv. Creditors having Subrogated Insurer Claims shall in the aggregate receive 4% 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 their Proven Claims.
  - v. Creditors having Government Claims shall in the aggregate receive 52.2% 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, the Federal Government of Canada 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 in relation to the Indemnity Fund;
  - vii. Creditors having Non-Derailment Claims shall not receive any distribution in the Plan or in the U.S. Plan in relation to the Indemnity Fund. However, Creditors having Non-Derailment Claims will be entitled to distribution in the U.S. Plan in accordance with its terms from any available net proceeds resulting from the liquidation of MM&AR's assets.
- The Province and the Federal Government of Canada have each agreed to redistribute a portion of the distribution they are to receive as follows:



- i. \$13.3 million from the Province out of its share of the XL Indemnity Payment;
  - ii. The full dividend to be received by the Federal Government of Canada in respect of their Proven Claim;
  - iii. The Reallocated Dividends will be distributed to creditors as follows:
    - o 53.3% for proven Wrongful Death Claims;
    - o 20% for proven Bodily Injury and Moral Damages Claims;
    - o 26.7% for proven Property and Economic Damages Claims.
  - Schedules F, G & H referred to above and which form part of the Plan are not complete and therefore remain subject to negotiation between MM&A, the Monitor, the Trustee and the Major Stakeholders. Once completed, these schedules will be distributed to all stakeholders.
53. In addition to the above, a claims review process will be established to allow for the fair treatment of claims filed in a timely and effective manner.

**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 which will be circulated to the service list and posted on the Monitor's website once the various settlement agreements with Contributing Third Parties are all executed (on or before the end of January 2015).
- The current estimated timeline for completion of outstanding matters and Plan implementation is as follows:
  - i. Execution of the various Settlement Agreements by Contributing Third Parties in the next two weeks;
  - ii. Schedules F, G & H and the Plan in its final form are estimated to be finalized by the end of January 2015;
  - iii. Filing of a motion by mid-February seeking an order with respect to a creditors meeting to consider and vote on the Plan as well as an order to establish a claims review process;
  - iv. Meeting of creditors by the end of March 2015;
  - v. Following approval of the Plan, various Approval Orders will be sought from the CCAA Court and the Bankruptcy Court in April 2015;

- vi. A parallel process to approve the plan to be filed in the Chapter 11 is expected to be completed with court approval sought by April 2015;
- vii. Recognition in the United States of the Canadian Approval Order pursuant to Chapter 15 of the US Bankruptcy Code which will also be sought in April 2015;
- viii. Distributions to creditors are expected to occur in August 2015 to allow for appeal periods to expire and for the receipt of the Settlement Funds.

#### **EXTENSION REQUEST**

- 54. The Eleventh Extension Motion seeks an extension of the stay of proceedings through September 14, 2015 ("Extension Period") to enable implementation of the Plan and the payment of distributions pursuant to the above noted timeline.

#### **CHAPTER 11 PROCEEDINGS**

- 55. As previously reported, on August 7, 2013, MM&AR commenced proceedings under Chapter 11 of the U.S. Bankruptcy Code in the US Court.
- 56. On August 21, 2013, the U.S. Trustee appointed Robert J. Keach, attorney, to be the Trustee of MM&AR and he has assumed day to day control of the operations of MM&AR.
- 57. The Monitor and its counsel continue to be in frequent contact with the Trustee and his professionals to coordinate the efficient administration of both estates as well as settlement discussions with third parties that are more fully described elsewhere in this report.
- 58. As noted in the Monitor's Fourth Report, the U.S. Trustee appointed a Committee of Derailment Victims ("Official Committee of Victims") which consists of three creditors (who all allege to have claims arising from the Derailment) to assist the Trustee. In addition, the Province and the City of Lac-Mégantic have been added as ex-officio members to the Official Committee of Victims. The Official Committee of Victims has also engaged legal counsel.
- 59. The Trustee, to date, has served motions on 13 companies, all of whom are named as defendants in various litigation to compel them to appear for Rule 2004 pre-litigation discovery examinations under the US Bankruptcy Code and to produce documents in connection therewith. The Trustee has agreed to extend the deadline to respond to certain of the Rule 2004 orders in light of ongoing settlement discussions with many of these companies. The Trustee also moved the US Court for leave to amend the complaint in a pending adversary proceeding against World Fuel Services Inc., et al. to include claims against Irving Oil Limited et al and Canadian Pacific Railway Company arising out of the Derailment.

60. 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.

#### **ACTIVITIES OF THE MONITOR**

61. The Monitor's activities have included the following:

- Continued frequent contact with the Trustee and his professionals, 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 representatives of the Province and other stakeholders in this restructuring process to seek their input and provide assistance in various areas;
- The Monitor has been in regular communication with the legal counsel of the Class Representatives;
- The Monitor has prepared various plan distribution scenarios in consultation with the counsel for MM&A, the Trustee, the Province, legal counsel for the Class Representatives and US Legal Representatives;
- The Monitor has participated in numerous settlement discussions with Third Parties in connection with the funding of a plan of arrangement;
- The Monitor reviewed the Petitioner's financial affairs and results for the period November 15, 2014 to January 2, 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 Fifteenth Report;
- Other administrative and statutory matters relating to the Monitor's appointment.

#### **CONCLUSION**

##### **Plan of Arrangement**

62. The Monitor supports the draft Plan that has been attached as an Exhibit to the Eleventh Extension Motion. As noted above, this draft Plan has been and is the subject of intense and very lengthy negotiations involving a wide variety of parties including the Major Stakeholders. 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

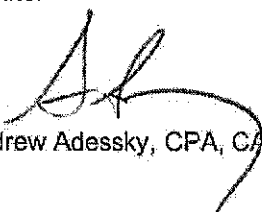
most likely take many years before any resolution, which resolution is uncertain at this point in time. The Monitor will provide further details regarding the implementation of the Plan, the estimated potential distribution to each group of creditors in a report to be issued in advance of the meeting of creditors.

**Extension**

63. The Monitor is of the opinion that the Court should grant the extension request 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 implementation of the Plan and 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 Professionals;
  - The Monitor will continue to monitor the financial affairs of the Petitioner as it continues to wind up its operations and inform the Court and all stakeholders of the use of remaining funds on hand;
  - The extension will not cause any prejudice to the various stakeholders.

Respectfully submitted at Montreal, this 9<sup>th</sup> day of January, 2015.

**Richter Advisory Group Inc.**  
Monitor

  
Andrew Adessky, CPA, CA, CIRP

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, 12<sup>th</sup> 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
<b><u>MMAC Cash Receipts:</u></b>	
Deposits	\$ 97,786
<b>Total</b>	<b>97,786</b>
<b><u>MMAC Disbursements:</u></b>	
Miscellaneous costs	19,728
<b>Total</b>	<b>19,728</b>
Net Cash Flow	<b>78,058</b>
Opening Cash Balance - MMAC	<b>180,798</b>
Closing Cash Balance - MMAC	<b>\$ 258,855</b>

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:

<b>Montreal, Maine &amp; Atlantic Canada Co. Allocation between Categories</b>		
	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> <sup>1</sup>		
Province	409,313,000	45.5%
Attorney General	21,000,000	2.3%
Lac-Mégantic	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>
<b>Total</b>	<b><u>\$ 899,328,000</u></b>	<b><u>100.0%</u></b>

<sup>1</sup> 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 MM&AR, 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.

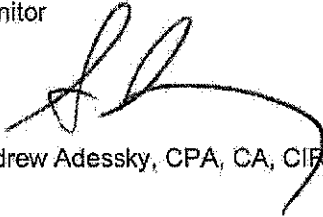
42. In order to ensure the correct and fair treatment of creditors, it is now necessary to formally review some of the claims filed, in particular the Property and Economic Damages Claims, and to seek amendments or disallowance of claims where necessary.
43. The appointment of an independent Claims Officer 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 13<sup>th</sup> day of April, 2015.

**Richter Advisory Group Inc.**  
Monitor



Andrew Adessky, CPA, CA, CFP

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, 12<sup>th</sup> Floor, in the city and  
district of Montreal, Quebec, H3A 0G6

Monitor

---

SEVENTEENTH REPORT OF THE MONITOR  
April 24, 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 "CCA"). 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. On March 30 and 31, 2015 and on April 14, 2015, five insurance companies filed motions seeking to file claims after the bar date ("Late Claim Motions").
5. 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").
6. 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").
7. On April 14, 2015, the Court Appointed Representatives of the Class Members filed the following motions:
  - Motion for an Order Authorizing the Filing of Additional Claims;
  - Motion for an Order Accepting the Filing of an Amended Plan and for Advice and Directions ("Amended Plan Motion").
8. Pursuant to a hearing on April 15, 2015, the Court issued the following orders and set out the following timeline for the hearing of various motions as follows:
  - Order for the Twelfth Extension of the Stay Period;
  - Claims Resolution Order;
  - Amended Additional Claims Motion (as defined below) will be heard on April 27, 2015;
  - Creditors' Meeting Motion filed by Petitioner and the Amended Plan Motion will be heard on April 30, 2015;
  - Late Claim Motions will be heard on May 11, 2015.
9. On April 20, 2015, the Court Appointed Representatives of the Class Members filed the Fresh as Amended Motion of the Court Appointed Representatives of Class Members for an Order Authorizing the Filing of Additional/Late Claims ("Amended Additional Claims Motion").
10. The purpose of this Seventeenth Report of the Monitor is to inform the Court with respect to the Amended Additional Claims Motion.

## CLAIMS PROCESS

11. On April 4, 2014, the Court issued the Claims Procedure Order which set out the process by which creditors could file claims in these proceedings. The Claims Procedure Order established a bar date of 5:00 p.m. (Montreal time) on June 13, 2014 ("Bar Date"). Pursuant to the Amended Claims Procedure Order issued on June 13, 2014, the Bar Date was extended to 5:00 p.m. (Montreal time) on July 14, 2014 but solely for claims of wrongful death victims.
  
12. Pursuant to the Claims Procedure Order, in order to notify creditors of the Bar Date and the claims process, the Monitor undertook various steps to both inform creditors of the Bar Date and to provide assistance in completing a proof of claim prior to the Bar Date. The following steps have been summarized in prior Monitor reports (most notably in the Ninth Report dated April 25, 2014) however, it is relevant to summarize those steps in this report:
  - On April 11, 2014, the Monitor posted the proof of claim form package on it's website;
  - During the week of April 7, 2014, the Monitor met with a representative of the City to review a communications plan. Further, the City posted on its website a notice alerting residents to the commencement of the claims process, the information sessions and where to obtain further information;
  - On April 12 and 19, 2014, the Monitor placed advertisements in La Presse, the Gazette and La Tribune as required under the Claims Order. These advertisements also appeared on April 18 and 25, 2014 in L'Echo de Frontenac and the Sherbrooke Record to inform creditors of the claims process, the claims bar date and information sessions (see Exhibit "3" of the Monitor's Ninth Report);
  - During the week of April 14, 2014, the Monitor mailed via Canada Post to all residents and businesses in the MRC du Granit region a public notice ("Public Notice") (see Exhibit "4" of the Monitor's Ninth Report) which described the claim process;
  - On April 14, 2014, the Monitor mailed the proof of claim form to all known creditors and other parties including the service list, various governmental agencies and bodies, insurers and employees of MM&A;
  - On April 15, 2014, representatives of the Monitor opened a temporary office in the City of Lac-Mégantic ("Lac-Mégantic") to meet with creditors to provide assistance in the completion of proofs of claim. This office remained open through June 13, 2014;
  - On April 17, 2014, the Monitor provided the Public Notice to the CLD du Haut-Richelieu and requested that they circulate this notice to their members as well as enlist the aid of other CLD's in the region for the distribution of the Public Notice;

- On April 22, 23, 30 and May 5, 2014, information sessions were held in Lac-Mégantic to explain the claims process to the residents. Attached as Exhibit "5" to the Monitor's Ninth Report is the presentation provided to all who attended the information sessions. The attorneys for the Class Representatives were present at the information sessions and had the opportunity to assist the residents who attended the sessions;
  - The Monitor was in frequent communication with the attorneys for the Class Representatives to coordinate efforts to ensure creditors were aware of the claims process, the bar date and were provided with the necessary assistance to file claims.
13. In addition to the above-noted steps, the attorneys for the Class Representatives implemented various measures to inform creditors of the claims process and the importance of filing a claim by the Bar Date, as more fully set out in paragraph 9 of the Amended Additional Claims Motion.
14. It should also be noted that a claims process in the Chapter 11 proceedings of Montreal, Maine & Atlantic Railway Ltd. ("MMA") was instituted which followed the same timelines as the MMAC Claims Procedure Order and allowed for the deemed filing of claims.

#### **CLAIMS FILED BY THE BAR DATE**

15. The Monitor refers to its Twelfth Report dated July 18, 2014 and its Thirteenth Report dated September 22, 2014 for details regarding the claims filed by the Bar Date. After adjusting for duplications, we note that approximately 4,300 claims were filed in the CCAA and the Chapter 11 (approximately 4,000 in the CCAA and 300 in the Chapter 11).
16. In respect of the 4,300 claims filed, approximately 3,700 included a claim for damages that has been categorized as a Bodily Injury and Moral Damages Claim (as defined in the Plan).

#### **AMENDED ADDITIONAL CLAIMS MOTION**

17. The Amended Additional Claims Motion seeks an authorization to file the following late claims:
- June 2014 Claims (as defined in the Amended Additional Claims Motion);
  - January 2015 Claims and April 2015 Claims (as defined in the Amended Additional Claims Motion).

**June 2014 Claims (Exhibit R-1 to the Amended Additional Claims Motion)**

- 32 claims which were signed June 13, 2014 or prior and that were not submitted to the Monitor prior to the Bar Date as a result of a Class Counsel inadvertence;
- 70 claims which were all dated June 30, 2014, but which have never been remitted to the Monitor;
- In respect of these 102 claims, they can be classified as follows:
  - 65 claims impact solely the Bodily Injury and Moral Damages category;
  - 24 of the claims impact both the Bodily Injury and Moral Damages and the Property and Economic Damages categories;
  - 5 claims impact both the Bodily Injury and Moral Damages and Wrongful Death categories. Upon a preliminary review of these 5 claims and a discussion with Class Counsel, it appears that these creditors likely do not meet the definition of Wrongful Death Claims and should be included solely in the Bodily Injury and Moral Damages category;
  - 6 claims impact solely the Property and Economic Damages category;
  - 2 claims impact solely the Wrongful Death category.
- Based upon a preliminary review of the information listed in Exhibit R-1, the Monitor believes that up to 20 of the 102 claims (including the 2 Wrongful Death Claims) may be duplicates of claims that were already filed with the Monitor prior to the Bar Date and 1 claim is listed twice in this exhibit. Further, the 2 claims which impact solely the Wrongful Death category have already filed claims in the Chapter 11 and have opted out of Class Representation;
- Accordingly, after correcting for claims potentially already filed by the Bar Date or listed in duplicate, and using the points system set out in Schedule F to the Plan, the addition of all of the June 2014 Claims to the Bodily Injury and Moral Damages category is estimated to dilute the distribution to this category by approximately 1.0%;
- At this stage, it is not possible to quantify the impact of these late claims on the distribution to the Property and Economic Damages category;
- It should be noted that the Monitor has based its summary and analysis on the information contained in Exhibit R-1 to the Amended Additional Claims Motion and adjustments may be required following the review of the actual proofs of claim which were submitted to the Monitor on April 22, 2015.

**January / April 2015 Claims (Exhibit R-2 to the Amended Additional Claims Motion)**

- 108 claims on which we comment as follows:
  - 82 of the claims are dated January 30, 2015 or in February 2015;
  - 26 claims are described in Exhibit R-2 to the Amended Additional Claims Motion as:

*"En jaune seulement inscrit au recours collectif pas de prévue de réclamation"*

However, when Class Counsel sent us the copies of the proofs of claims listed in Exhibit R-2, the Monitor notes that in fact claims have been submitted for all 26 of these creditors. 24 of the claims are late as they are dated in April 2015 and 2 of the claims are dated June 12, 2014, prior to the Bar Date.

- These 108 claims can be classified as follows:
  - 56 claims impact solely the Bodily Injury and Moral Damages category.
  - 42 claims impact both the Bodily Injury and Moral Damages category and the Property and Economic Damages category;
  - 9 claims impact both the Bodily Injury and Moral Damages and Wrongful Death categories. Upon a preliminary review of these 9 claims and a discussion with Class Counsel, it appears that these creditors likely do not meet the definition of Wrongful Death Claims and should be included solely in the Bodily Injury and Moral Damages category;
  - 1 claim impacts solely the Property and Economic Damages category.
- Based upon a preliminary review of the information listed in Exhibit R-2, the Monitor believes that 13 of the 108 claims may be duplicates of claims that were already filed with the Monitor prior to the Bar Date;
- Accordingly, after correcting for claims potentially already filed by the Bar Date and using the points system set out in Schedule F to the Plan, the addition of the January / April 2015 Claims to the Bodily Injury and Moral Damages category is estimated to dilute the distribution to this category by approximately 1.0%.
- At this stage, it is not possible to quantify the impact of these late claims on distribution to the Property and Economic Damages category.
- It should be noted that the Monitor has based its summary and analysis on the information contained in Exhibit R-2 to the Amended Additional Claims Motion and adjustments may be required following the review of the actual proofs of claim which were submitted to the Monitor on April 22, 2015.

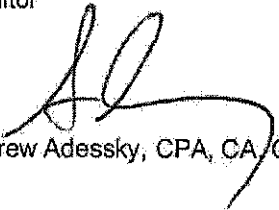
## CONCLUSION

18. The Plan as filed was negotiated over many months with numerous parties and achieves a compromise of a multitude of positions. These complex and delicate negotiations were, among many elements, based on the amount and the nature of the claims filed by the Bar Date. The categorization of these claims and an agreement as to their relative values were essential to the determination of the allocation of settlement funds amongst the differing categories of creditors. Consequently, any decision to authorize the filing of claims after the Bar Date should be taken on the basis of this particular context.
19. In the particular case of the Amended Additional Claims Motion, and on the following assumptions:
  - The Plan as eventually approved and sanctioned will provide for the distribution of fixed amounts per category of claims as currently foreseen by its terms; and
  - All of the creditors having claims in the category of claims which would be affected by the filing of the late claims described in the Additional Amended Claims Motion agree to such late filings;the Monitor has no objection to the conclusions sought by the Amended Additional Claims Motion.
20. If the agreement of the creditors described in paragraph 19 above cannot be ascertained, than the Monitor believes that:
  - With respect to the June 2014 Claims:
    - The late filing of the claims that are dated prior to the Bar Date should be authorized inasmuch as the reason for the non-filing of these claims by the Bar Date appears to be due to the inadvertence of Class Counsel and thus it would be unfair to these creditors to not allow them to participate in any distribution under the Plan.
    - The late filing of the claims that are dated after the Bar Date requires additional analysis to determine when the creditors actually provided the information to complete their claims before determining if there are circumstances that would justify the acceptance of these late claims.
  - With respect to the January / April 2015 Claims, the Monitor is concerned that there is little justification provided in the Amended Additional Claims Motion to explain why these claims are only being filed seven months or more after the Bar Date.

Further, the Monitor is concerned that if there are no clear and compelling reasons to authorize late filings, the Bar Date may become meaningless and that a significant number of other late claims not yet identified could be filed that would have an impact on the Plan and on the recovery of those creditors who respected the Bar Date.

Respectfully submitted at Montreal, this 24<sup>th</sup> day of April, 2015.

**Richter Advisory Group Inc.**  
Monitor



Andrew Adessky, CPA, CA, CIRP

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, 12<sup>th</sup> Floor, in the city and  
district of Montreal, Quebec, H3A 0G6

Monitor

---

EIGHTEENTH REPORT OF THE MONITOR  
May 8, 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 "CCA"). 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. On March 30 and 31, 2015, on April 14, 2015, and on May 7, 2015, six insurance companies filed motions seeking to file claims after the bar date ("Late Claims Motions").
5. 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").
6. 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").
7. On April 14, 2015, the Court Appointed Representatives of the Class Members filed the following motions:
  - Motion for an Order Authorizing the Filing of Additional Claims;
  - Motion for an Order Accepting the Filing of an Amended Plan and for Advice and Directions ("Amended Plan Motion").
8. Pursuant to a hearing on April 15, 2015, the Court issued the following orders and set out the following timeline for the hearing of various motions as follows:
  - Order for the Twelfth Extension of the Stay Period;
  - Claims Resolution Order;
  - Amended Additional Claims Motion (as defined below) to be heard on April 27, 2015;
  - Creditors' Meeting Motion filed by Petitioner and the Amended Plan Motion to be heard on April 30, 2015;
  - Late Claim Motions to be heard on May 11, 2015.
9. On April 20, 2015, the Court Appointed Representatives of the Class Members filed the Fresh as Amended Motion of the Court Appointed Representatives of Class Members for an Order Authorizing the Filing of Additional/Late Claims. On April 24, 2015, the Court Appointed Representatives of the Class Members filed the Further Fresh as Amended Motion of the Court Appointed Representatives of Class Members for an Order Authorizing the Filing of Additional/Late Claims ("Amended Additional Claims Motions").

10. On April 24, 2015, the Petitioner filed a Motion for Advice and Directions Pursuant to the Representation Order ("Directions Motion"). The Directions Motion and the Amended Additional Claims Motion were heard on April 27, 2015. A draft order is being reviewed with respect to the Directions Motion and the Amended Additional Claims Motions was postponed to May 11, 2015.
11. On April 24, 2015, the Monitor issued its Seventeenth Report to inform the Court with respect to the Amended Additional Claims Motions.
12. On April 29, 2015, the Court Appointed Representatives of the Class Members withdrew their Amended Plan Motion.
13. On May 5, 2015, the Court issued its "Jugement sur la requête pour convocation d'une assemblée de créanciers".
14. The purpose of this Eighteenth Report of the Monitor is to inform the Court with respect to the Late Claims Motions.
15. 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.

#### **CLAIMS PROCESS**

16. On April 4, 2014, the Court issued the Claims Procedure Order which set out the process by which creditors could file claims in these proceedings. The Claims Procedure Order established a bar date of 5:00 p.m. (Montreal time) on June 13, 2014 ("Bar Date"). Pursuant to the Amended Claims Procedure Order issued on June 13, 2014, the Bar Date was extended to 5:00 p.m. (Montreal time) on July 14, 2014 but solely for claims of wrongful death victims.
17. Pursuant to the Claims Procedure Order, in order to notify creditors of the Bar Date and the claims process, the Monitor undertook various steps to both inform creditors of the Bar Date and to provide assistance in completing a proof of claim prior to the Bar Date. The following steps have been summarized in prior Monitor reports (most notably in the Ninth Report dated April 25, 2014) and again in the Monitor's Seventeenth Report dated April 24, 2015 in connection with the Amended Additional Claims Motion.

**CLAIMS FILED BY THE BAR DATE**

18. The Monitor refers to its Twelfth Report dated July 18, 2014 and its Thirteenth Report dated September 22, 2014 for details regarding the claims filed by the June 13, 2014 Bar Date ("Bar Date").
19. Included in the approximately 4,300 claims filed in the CCAA by the Bar Date were eight (8) Subrogated Insurer Claims for an amount of \$33.7 million which we summarize as follows:

Montreal Maine & Atlantic Canada Co. Insurance Claims filed prior to Bar Date	
(in 000's)	Claim Filed by Bar Date
Promutuel Monts et Rives	\$ 14,386
Intact Compagnie d'assurance	10,125
AIG Insurance Company of Canada	4,000
La Mutuelle des municipalités du Québec	2,319
La Personnelle, assurances générales inc.	1,108
Desjardins Assurances générales inc.	1,053
La Compagnie d'assurance Bélair Inc.	625
Zurich Insurance Company Ltd.	83
	<u>\$ 33,701</u>

**LATE CLAIM MOTIONS**

20. The Late Claims Motions seeks authorization to file six (6) late claims in the Subrogated Insurance category as follows:

Montreal Maine & Atlantic Canada Co. Late Filed Insurance Claims				
	Late Claim Amount (in 000's)	# of Insureds represented by Late Claim	# of Claims Filed by Insureds by the Bar Date	Amount of Claims Filed by the Bar Date (in 000's)
La Garantie Compagnie d'Assurances de L'Amerique du Nord	\$ 2,697	1	1	\$ 5,524
Royal & Sun Alliance du Canada <sup>(1)</sup>	2,640	7	4	288 <sup>(2)</sup>
La Capitale assurances générales Inc	1,058	41	28	1,055
L'Unique Assurances générales Inc	657	28	14	1,222
Groupe Ledor Inc, Mutuelle d'assurance	501	4	3	1,020
Société d'assurance générale Northbridge	67	2	-	-
	<u>\$ 7,620</u>	<u>83</u>	<u>50</u>	<u>\$ 9,108</u>

(1) Late claim filed in the amount of \$2.2 million, however the annex attached to the claim form indicates an additional \$0.4 million for a total claim of \$2.6 million.

(2) Includes 3 claims filed in the Chapter 11 for "amounts not less than \$75,000".

21. The Late Claims Motions advance various reasons for not having filed claims by the Bar Date which all revolve around a lack of knowledge of the claims process and the implications of the settlements reached with potentially liable third parties, namely that the various insurers filing late claims only become aware of the foregoing between January to April 2015, depending on the insurer ("Late Insurers").
22. In response thereto and following a review of the motions and accompanying affidavits, the Monitor provides the following comments:
- The Monitor refers to its prior reports (including the Ninth and Seventeenth) for a listing of all steps taken to notify creditors or the Bar Date which includes a mailing to creditors, newspaper advertisements, posting all materials on the Monitor's website. The Monitor further notes the intensive media coverage in respect of MMAC's restructuring including articles relating to the Bar Date as well as the concept of releases in favour of potentially liable third parties in exchange for contributions to a settlement fund;
  - The Monitor confirms that the Late Insurers were not specifically listed on the creditor listing provided by MMAC nor did they request to be added to the service list throughout these proceedings while other insurers and numerous others did at a time when there was no particular indication that any distribution would be made to creditors;
  - Had they requested to be added to the service list, the Late Insurers would have received the following materials which all explain the third party release concept:
    - Various Monitor reports including the Eleventh, Twelfth and Fourteenth;
    - Various motion material of the Petitioner including the Motion for a Fourth Order Extending the Stay Period, the Motion for Seventh Order Extending the Stay Period, Motion for an Eighth Order Extending the Stay Period, Motion for a Ninth Order Extending the Stay Period which also contained a draft term sheet in respect of a plan and the Motion for a Tenth Order Extending the Stay Period;
    - Judgments of this Court dated February 17, 2014, March 14, 2014 and March 31, 2014.
  - The affidavits attached to the Late Claim Motions of La Capitale assurances générales Inc. and L'Unique assurances générales Inc. state that attempts to contact the Monitor in January 2015 were unsuccessful and this also caused delays in the ability of these Late Subrogated Insurers to understand the impact of the proposed Plan and their ability to pursue potential third parties to recover claims paid. The Monitor has reviewed its records and thus far has not located any communications from the individual who signed the affidavits on behalf of these two insurers. Further information will be required to know specifically by what methods attempts were made to contact the Monitor and for whom messages were left. Notwithstanding, even if contact had

been made with the Monitor in January 2015, this would still have been at least six months after the Bar Date;

- The motion of La Garantie Compagnie d'Assurance de l'Amérique du Nord ("La Garantie") as well as the accompanying affidavit refers to information received from the Monitor to the effect that the proof of claim filed by their insured has been partially rejected by the Monitor insofar as it relates to the portion of the claim that was covered by insurance. The Monitor confirms speaking with a representative of La Garantie on January 23, 2015 about the restructuring and the claim filed by their insured. However, the Monitor did not advise La Garantie and could not have advised La Garantie that it had partially rejected the claim of the insured as there was no procedure in place to permit the Monitor to reject any claims received. Indeed, the Claims Resolution Order enabling the Monitor to review and reject claims was only issued on April 15, 2015.

23. The following table summarizes the impact to the creditors in the Subrogated Insurer category if the Court grants the conclusions in the Late Claims Motions:

Montreal Maine & Atlantic Canada Co. Dilution Factor of Late Claims Filing				
(in 000's)	As Filed in CCAA	Estimated Distribution Amount (no late claims)	Estimated Distribution Amount - with late claims	Dilution Effect
<u>Claims Filed Prior to the Bar Date</u>				
Promutuel Monts et Rives	\$ 14,386	\$ 4,806	\$ 3,920	\$ (886)
Intact Compagnie d'assurance	10,125	3,383	2,759	(624)
AIG Insurance Company of Canada	4,000	1,336	1,090	(246)
La Mutuelle des municipalités du Québec	2,319	775	632	(143)
La Personnelle, assurances générales inc.	1,108	370	302	(68)
Desjardins Assurances générales inc.	1,053	352	287	(65)
La Compagnie d'assurance Bélair Inc.	625	209	170	(39)
Zurich Insurance Company Ltd.	83	28	23	(5)
	<u>\$ 33,701</u>	<u>\$ 11,259</u>	<u>\$ 9,183</u>	<u>\$ (2,076)</u>
% decrease in distribution		-	-	-18%
<u>Late Claims</u>				
La Garantie, Compagnie d'Assurances de l'Amérique du Nord	\$ 2,697	\$ -	\$ 735	
Royal & Sun Alliance du Canada	2,640	-	719	
La Capitale assurances générales inc.	1,058	-	288	
L'Unique assurances générales	657	-	179	
Groupe Ledor Inc, Mutuelle d'assurance	501	-	136	
Société d'assurance générale Northbridge	67	-	18	
	<u>\$ 7,620</u>	<u>\$ -</u>	<u>\$ 2,076</u>	
<b>Total</b>	<u>\$ 41,321</u>	<u>\$ 11,259</u>	<u>\$ 11,259</u>	

## CONCLUSION

24. The relief sought in the Late Claim Motions will reduce the recovery to Subrogated Insurers from 33% to 27% which has a dilutive impact of approximately 18% on those Subrogated Insurers who filed their claims by the Bar Date.
25. Given their active involvement in settling claims following the Derailment, given the intensive media coverage surrounding these restructuring proceedings, it is difficult to comprehend how the Late Insurers could have been completely unaware of the evolution of the restructuring including but not limited to the claims process and related Bar Date as well as the implications of the settlements reached with potentially liable third parties.
26. As noted in the Monitor's Seventeenth Report filed in connection with the Amended Additional Claims Motions, the Monitor is concerned that if there are no clear and compelling reasons to authorize late filings, the Bar Date may become meaningless and that a significant number of other late claims not yet identified and not necessarily on behalf of insurers could be filed that would have an impact on the Plan and on the recovery of those creditors who have acted in accordance with the Orders of this Court and filed before the Bar Date.
27. As noted by the Monitor, the unique structure of the Plan is a compromise of multiple positions held by numerous stakeholders and was achieved taking into consideration the claims filed by the Bar Date.

Respectfully submitted at Montreal, this 8<sup>th</sup> day of May, 2015.

**Richter Advisory Group Inc.**  
Monitor



Andrew Adessky, CPA, CA, CFP

**SUPERIOR COURT  
(Commercial Division)**

**CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF ST-FRANÇOIS**

**No: 450-11-000167-134**

**DATE: May 5, 2015**

---

**PRESENT: THE HONOURABLE GAÉTAN DUMAS, J.S.C.**

---

**IN THE MATTER OF THE PLAN OF COMPROMISE OF:**

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

Debtor/Petitioner

-and-

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

Monitor

---

**JUDGMENT ON THE MOTION FOR THE CONVENING OF A CREDITORS' MEETING**

---

- [1] The Court is presented with a motion to convene a creditors' meeting following the filing of a plan of arrangement in the present matter.
- [2] It is unnecessary to recite all the facts having led to the filing of the plan of arrangement.
- [3] The judgments previously rendered in this matter by the undersigned fully explain the path that the parties have taken. Suffice to recall that the plan is filed following a rail disaster that occurred in Lac-Mégantic in July 2013.
- [4] The file has always been managed on the basis that a plan of arrangement would be filed whereby third parties that are potentially liable for the derailment, or for the damages caused thereby, would contribute to an indemnity fund in order to obtain releases in exchange for a substantial contribution to the plan of arrangement.

- [5] A fund in the amount of over \$300,000,000 has now been created, which has allowed for the filing of a plan that may acceptable to creditors, who will be presented with said plan at a creditors' meeting to be held on June 9, 2015.
- [6] The motion to convene the creditors' meeting was to be a simple formality because all appeared to consent.
- [7] In fact, the orders to be rendered are relatively standard for this type of file.
- [8] However, at the hearing of the motion, Mtre Luc Despins, a U.S. attorney representing the official committee of victims in the Chapter 11 case, drew the court's attention to paragraph 38 of the proposed draft order, which reads as follows:
- [38] ORDERS that, notwithstanding anything in this Order to the contrary, the allowance and valuation of claims for voting purposes with respect to the plan of liquidation filed in the Bankruptcy Case (the "U.S. Plan") shall be determined solely in accordance with the U.S. Plan and any orders entered in such case with respect to the U.S. Plan, and the allowance of (including any objections to) for distributions, and distributions with respect to, Derailment Wrongful Death Claims (as defined in the U.S. Plan) shall be solely in accordance with the terms of the U.S. Plan;
- [9] Mtre Despins advises the court that certain U.S. attorneys have had mandates executed by the representative of the 47 victims who perished during the derailment.
- [10] These mandates, signed in Lac-Mégantic, Québec, appear to state that the U.S. attorneys would receive an amount representing 40% of any amount collected following actions filed in the United States.
- [11] Mtre Despins was concerned about the fact that paragraph 38 of the draft order could deprive the court of jurisdiction in the event that disputes would arise regarding the payment of fees that may appear disproportionate to the services rendered.
- [12] Since the beginning of this file, the court has very openly expressed to counsel that it believes the best way to resolve this matter is with the contributions of third parties in exchange for releases and by the certification of the Canadian class action for settlement purposes. This was, in the opinion of the court, the most efficient way to settle this matter.
- [13] However, the court consistently stated to counsel that their fees would be subject to court approval.
- [14] In fact, in Québec, the attorneys for the class action must have their fees approved by the judge who certifies the class action and renders a judgment on the distribution of the amounts awarded by judgment.
- [15] That said, we learned today that victims who have been attributed a fund in the amount of \$77,205,000 could see that amount slashed by 40%, which would be



payable to U.S. attorneys. This represents an amount of \$30,882,000 in professional fees.

- [16] Without rendering judgment on the issue and without deciding on the value of the services rendered, the court advised all the parties from the bench that it did not intend to relinquish the inherent power of the Superior Court to ensure that the proposed plan is fair and reasonable.
- [17] At this time, too many questions remain unanswered. Should questions be raised as to the validity of mandates granted in Québec in the days following the rail disaster, which court would have jurisdiction to determine the fees payable?
- [18] Does the percentage payable according to the executed mandate apply to all 48<sup>1</sup> victims or only to a portion of them?
- [19] Are the fees in conformity with the code of ethics applicable in Québec?
- [20] So many questions for which we do not have the answers.
- [21] A cross border protocol was approved by the Québec Superior Court and the Bankruptcy Court for the District of Maine. Could this protocol be used to resolve any potential conflicts?
- [22] The court must respect the jurisdiction of the court of Maine. The opposite is true as well. If the court does not have jurisdiction, it does not have the intention to usurp the jurisdiction of another court.
- [23] Moreover, do mandates duly executed with knowledge of the facts deprive the court of its inherent jurisdiction?
- [24] That said, one thing is clear, in order to have full effect, a plan of arrangement that has been duly approved by the creditors must be sanctioned by the court. It is up to the court to grant releases to third parties and only an order of the court can have this effect on those who do not settle the file on an individual basis.
- [25] For the moment, all these questions remain hypothetical. A vote on the plan has yet to be held. If the plan is not approved, the questions will remain unanswered. If the plan is approved and questions are raised, the court will decide.
- [26] Moreover, these questions are not to be answered prior to the meeting. The plan provides for the payment of amounts of money but does not address the payment of fees that may be owing.
- [27] Another question is raised. At the hearing, the attorneys stated that the proceedings filed in the United States have resulted in higher contributions than would have been obtained within the scope of proceedings filed in Québec.
- [28] As such, despite the very high fees, the victims would receive more than if they had simply filed proceedings in Québec. This is possible but the court does not presently

---

<sup>1</sup> A victim has been added since the onset of the proceedings.

have the information necessary to respond. According to the U.S. plan, the compensation appears to be taxable. Are taxes payable on the gross amount received or on the amount received after payment of professional fees? The victims most certainly already have this information but the court does not.

- [29] Mtre Hans Mercier, who acts as counsel to the U.S. attorneys, stated that the court has had the opportunity to appreciate the work done by counsel in Québec but has not had the chance to appreciate the work done by the U.S. attorneys.
- [30] It is quite likely that the possibility of legal action in the U.S. contributed to increasing the offers. What we do not yet know is the work done in the United States.
- [31] If the simple possibility of proceedings in the U.S. caused the offers to increase, it may be less necessary to know the extent of the work actually carried out.
- [32] As previously mentioned, there are many questions that remain unanswered.
- [33] At the hearing, the court allowed counsels to make any additional comments.
- [34] In keeping with the spirit of collaboration that appears to have been present since the onset of the file, the Chapter 11 trustee, Mr. Robert Keach, as well as the attorney for the official committee of victims in the Chapter 11, Mtre Luc Despins, along with the Monitor, the attorneys for the Government of Québec and those representing Class Members have agreed to modify paragraph 38 of the draft order so that it would read as follows:

ORDERS that, notwithstanding anything in this Order to the contrary and subject to the entry of the Canadian Approval Order and U.S. Approval Order and such Approval Orders becoming Final Orders, the valuation of claims for voting purposes with respect to the U.S. Plan shall be determined solely in accordance with the U.S. Plan and any orders entered in such case with respect to the U.S. Plan. Distributions with respect to Derailment Wrongful Death Claims (as defined in the U.S. Plan) shall be solely in accordance with the terms of the U.S. Plan, which U.S. Plan shall provide for distribution by the WD Trustee strictly in accordance with Schedule E to the Plan, which is also attached to the U.S. Plan; provided, however, this paragraph shall be subject to the U.S. Plan, or any subsequent U.S. plan, being amended (and the U.S. Approval Order containing an identical provision) to provide :

(i) that no payment or distribution of any kind shall be made to any lawyer or counsel allegedly representing the holder of a Derailment Wrongful Death Claim (as defined in the U.S. Plan) unless such lawyer or counsel presents to the WD Trustee an executed engagement letter or similar document that entitles such lawyer or counsel to such fees or distribution, including any contingent fee (a "Derailment Wrongful Death Client Engagement Letter"); and

(ii) that no such distribution or payment shall be made by the WD Trustee if:

(a) the Derailment Wrongful Death Client Engagement letter has been held to be invalid or inoperative by a final order or ruling

entered in any proceeding (including an administrative proceeding) initiated by a party with standing disputing the rights of such lawyer or counsel to fees before any court, administrative tribunal or other forum with jurisdiction over such agreements, in the United States or Canada, (collectively a "Proceeding"), in which there was a challenge to the validity or operation of the Derailment Wrongful Death Client Engagement Letter; or

(b) any Proceeding is pending in which there is a challenge to the validity or operation of the Derailment Wrongful Death Client Engagement Letter, unless and until such Proceeding has been concluded by a final order or ruling in favor of the lawyer or counsel involved, and then the distribution to the lawyer and counsel shall be limited by the terms of any such final order or ruling issued in such Proceeding, to the extent such order or ruling contains any such limitations.

Holders of Derailment Wrongful Death Claims involved in a Proceeding shall receive the portion of their distributions on account of their Derailment Wrongful Death Claim not in dispute in such Proceeding at the same time and in the same manner as the holders of other Derailment Wrongful Death Claims not involved in a Proceeding.

Nothing in this paragraph 38 is intended to limit or can be interpreted as limiting the exercise by the CCAA Court of its jurisdiction in connection with the CCAA Proceeding, including in connection with the approval of the Plan.<sup>2</sup>

- [35] This new language confirms that the court, without deciding on the merits, retains jurisdiction to decide on the validity and enforceability of the fee agreements.
- [36] As such, the court grants the motion for the convening of a creditors' meeting, all while specifying that it retains jurisdiction to decide on the validity and enforceability of the fee agreements that would have been executed in favour of attorneys in the days that followed the rail disaster.

**FOR THESE REASONS, THE COURT:**

- [37] **GRANTS** the motion;
- [38] **DECLARES** that the court retains jurisdiction to decide on the validity and enforceability of the fee agreements that would have been executed in favour of attorneys in the days that followed the rail disaster.

**Service**

- [39] **DECLARES** that the notices given for the presentation of the Motion are proper and sufficient;

---

<sup>2</sup> Paragraph 38 becomes paragraph 75 of the present order.

**Definitions**

[40] **ORDERS** that capitalized terms used herein and not otherwise defined have the meaning ascribed to them in the Plan and that the following terms in this Order shall have the following meanings ascribed thereto:

“**Chair**” has the meaning ascribed to it in paragraph 19 hereof;

“**Claims Bar Date**” means 5:00 p.m. (Montréal time) on July 14, 2014 with respect to Wrongful Death Claims and 5:00 p.m. (Montréal Time) on June 13, 2014 with respect to all the other Creditors;

“**Claims Procedure Order**” means the Amended Claims Procedure Order rendered on June 13, 2014, in the CCAA Proceeding by the CCAA Court, establishing, among other things, a claims procedure in respect of Petitioner, as such Order may be amended, restated or varied from time to time;

“**Creditors**” means collectively all Persons having filed a Proof of Claim and “**Creditor**” means any one of them;

“**Creditors’ Meeting**” means the meeting of Creditors to be held on the Meeting Date for the purposes of considering and voting on the Plan;

“**Determination Date**” means August 8, 2013;

“**Designated Newspapers**” means La Presse, L’Écho de Frontenac, La Tribune, The Sherbrooke Record and the Montreal Gazette;

“**Meeting Date**” means June 9, 2015 subject to any adjournment, postponement or other rescheduling or further order of this Court;

“**Meeting Materials**” shall have the meaning ascribed to such term in paragraph 62;

“**Monitor’s Website**” means <http://www.richter.ca/en/insolvency-cases/m/montreal-maine-and-atlantic-canada-co>;

“**Motion**” has the meaning ascribed to it in the preamble of this Creditor’s Meeting Order;

“**Notice to Creditors**” means a notice of this Order and of the Creditors Meetings setting out the Meeting Date, substantially in the form attached hereto as Schedule A;

“**Plan**” means the plan of compromise and arrangement filed on March 31, 2015 pursuant to the provisions of the CCAA, as it may be amended, varied or supplemented from time to time in accordance with its terms;

“**Proofs of Claim**” means the form of proofs of claim filed by Creditors before the Claims Bar Date in accordance with the Claims Procedure Order or otherwise

accepted for filing pursuant to further order of this Court. Individually, each is a "Proof of Claim";

**"Protective Proof of Claim"** means the Proof of Claim filed by the Class Representatives on behalf of the holders of Wrongful Death Claims in accordance with paragraph 6 of the Claims Procedure Order;

**"Proxy"** means a proxy substantially in the form of Schedule B hereto;

**"Publication Date"** means the date on which the publication of the newspaper notice in all of the Designated Newspapers has been completed;

**"Representation Order"** means the Representation Order issued by this Court on April 4, 2014;

**"Sanction Hearing"** has the meaning ascribed to it in paragraph 70 hereof;

**"Service List"** means the service list posted on the Monitor's Website;

**"Voting Claim(s)"** means the Claims listed in paragraph 44 hereof;

**"Voting Claim Categories"** are the Wrongful Death Claims, Bodily Injury and Moral Damages Claims, Property and Economic Damages Claims, Subrogated Insurer Claims, Government Claims, and Non-Derailment Claims. Individually, each is a "Voting Claim Category";

**"Voting Creditor"** means a Creditor that holds a Voting Claim;

### Interpretation

[41] **DECLARES** that where the context requires, a word or words importing the singular shall include the plural and vice versa;

### CCAA Plan

[42] **ORDERS** that:

the Plan is hereby accepted for filing; and

Petitioner shall seek approval of the Plan in the manner set forth herein;

[43] **ORDERS** that Petitioner, in consultation with the Monitor, is hereby authorized to file any modification of, or amendment, variation or supplement to, the Plan (each a "Plan Modification") prior to the Meeting Date or at or before any Creditors' Meeting, in which case any such Plan Modification shall, for all purposes, be and be deemed to form part of and be incorporated into the Plan. Petitioner shall give notice of any such Plan Modification at the Creditors' Meeting prior to the vote being taken to approve the Plan. Petitioner may give notice of any such Plan Modification at or before the Creditors' Meeting by notice which shall be sufficient if, in the case of notice at the Creditors' Meeting, given to those Voting Creditors present at such meeting in person or by Proxy. The Monitor shall post on the Monitor's Website, as soon as possible,

any such Plan Modification, with notice of such posting forthwith provided to the Service List;

**Value of Claims for Voting Purposes**

[44] **ORDERS** that each Voting Creditor shall be entitled to vote and, for voting purposes:

Wrongful Death Claims shall, in the aggregate, represent no more than 22.2% (\$200,000,000.00) in value of all votes cast by Creditors;

Bodily Injury and Moral Damages Claims shall, in the aggregate, represent no more than 11.1% (\$100,000,000.00) in value of all votes cast by Creditors;

Property and Economic Damages Claims shall, in the aggregate, represent no more than 8.3% in value of all votes cast by Creditors (\$75,000,000.00);

Subrogated Insurer Claims shall, in the aggregate, represent no more than 3.8% (\$33,701,330.00) in value of all votes cast by Creditors;

Government Claims shall, in the aggregate, represent no more than 48.5% (\$435,626,775.00) in value of all votes cast by Creditors;

Non-Derailment Claims shall, in the aggregate, represent no more than 6.1% (\$55,046,528.00) in value of all votes cast by Creditors;

[45] **ORDERS** that each vote within its given Voting Claim Category, subject to the maximum total value attributed to such Voting Claim Category under the Plan and as set forth in paragraph 44 hereof, will be valued at an amount that is proportional to the face value of the corresponding Proof of Claim versus the face value of all Proofs of Claim filed in a given Voting Claim Category, the whole in accordance with the following formula:

$$\frac{\text{Face value of the Creditor's Proof of Claim}}{\text{Aggregate face value of all Proofs of Claim in the relevant Voting Claim Category}} \times \text{Maximum total value attributed to relevant Voting Claim Category as set forth in paragraph 7 hereof} = \text{Value of the Creditor's Voting Claim}$$

**Creditors' Meeting**

[46] **DECLARES** that the Monitor is hereby authorized to call, hold and conduct the Creditors' Meeting at the Centre Sportif Mégantic in the City of Lac-Mégantic, Québec, for the purpose of considering and, if appropriate, approving the Plan, unless the Creditors decide by resolution carried by the majority of votes (one vote for every Voting Claim, to be valued in accordance with paragraphs 44 and 45 hereof) to adjourn the Creditors' Meeting to a later date;

[47] **DECLARES** that the only Persons entitled to attend and speak at the Creditors' Meeting are Voting Creditors, their legal representatives and their proxy holders,

representatives of the Petitioner, representatives of the Monitor, the Chair (as defined below) and their respective legal and financial advisors. Any other Person may be admitted to the Creditors' Meeting on invitation of the Chair;

- [48] **ORDERS** that any proxy which any Creditor wishes to submit in respect of the Creditors' Meeting (or any adjournment thereof) must be substantially in the form attached hereto as Schedule B (or in such other form acceptable to the Monitor or the Chair) and be received by the Monitor before the beginning of the Creditors' Meeting;
- [49] **DECLARES** that the quorum required at the Creditors' Meeting shall be one Creditor present at such meeting in person or by proxy. If the requisite quorum is not present at the Creditors' Meeting, then the Creditors' Meeting shall be adjourned by the Chair to such time and place as the Chair deems necessary or desirable;
- [50] **DECLARES** that the only Persons entitled to vote at the Creditors' Meeting shall be:
- (a) Subject to subparagraph (b), Voting Creditors and their proxy holders;
  - (b) Class Representatives on behalf of Class Members (as defined in the Representation Order) who qualify as Voting Creditors, except for those Class Members having opted out of class representation pursuant to the Representation Order within the prescribed delay;
- [51] **ORDERS** that Creditors eligible to file Bodily Injury and Moral Damages Claims, as well as Property and Economic Damages Claims, in the CCAA Proceeding but that opted to only file their proofs of claim in the Bankruptcy Case shall be deemed, for voting and distribution purposes only, to have filed said proofs of claim in the CCAA Proceeding (the "**Deemed Filing**");
- [52] **ORDERS** that, should any Deemed Filing proof of claim be subject to dispute, such dispute would be resolved within the scope of the Bankruptcy Case, where the holders of such Deemed Filing proofs of claim opted to file same;
- [53] **ORDERS** that the Protective Proof of Claim shall be admitted for voting purposes, subject to paragraphs 44 and 45 hereof, and the votes of Creditors benefiting therefrom shall be cast by the Class Representatives, except for those Creditors having opted out of class representation pursuant to the Representation Order within the prescribed delay. Said creditors may vote individually or by proxy based on the value attributed to their claim in the Protective Proof of Claim, the whole subject to paragraphs 44 and 45 hereof;
- [54] **DECLARES** that a Voting Claim shall not include fractional numbers and Voting Claims shall be rounded down to the nearest whole Canadian dollar amount;
- [55] **ORDERS** that the results of any and all votes conducted at the Creditors' Meeting shall be binding on all Creditors, whether or not any such Creditor is present or voting at the Creditors' Meeting;
- [56] **ORDERS** that the Monitor shall preside as the chair of the Creditors' Meeting (the "Chair") and, subject to any further order of this Court, shall decide all matters relating to the conduct of the Creditors' Meeting. Petitioner and any Creditor may appeal from

any decision of the Chair to the Court, within five (5) Business Days of any such decision;

- [57] **DECLARES** that, at the Creditors' Meeting, the Chair is authorized to direct a vote with respect to the Plan and any amendments, variations or supplements thereto as the Petitioner may consider appropriate;
- [58] **ORDERS** that the Monitor may appoint scrutineers for the supervision and tabulation of the attendance, quorum and votes cast at the Creditors' Meeting. A Person designated by the Monitor shall act as secretary at the Creditors' Meeting;
- [59] **ORDERS** that in the absence of instruction to vote for or against the approval of the Plan in a duly signed and returned Proxy, the Proxy shall be deemed to include instructions to vote for the approval of the Plan;
- [60] **ORDERS** that any resolution to be voted on at the Creditors' Meeting to approve, amend, vary or supplement the Plan, will be decided by the majority of votes representing two-thirds (2/3) in value (one vote for every Voting Claim, to be valued in accordance with paragraphs 44 and 45 hereof) on a vote by ballot, and that any other matter submitted for a vote at the Creditors' Meeting shall be decided by a majority of votes cast on a vote by a show of hands, unless the Chair decides, in his or her sole and absolute discretion, to hold such vote by way of ballot;

#### **Notification Procedure**

- [61] **ORDERS** that the Notice to Creditors, which is hereby approved, shall be published twice by the Monitor in the Designated Newspapers as soon as possible following the issuance of this Order, but in any event no later than May 23, 2015;
- [62] **ORDERS** that, on or before 5:00 p.m. Montréal time on May 15, 2015, the Monitor shall publish on the Monitor's Website and send to the Service List the following documents (collectively, the "Meeting Materials"):
- (a) the Notice to Creditors (in English and French);
  - (b) the Plan (in English and French);
  - (c) a copy of the form of voting letter and Proxy (in English and French) for Creditors not represented by the Class Representatives, substantially in the form attached hereto as Schedule B; and
  - (d) the Monitor's report on the Plan (in English and French);
  - (e) the Chapter 11 Plan of Liquidation and Disclosure Statement filed in the Bankruptcy Case (the "U.S. Plan");
  - (f) a copy of the present Order (in French and English);
- [63] **ORDERS** that Petitioner is hereby authorized to make such modifications, amendments or supplements ("Additional Information") to the Meeting Materials (other than the Plan which may be modified, amended or supplemented solely in



accordance with paragraph 43 hereof) as Petitioner may determine, and Petitioner shall distribute or make available such Additional Information by one or more of the following methods determined in its discretion in consultation with the Monitor: (i) posting on the Monitor's Website; (ii) news release; (iii) newspaper advertisement; (iv) pre-paid regular mail, email, fax or delivery (in person or by courier); (v) except for Proxies, distribution at the Creditors' Meetings; or (vi) such other reasonably practicable method in the circumstances.

[64] **ORDERS** that, in addition to the publications referred to in paragraphs 61 and 62 hereof, the Monitor shall send the following to all known Creditors, by prepaid regular mail, courier, fax or email, at the address appearing on a Creditor's Proof of Claim by no later than 5:00 p.m. (Montréal time) on or about May 21, 2015:

- (a) a copy of the Notice to Creditors (in English and French);
- (b) the Plan (in English and French);
- (c) a copy of the form of voting letter and Proxy (in English and French) for Creditors not represented by the Class Representatives, substantially in the form attached hereto as Schedule B;
- (d) the Monitor's report on the Plan (in English and French)
- (e) a copy of the present Order (in English and French);
- (f) a letter advising that a copy of the U.S. Plan may be obtained from the Monitor's Website;

[65] **ORDERS** that publication of a copy of the Notice to Creditors in the manner set out in paragraph 61, and publication of the Meeting Materials in accordance with paragraph 62 hereof, shall constitute good and sufficient service of the Meeting Materials on all Persons who may be entitled to receive notice thereof, or of these proceedings, or who may wish to be present in person or by proxy at the Creditors' Meeting, or who may wish to appear in these proceedings, and no other form of notice or service need be made on such Persons, and no other document or material need be served on such Persons in respect of these proceedings;

[66] **ORDERS** that if the holder of a Claim or any subsequent holder of the whole of a Claim who has been acknowledged by the Monitor as the Creditor in respect of such Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person or Persons, such transfer or assignment shall not create a separate Claim or Claims and such Claim shall continue to constitute and be dealt with as a single Claim notwithstanding such transfer or assignment, and the Monitor and the Petitioner shall in each such case not be bound to recognize or acknowledge any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim in whole as the Creditor in respect of such Claim, provided such Creditor may by notice in writing to the Monitor direct that subsequent dealings in respect of such Claim, but only as a whole, shall be with a specified Person and in such event, such Creditor, such transferee or assignee of the Claim as

a whole shall be bound by any notices given or steps taken in respect of such Claim with such Person in accordance with this Order;

### **Notices and Communications**

- [67] **ORDERS** that any notice or other communication to be given under this Order by a Creditor to the Monitor or the Petitioner shall be in writing in substantially the form provided for in this Order and will be sufficiently given only if given by mail, telecopier, courier or email addressed to:

#### **If to the Petitioner**

Montreal Maine & Atlantic Canada Co.  
C/o Gowling Lafleur Henderson LLP  
3700 – 1 Place Ville Marie  
Montréal, Québec H3B 3P4

Attention: Me Patrice Benoit (patrice.benoit@gowlings.com)  
Attention: Me Pierre Legault (pierre.legault@gowlings.com)  
Fax: 514-876-9550

#### **If to the Monitor:**

Richter Advisory Group  
1981 McGill College Avenue, 11th Floor  
Montréal, Québec H3A 0G6

Attention: Mr. Gilles Robillard (grobillard@richter.ca)  
Attention: Mr. Andrew Adessky (aadessky@richter.ca)  
Fax: 514-934-3504

with a copy by email or fax (which shall not be deemed notice) to:

Attention: Me Sylvain Vauclair (svauclair@woods.qc.ca)  
Fax: 514-284-2046

- [68] **ORDERS** that any document sent by the Monitor pursuant to this Order may be sent by e-mail, ordinary mail, registered mail, courier or facsimile transmission. A Creditor shall be deemed to have received any document sent pursuant to this Order two (2) Business Days after the document is sent by mail and one (1) Business Day after the document is sent by courier, e-mail or facsimile transmission. Documents shall not be sent by ordinary or registered mail during a postal strike or work stoppage of general application;

### **Sanction Hearing**

- [69] **ORDERS** that the Monitor shall report to this Court no later than two (2) Business Days after the Creditors' Meeting with respect to:
- (a) the results of the voting to approve the Plan;
  - (b) any other matter which the Monitor considers relevant in view of the Sanction Hearing;

- [70] **ORDERS** that, subject to further order of this Court, if the Plan has been accepted in accordance with the terms of this Order, the Petitioner shall bring a motion presentable before this Court on June 17, 2015 (the "Sanction Hearing"), seeking an order approving and sanctioning the Plan (the "Canadian Approval Order");
- [71] **ORDERS** that a copy of the motion seeking the Canadian Approval Order be published on the Monitor's Website as soon as it is filed with this Court;
- [72] **ORDERS** that the Petitioner shall serve the motion seeking the Canadian Approval Order on the Service List no later than two (2) Business Days after the Creditors' Meeting and that such service should constitute good and sufficient service for the purpose of the Sanction Hearing upon all Persons entitled to receive such service;
- [73] **ORDERS** that any Person intending to object to the motion seeking the Canadian Approval Order shall file with this Court a written notice containing a description of its proposed grounds of contestation and shall effect service of same upon counsel to the Petitioner and the Monitor, and upon those Persons listed on the Service List, the whole no later than 4:30 p.m. (Montréal Time) two (2) Business Days after the service of the motion seeking the Canadian Approval Order;
- [74] **ORDERS** that in the event that the Sanction Hearing is adjourned, postponed or otherwise rescheduled, only those Persons listed on the Service List are required to be served with notice of the adjourned, postponed or otherwise rescheduled date;
- [75] **ORDERS** that, notwithstanding anything in this Order to the contrary and subject to the entry of the Canadian Approval Order and U.S. Approval Order and such Approval Orders becoming Final Orders, the valuation of claims for voting purposes with respect to the U.S. Plan shall be determined solely in accordance with the U.S. Plan and any orders entered in such case with respect to the U.S. Plan. Distributions with respect to Derailment Wrongful Death Claims (as defined in the U.S. Plan) shall be solely in accordance with the terms of the U.S. Plan, which U.S. Plan provides for distribution by the WD Trustee strictly in accordance with Schedule E to the Plan, which is also attached to the U.S. Plan; provided, however, this paragraph shall be subject to the U.S. Plan, or any subsequent U.S. plan, being amended (and the U.S. Approval Order containing an identical provision) to provide :
- (i) that no payment or distribution of any kind shall be made to any lawyer or counsel allegedly representing the holder of a Derailment Wrongful Death Claim (as defined in the U.S. Plan) unless such lawyer or counsel presents to the WD Trustee an executed engagement letter or similar document that entitles such lawyer or counsel to such fees or distribution, including any contingent fee (a "Derailment Wrongful Death Client Engagement Letter"); and
  - (ii) that no such distribution or payment shall be made by the WD Trustee if:
    - (a) the Derailment Wrongful Death Client Engagement letter has been held to be invalid or inoperative by a final order or ruling entered in any proceeding (including an administrative proceeding) initiated by a party with standing disputing the rights of such lawyer or counsel to fees before any court, administrative tribunal or other

forum with jurisdiction over such agreements, in the United States or Canada, (collectively a "Proceeding"), in which there was a challenge to the validity or operation of the Derailment Wrongful Death Client Engagement Letter; or

(b) any Proceeding is pending in which there is a challenge to the validity or operation of the Derailment Wrongful Death Client Engagement Letter, unless and until such Proceeding has been concluded by a final order or ruling in favor of the lawyer or counsel involved, and then the distribution to the lawyer and counsel shall be limited by the terms of any such final order or ruling issued in such Proceeding, to the extent such order or ruling contains any such limitations.

Holders of Derailment Wrongful Death Claims involved in a Proceeding shall receive the portion of their distributions on account of their Derailment Wrongful Death Claim not in dispute in such Proceeding at the same time and in the same manner as the holders of other Derailment Wrongful Death Claims not involved in a Proceeding.

Nothing in this paragraph 75 is intended to limit or can be interpreted as limiting the exercise by the CCAA Court of its jurisdiction in connection with the CCAA Proceeding, including in connection with the approval of the Plan.

#### **Aid and Assistance of Other Courts**

[76] **REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or any court or any judicial, regulatory or administrative body of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order;

#### **General Provisions**

[77] **ORDERS** that for the purposes of this Order, all Claims that are denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging currency to Canadian dollars on the Determination Date;

[78] **ORDERS** that the Monitor shall use reasonable discretion as to the adequacy of completion and execution of any document completed and executed pursuant to this Order and, where the Monitor is satisfied that any matter to be proven under this Order has been adequately proven, the Monitor may waive strict compliance with the requirements of this Order as to the completion and execution of documents;

[79] **DECLARES** that the Monitor may apply to this Court for advice and direction in connection with the discharge or variation of its powers and duties under this Order;

[80] **ORDERS** the provisional execution of this Order notwithstanding appeal;

[81] **THE WHOLE** without costs.

Sherbrooke, \_\_\_\_\_

---

Honourable Gaétan Dumas, J.S.C.

D

R

A

F

T