

December 10, 2012

Andrew J. Hatnay
ahatnay@kmlaw.ca

PRIVATE AND CONFIDENTIAL

Via Regular Mail

Dear Sir/Madam:

**Re: Hollinger Canadian Publishing Holdings Co. (“HCPH”)
Proceedings under the *Companies’ Creditors Arrangement Act* (“CCAA”)
Our File No. 09/1867**

We are writing further to our letter of June 18, 2012 to provide you with an update on the status of this matter. We apologize for taking longer than anticipated to provide everyone with an update. However, as described below, the past few months have been very active and we have been working closely with the HCPH Client Committee on a number of issues.

1. Motion to recover funds from STMG Trust for HCPH

In April, 2012, on the instructions of the Client Committee, we filed a motion with the court for recovery of amounts to HCPH from a trust fund set up by SunTimes Media Group (“STMG”) in 2008. The STMG Trust was funded by \$10 million of cash transferred from HCPH at the direction of its parent company, STMG, prior to HCPH obtaining CCAA protection in Canada in 2009. The Trust was set up to cover the legal fees of the directors and officers of STMG to defend against the lawsuits brought against them by Conrad Black for defamation based on statements allegedly made against Black relating to a Special Committee report that investigated the affairs of Hollinger International in 2004.

In January, 2012, we discovered that a complex settlement (the “Global Settlement”) had been put together in 2011 among a number of parties including Black, the former STMG directors and officers, Chicago Newspaper Liquidation Corp. (“CNLC”, the successor company to STMG), Hollinger Inc. (the Canadian company) and other individuals. The Global Settlement was complicated as it sought to settle three different groups of multiple litigation, one of which were Black’s six defamation actions against the former STMG directors and officers mentioned above. The feature of the settlement that we particularly objected to was the payment of the balance remaining in the STMG Trust (approximately \$6.5 million, as approximately \$3 million had been spent to date on the legal fees of the STMG directors and officers) to CNLC, instead of the balance being paid back to HCPH. CNLC is also insolvent and is undergoing liquidation. The first priority creditor of CNLC is the United States Internal Revenue Service (“IRS”). Under the settlement, all the trust funds paid to CNLC from the STMG Trust would be ultimately distributed to the IRS.

Our motion was hotly opposed by all the parties to the Global Settlement. They complained vigorously to the court that we were interfering with their complex settlement and that our motion threatened to derail the settlement. We pointed out that based on the language of the STMG Trust documents, their settlement contained a defective term: it was impermissible for CNLC to receive the funds from the STMG Trust and that HCPH, the original contributor of the \$10 million to fund the Trust, remained the residual beneficiary of the Trust. We argued that the contemplated payment to CNLC from the trust was an attempt to unlawfully use the STMG Trust funds to settle Hollinger litigation unrelated to the defamation actions.

Our motion was ultimately set down for a court hearing. Prior to the hearing, the supervising judge of HCPH CCAA proceeding (Mr. Justice Colin Campbell of the Ontario Superior Court of Justice (Commercial List)) directed all parties to attend a mediation and attempt to reach a settlement. Associate Chief Justice Douglas Cunningham was retained to conduct the mediation. After two and a half days of mediation with many counsel and parties in attendance, including John Craig and Bill Mann, a settlement was reached whereby the parties to the Global Settlement (in particular, CNLC, Hollinger Inc. and Black) agreed that \$2.95 million would be paid back to HCPH from the STMG Trust. As the retirees are the predominant creditor group of HCPH, the bulk of those funds would flow to each of you via the distributions contemplated under the HCPH Plan of Compromise, first as a contribution to the underfunded HCPH pension plans and then as a cash distribution in respect of your OPEB claims. We enclose a copy of the Endorsement of Associate Chief Justice Cunningham from the mediation dated September 27, 2012 for your reference.

The recovery of \$2.95 million from the STMG Trust back to HCPH as a result of our motion is a very positive result for insolvent HCPH. We also enclose a copy of the 14th Monitor's Report describing the settlement (without appendices) for your reference. The payment is expected to be made to HCPH shortly.

2. Advance Tax Ruling

We have also been actively involved in pursuing an Advance Tax Ruling with Canada Revenue Agency to have the future cash distributions in respect of your OPEB claims rendered non-taxable. Unfortunately, we have encountered difficulties with HCPH and the Monitor in moving the Advance Tax Ruling forward. The difficulty stems from a disagreement among the tax lawyers involved. Tax counsel for the Monitor and HCPH, respectively, differ in their approach about how to pursue the tax ruling from the strategy recommended by our tax counsel (the firm of Davies Phillips and Vineberg). We are advised that the route of tax counsel to HCPH and the Monitor would not be successful. Our tax counsel believes that if their approach is followed there is a high likelihood the requested tax ruling can be successfully obtained. To date, the tax counsel have been unable to agree on the approach for the ruling.

We will continue to press forward with the Advance Tax Ruling so that distributions on your OPEB claims are not taxable. We will report our progress in due course. However, please note that another issue has very recently arisen that potentially impacts the future of OPEB distributions which is discussed below.

3. High annuity purchase costs for HCPH pension plans

As explained in our June 18, 2012 letter, the HCPH creditors meeting was held on July 20, 2012 to vote on the proposed Plan of Compromise of HCPH. The requisite majority of creditors voted in favour of the Plan of Compromise and the Court subsequently approved the Plan. In essence, the Plan of Compromise is the agreement between HCPH and its creditors (of which the retirees are the predominant group) for the distribution of all of HCPH's assets. As you are aware, there are two major claims by the retirees as creditors against HCPH:

- (a) Claims based on the pension deficits in certain of HCPH pension plans; and
- (b) OPEB claims, which are comprised of claims for terminated health benefits and terminated supplemental pension benefits (i.e., SERA payments and Divisional Allowance payments).

We had been advised during the negotiation of the Plan of Compromise (as had the company and the Monitor) that the pension deficits in the HCPH pension plans were relatively small such that there was expected to be more than enough cash available in HCPH's estate to fund those plans in full on their wind up (so that pension benefits will continue to be paid at their full rates), while leaving approximately \$12 million for a cash distribution on the retirees' OPEB claims. As a result of the settlement we achieved on our motion with respect to the STMG Trust described above, the amount of cash in HCPH's estate would increase to approximately \$15 million. The Monitor reported that under this approach, the pension plan deficits could be paid in full (on the plan wind up of the plans) and OPEB claimants could still expect to receive approximately 20-24 cents on the dollar on their OPEB claims. In consultation with the Client Committee, it was agreed that this was the best approach in the circumstances. This scheme is reflected in the terms of the current Plan of Compromise.

However, last week we received news from the company that the current price to purchase annuities recently provided by life insurance companies to take over the payment of pension benefits once the HCPH plans are wound up are currently extraordinarily high. An annuity is a vehicle used during the pension wind up process that involves the purchase of an annuity contract with an insurance company. The annuity contract functions to continue with the payment of monthly pension benefits once the wind up process for the originating pension plans concluded.

However, due apparently to the relatively small size of the annuity market in Canada and interest rates remaining at historic lows, the current quotes for the annuities received by the company would consume all of the pension plan assets as well as the cash in HCPH's estate, leaving no funds for distribution to OPEB claimants. Moreover, the annuity quotes recently obtained were such that even by utilizing all the pension plan assets plus all the cash currently in the company's estate (i.e., approximately \$12 million, not including the \$2.95 million to be paid from the STMG Trust) would still leave a shortfall in the amount required to purchase the annuities. As a result, the company could not proceed with the annuity purchases.

We are discussing an alternative approach with the company and the Monitor so that HCPH's assets are distributed in the most advantageous manner for all retirees. In the meantime, your monthly pension benefits will continue to be paid in full amounts until further notice.

As a result of this development, we expect this matter to continue for at least 4-6 more months. We will keep you informed of developments and we thank you for your patience.

If you have any questions or concerns, please contact us at the following coordinates:

Email: hcp@kmlaw.ca
Hotline: 1.866.545.9917

Yours truly,

KOSKIE MINSKY LLP



Andrew J. Hatnay
AJH:jc
Enclosures

cc: HCPH Client Committee (Gordon Bullock, John Craig, Fraser Kean, Bill Mann, Ross Morrison and Fred Granville)
Anthony Guindon, James Harnum and Demetrios Yiokaris, *Koskie Minsky LLP*