THE CANADIAN COURT: I think now we need to deal -- Judge Gross, we need now to deal with the request by the Monitor.

THE US COURT: Yes. Is that what you were rising to address, Mr. Ruby?

MR. RUBY: Something else, but I can wait.

THE US COURT: All right.

THE CANADIAN COURT: The Monitor has requested in its memorandum of June 19, 2014 that two legal issues be determined.

The Monitor has referred to the claims on bonds where there is a guarantee and the Monitor refers to these as crossover bonds, and has requested that the courts now determine two legal issues.

Firstly, whether the holders of the crossover bonds claims are legally entitled in each jurisdiction to claim or receive any amounts under the relevant indentures, above and beyond the outstanding principle debt and prepetition interest; that is, namely, above and beyond $4.092 billion US; and secondly, if determined that the holders of the crossover bonds claims are so entitled, what additional amounts are such holders

entitled to so claim and receive.

The request by the Monitor is supported by Nortel Networks UK Pension Trust Limited, the Canadian Creditors Committee, and Wilmington Trust NA. The Monitor's request is opposed by the US Debtor, by the Unsecured Creditors Committee, by the Ad Hoc Bondholders, by Bank of New York Mellon, and by the Law Debenture Trust Company of New York.

I do not intend to deal with all of the arguments pro and con; rather, I will provide brief reasons for my decision, and Judge Gross and I have each agreed, have each come to the same conclusion, and that conclusion is that these two issues raised by the Monitor should now be dealt with.

The amount of postpetition interest claimed is of crucial significance. To the end of 2013, it is $1.6 billion, so it is growing beyond that now. That's to be put in context of the assets in the lockbox of $7.3 billion that is apparently not earning much interest at all.

We are not in a position to know with any certainty what effect a decision on this claim will have on settlement discussions. We are not party to those discussions. It appears to me that knowing what the position is on the issue, one way

or the other, cannot hurt those discussions.

We are told that further settlement discussions can be held next week and that is all to the good.

However, what we propose to order will not affect the ability of the parties to negotiate further next week. Negotiations and compromises are the stuff of CCAA proceedings.

However, this issue has been known since the Rockstar transaction in 2011 and has not been settled. It is also the case that three mediations and discussions for a week, a few weeks ago, have all failed. It is not at all sure that further discussions will achieve a settlement while this issue remains outstanding.

I see no prejudice to anyone in having this issue now dealt with. The longer it festers, the higher the legal fees will undoubtedly be. Legal fees in this case are of huge concern to the courts and to the pensioners and other claimants, and they are hardly minor.

If there are going to be appeals, so be it. That likely would be the case in any event, and if so, the sooner the better.

The success or failure of the

bondholders' claim for interest will have an important and large effect on the Canadian Estate, and on the claims of the pensioners and of the disability claimants. The sooner that is decided, the better.

In their allocation pleadings, the US interests assert an allocation that will result in the US Estate being solvent and their expert evidence is to that effect. This, of course, is perhaps a US bankruptcy issue, but I would observe that while allocation issues have yet to be decided, one cannot, at this stage, say that the US Debtors' allocation position will not be accepted.

It is not unknown in Canada to have issues decided in CCAA proceedings on claims involving potential issues. In Re: Sino Forest Corporation, 2012 ONSC 4377, affirmed 2012 ONCA 816, an issue was decided in a class action by shareholders as to whether those claims were equity claims, and whether the auditor's claims for indemnity, if they ultimately were liable, would be equity claims. It was contended, without success, that the motion was premature and the issue was decided.

It is also the case under the Ashmore

v. Corporation of Lloyd's principles that this issue can now, and in my view should now, be determined.

I would also add it is not at all clear to me why there needs to be any Plan of Compromise in Canada. The assets have been sold, there is no continuing business of any kind, and liquidating CCAA proceedings are now commonplace.

It appears to me to be a straight legal issue. It would be exceedingly surprising if this issue had not been thoroughly researched by now, and the memoranda that we have received gives some indication that that is so.

What we propose is the matter be scheduled for argument in July, at some point after the start of the claims portion of the trial. We propose July 8, I beg your pardon, July the 11th, it works for both courts.

If there is some other time in July acceptable to all the interested parties and there is an issue with July 11th, we will consider that request if it is received this week.

My conclusion and Order is that the two issues raised by the Monitor be scheduled for argument on July the 11th, unless otherwise ordered

for a different date in July, and that the briefs to be exchanged and filed should be done so no later than July the 8th. That concludes my remarks.

THE US COURT: Well, I join Justice Newbould in his ruling that we ought to hear the what I will call the interest issues at this time.

First let me dispel the concerns that I previously ruled on this issue and determined at that time that the issue was premature for determination and advisory in nature. As an elderly client used to tell me in her broken English, "What was ain't."

And I have now heard or will have heard -- I guess I have now heard really all of the evidence on allocation. A finding that the United States Estate is solvent is not assured, but I have to observe that the only parties pressing a methodology which would render the US Estate insolvent is really persuading the Court that it should proceed with this discrete legal issue at this time.

And while it is certainly true that there are other issues in the case, there is one issue that can be decided and should be decided at

this time as this case otherwise continues really without an end in sight. It is fair to say that the interest issues are ones which will require decision at some point, and this is as good a time as any.

So let me observe that my earlier decision not to hear the interest issue did not result in the parties being able to formulate a compromise. Maybe doing so now will have that beneficial result.

As for a concern about appeals and the impact of appeals on the progress of these cases, I really consider that possibility to be virtually nonexistent. Before anyone would take an appeal on less than all of the issues in this case, in effect, an interlocutory appeal, I would urge them to read the decisions of the Third Circuit. And I think that the Third Circuit made it clear that this case has to proceed to a conclusion and without interruption.

As far as whether this requires analysis as if there were a motion for reargument pending, I consider this really to be more of a matter of case management. And even if the reargument standard were applicable, I have heard

in the past few weeks nothing but new evidence, evidence which I had not considered and which was still in the process of being formulated when I previously ruled that I would not hear the interest issues.

The concern that this is not a matter subject to the joint jurisdiction of the Canadian and US Courts is similarly a nonstarter issue. Justice Newbould and I will decide the issues confronting us separately. But more importantly, while we will do so independently, we will also be acting in the spirit of Chapter 15 cases; that is, with cooperation in scheduling, fair and efficient administration, and for the protection and maximization of debtors' assets. And that language can be found in a number of cases, including the ABC Learning decision by the Third Circuit.

It is true, as the US Debtors posit, that there are other factual and legal issues in these cases. So why spotlight the interest issue? Because after five and a half years and a fortune in administrative costs, we can and we should. It may not help the parties, but it will not hurt, and it will bring some semblance of resolution.

And I will note that before we can

render our decision on these interest issues, perhaps the parties can use the $1.6 billion spread between no interest and interest at the contract rate to come to some accommodation.

And with that, I would say that we are prepared to consider any scheduling requests which would have us hear you in July. But again, we have discussed the July 11 date.

Mr. Lowenthal.

THE CANADIAN COURT: July 11 date.

THE US COURT: Yes.

THE CANADIAN COURT: Yes. And I might just say on that score, Judge Gross, I know there is a telephone conference scheduled for Friday morning at 10:00 to deal with document issues in the Canadian claims case in July. What I can suggest to the parties is if there is a problem with that July 11 date, perhaps you can alert us and we can take it up at the conference call. We can have Judge Gross participate to the extent we are dealing with that date --

THE US COURT: Sure.

THE CANADIAN COURT: -- on Friday morning.

THE US COURT: I see Mr. Lowenthal here