



Court File No. 09-8503-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.) FRIDAY, THE 30th
JUSTICE McEWEN) DAY OF JANUARY, 2015

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT IN THE MATTER OF HOLLINGER CANADIAN
PUBLISHING HOLDINGS CO.**

**FINAL DISTRIBUTION, DISCHARGE AND
TERMINATION OF PROCEEDING ORDER**

THIS MOTION, made by Hollinger Canadian Publishing Holdings Co. (the
"Applicant" or "HCPH"), for an order:

- (a) Approving the CRA Agreement (as defined below) and authorizing HCPH, the CRO and the Monitor to execute and implement the CRA Agreement and any ancillary steps and documents in connection therewith;
- (b) Authorizing and directing the Applicant to act as Disbursing Agent and to make a Final Distribution in accordance with the CCAA Plan (each such term defined below);

- (c) Authorizing and directing the Applicant, with the assistance of the Monitor to withhold and remit Taxes (as defined in the CCAA Plan) from the Final Distribution in accordance with the CRA Agreement in making the Final Distribution;
- (d) Ordering that no tax gross-up pursuant to section 5.09(b) of the CCAA Plan be made in respect of the Non-Pension Affected Claims that are Health Benefit Claims (as defined below);
- (e) Authorizing and directing the Applicant, with the assistance of the Monitor, to deal with any Unclaimed Distributions (as defined in the CCAA Plan) with respect to any Distributions made under the Plan, including the Final Distribution in the manner set out in this Order;
- (f) Authorizing access by the Monitor and the CRO and such persons as the Monitor or the CRO may direct to all of HCPH's books and records ("**HCPH Documents**"), including any HCPH Documents in the possession of a third party and authorizing and directing HCPH and/or the Monitor to enter into agreements, *nunc pro tunc*, to store certain HCPH Documents with Iron Mountain Canada Corporation ("**Iron Mountain**");
- (g) On the Plan Completion Date (as defined below), discharging and releasing the Monitor, CRO, Representative Counsel and other Estate Representatives (as defined below) and terminating these CCAA Proceedings and discharging the Administration Charge and the CRO Charge, as each is defined in the Initial Order (as defined below) (collectively the "**CCAA Charges**");

- (h) Approving the Twenty-Second Report of the Monitor and the activities of the Monitor set out therein and the activities of the CRO set out in the Krupa Affidavit (as defined below);
- (i) Requesting the aid and recognition of this Order by other Courts in Canada and the United States, as required; and
- (j) Such further and certain other relief as this Honorable Court deems just;

was heard this day at 330 University Avenue, Toronto, Ontario.

UPON READING the Motion Record of the Applicant (the "**Motion Record**"), including the Notice of Motion of the Applicant, the Affidavit of Michael Krupa (the "**CRO**"), sworn January 26, 2015 (the "**Krupa Affidavit**"), and the Twenty-Second Report of the Monitor, and upon hearing the submissions of counsel for the Applicant, the Monitor and Representative Counsel, no one appearing for any other party on the service list in these CCAA Proceedings, although duly served,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby abridged such that this motion is properly returnable today and that service of the Motion Record is hereby validated in all respects and no other or further service thereof is required.

INTERPRETATION

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Initial Order or the Applicant's Plan of Compromise

and Arrangement dated May 24, 2012 (the "**CCAA Plan**") unless otherwise indicated. All monetary amounts referenced in this Order are in Canadian currency unless otherwise indicated.

APPROVAL OF SETTLEMENT WITH CRA

3. **THIS COURT ORDERS** that the Memorandum of Agreement with the CRA, dated as of January 6, 2015 and attached as Exhibit "E" to the Krupa Affidavit (the "**CRA Agreement**") is hereby approved and HCPH, the CRO and the Monitor are authorized to execute and implement the CRA Agreement, take any ancillary steps and actions in connection therewith and make a Final Distribution (as defined below) to holders of OPEB Claims and other Non-Pension Affected Claims pursuant to this Order and the CCAA Plan without any reserve, holdback or liability for Taxes.

FINAL DISTRIBUTION

4. **THIS COURT ORDERS AND DIRECTS** the Applicant to act as Disbursing Agent (as defined in the CCAA Plan) and to provide one or more distributions of the remaining Available Cash Pool held at HCPH, after deduction of any amounts required to pay proven Administration Claims and Post-Implementation Claims (including in relation to Final Remaining Matters (as defined in the Twenty-Second Report of the Monitor (the "**Final Remaining Matters**")), to be completed after the Final Distribution Date (defined below)) of which HCPH and the Monitor have been notified prior to the Final Distribution Date plus an Additional Reserve of \$1.58 million, to be held by the Monitor for payment of any Administration Claims to be paid in connection with the Final Remaining Matters in accordance with the estimates set out in the Twenty-Second Report of the Monitor after the Final Distribution Date, on a *pro-rata* basis, subject to paragraph 6 below, to the holders of OPEB Claims and other Non-Pension Affected

Claims (as defined in the CCAA Plan), in respect of such Creditors Proven Non-Pension Affected Claims, in accordance with the CCAA Plan, which Final Distribution (defined below) shall be made as soon as reasonably practicable after February 23, 2015 (the "**Final Distribution Date**") in accordance with HCPH's register of Proven Affected Claims (the "**Claims Register**") as provided to Representative Counsel on or about January 22, 2015, subject to paragraph 6 below, which is hereby approved. All such distributions occurring on or after the Final Distribution Date to holders of OPEB Claims and other Non-Pension Affected Claims are collectively referred to in this Order as the "**Final Distribution**".

5. **THIS COURT ORDERS AND AUTHORIZES** the Applicant, with the assistance of the Monitor, to withhold and remit Taxes from the Final Distribution in accordance with the CRA Agreement in making the Final Distribution.

6. **THIS COURT ORDERS** that for purposes of calculating the Final Distribution to be made in respect of Non-Pension Affected Claims:

- (a) no tax gross-up shall be made pursuant to section 5.09(b) of the CCAA Plan in respect of OPEB Claims that are in the nature of health and dental claims (but excluding B.C. Medical Claims) (such claims, "**Health Benefit Claims**"), when determining the distribution to be made in respect of each such Claim from funds available to be distributed to Non-Pension Affected Claims in the Final Distribution; and
- (b) to address the impact of the tax gross-up of Health Benefit Claims for the purposes of the Interim Distribution (as defined in the Interim Distribution Order dated May 12, 2014) on the amounts distributed on account of such Health

Benefit Claims and all other Non-Pension Affected Claims in the Interim Distribution, the amount of the Final Distribution in respect of each Non-Pension Affected Claim will be adjusted as applicable so that the aggregate amount actually distributed in respect of each such Claim in the Interim Distribution and the Final Distribution is equal to the aggregate amount that would have been distributed in the Interim Distribution and the Final Distribution on account of such Claim had there been no tax gross-up applied to Health Benefit Claims pursuant to section 5.09(b) of the CCAA Plan for the purposes of the Interim Distribution.

7. **THIS COURT ORDERS** that the CRO and the Applicant, in carrying out the role as Disbursing Agent under the CCAA Plan, and the Monitor in providing the assistance required by this Order, shall have all of the protections given to them by the CCAA, the Initial Order, the Sanction Order dated July 31, 2012 (the "**Sanction Order**") and the CCAA Plan and that the Applicant, the CRO, the Monitor and Representative Counsel shall incur no liability or obligation as a result of the carrying out of their obligations under this Order.

UNCLAIMED DISTRIBUTIONS

8. **THIS COURT ORDERS AND DIRECTS** the Applicant, with the assistance of the Monitor and Representative Counsel, to deal with any unclaimed Distributions, including any unclaimed Distributions referenced in Section 5.08 of the CCAA Plan in accordance with this paragraph. The Monitor shall provide to Representative Counsel a list of all Persons entitled to a Final Distribution who, after 60 days following the Final Distribution Date have not cashed their cheques or other instruments (collectively "**Cheques**") in respect of the Final Distribution, and

Representative Counsel, with the assistance of HCPH, shall make reasonable efforts to contact such Persons to assist them in cashing the Cheque or obtaining replacement Cheques from HCPH where necessary. Funds in respect of any Cheques that have not been cashed six months after the Final Distribution Date shall be returned to HCPH to form the "**Uncashed Distributions Fund**" and any Person who has not cashed his or her Cheque or requested a replacement Cheque from the Monitor in writing in respect of a Distribution six months after the Final Distribution Date shall be deemed never to have received such Distribution and shall not be entitled to receive any Distribution or other consideration from HCPH pursuant to the CCAA Plan or otherwise and HCPH and the other Released Parties shall be and are hereby released from all Claims relating thereto. Any amount of the Additional Reserve that is not required to complete Final Remaining Matters or other reserves or funds held or received by HCPH or the Monitor after the Final Distribution Date that are not required to make payments that rank ahead of Distributions to be made in respect of Non-Pension Affected Claims pursuant to the CCAA Plan shall be added to the Uncashed Distributions Fund. HCPH and the Monitor shall use commercially reasonable efforts to correspond with CRA to apply any amounts previously withheld and remitted for Taxes in respect of the Uncashed Distributions Fund to the Taxes that HCPH (as Disbursing Agent) is required to withhold and remit in respect of the further Final Distribution of the Uncashed Distributions Fund made pursuant to this Paragraph 8. In the event that, upon completion of the Final Remaining Matters, the amount of the Uncashed Distributions Fund is at least \$250,000.00, HCPH, as Disbursing Agent is authorized to make a further Final Distribution of the Uncashed Distributions Fund in accordance with the terms of Paragraphs 4 through 6 of this Order, and the costs in respect of such Final Distribution shall be deducted from the Uncashed Distributions Fund. In the event that the Uncashed Distributions Fund is less than

\$250,000.00 upon completion of Final Remaining Matters, then the funds in the Uncashed Distributions Fund shall be dealt with in the manner agreed upon between the Monitor and Representative Counsel or, failing such agreement, in accordance with further order of this Court.

STORAGE AND ACCESS TO BOOKS AND RECORDS AND REDIRECTION OF MAIL

9. **THIS COURT ORDERS AND DIRECTS** that notwithstanding any other provision of the Order, or the discharge of the Monitor and the CRO pursuant to this Order, the Monitor and the CRO and such other persons as the Monitor and the CRO may direct, shall have full and continuing right of access to all of the Applicant's books and records, including, without limitation, the right to review same and reproduce or obtain copies and/or possession of any of same, notwithstanding their possession by any third party, including a third party storage services provider, and provision of a copy of this Order to any person is sufficient authority to provide the access and release of such books and records to the Monitor and the CRO as provided for herein.

10. **THIS COURT ORDERS AND AUTHORIZES** the CRO, on behalf of HCPH, *nunc pro tunc*, to enter into the any applicable agreement for the storage of the books and records of HCPH that are less than seven years old from the date of this Order and such other documents as HCPH and the Monitor may deem necessary (collectively the "**Stored Documents**") with Iron Mountain, and to execute all other documents and to take such further steps and actions as are necessary to store the Stored Documents with Iron Mountain for the lesser of seven years from the date of this Order or seven years from the date that such Stored Document was originally created or received by HCPH, following which time such books and records may be destroyed

by Iron Mountain in accordance with its ordinary procedures, as agreed to with HCPH or the Monitor. HCPH is not required to retain or store any document, books or records other than the Stored Documents and shall be under no liability or obligation whatsoever to any Person in relation to, or arising out of, the storage and destruction of any documents, books or records.

11. **THIS COURT ORDERS AND AUTHORIZES** HCPH and the Monitor to issue notice to Canada Post to redirect to the Monitor all mail addressed to HCPH, from and after the Final Distribution Date to the date that the Monitor's Certificate of Discharge and Plan Termination is filed.

EFFECT OF FILING OF MONITOR'S CERTIFICATE

12. **THIS COURT ORDERS** that, in addition to the provisions of the Sanction Order including paragraphs 29 and 30, which continue in effect, effective as at 12:01 a.m. on the date that the Monitor files with this Court the Certificate of Discharge and Plan Termination in the form attached as Schedule "B" to the Sanction Order (such date being the "**Plan Completion Date**") and after being advised by Representative Counsel that Representative Counsel has completed its duties, (i) these CCAA Proceedings shall be terminated and the Monitor, the CRO and Representative Counsel and each of their respective partners, employees, counsel and agents (collectively "**Estate Representatives**") shall be discharged and have no further duties or obligations in respect of HCPH or these CCAA Proceedings, and (ii) the CCAA Charges provided for under the Initial Order shall be discharged. Upon the termination of the CCAA Proceedings all releases and injunctions granted under the CCAA Plan and any prior Orders of this Court, including releases and injunctions in favour of each of the Released Parties under Article XI of the CCAA Plan shall remain in full force and effect.

APPROVAL OF MONITOR'S AND CRO'S ACTIVITIES

13. **THIS COURT ORDERS** that the Monitor's Twenty-Second Report and all of the activities described therein are hereby approved in their entirety and all of the activities of the CRO, described in the Krupa Affidavit, are hereby approved in their entirety.

AID AND RECOGNITION IN OTHER JURISDICTIONS

14. **THIS COURT REQUESTS** the aid and recognition of this Order by other Courts in Canada and the United States, as required.



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IN THE MATTER OF HOLLINGER CANADIAN PUBLISHING HOLDINGS CO.**

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceedings commenced in Toronto

**ORDER
FINAL DISTRIBUTION, DISCHARGE
AND TERMINATION OF PROCEEDINGS**

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