

RICHTER

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Court File No.: CV-19-614614-00CL

**IMERYS TALC AMERICA, INC., IMERYS TALC VERMONT, INC.
AND IMERYS TALC CANADA INC.**

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.,
IN ITS CAPACITY AS INFORMATION OFFICER**

May 17, 2019

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

**AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC. AND
IMERYYS TALC CANADA INC.**

**APPLICATION OF IMERYYS TALC CANADA INC., UNDER SECTION 46 OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**SECOND REPORT OF THE INFORMATION OFFICER
RICHTER ADVISORY GROUP INC.**

MAY 17, 2019

I. INTRODUCTION

1. On February 13, 2019 (the “**Petition Date**”), Imerys Talc America, Inc. (“**ITA**”), Imerys Talc Vermont, Inc. (“**ITV**”) and Imerys Talc Canada Inc. (“**ITC**” and together with ITA and ITV, the “**Debtors**”), commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”).
2. Also on the Petition Date, the Debtors filed various motions for interim and/or final orders (the “**First Day Motions**”) and the orders entered by the US Court in respect thereof, the “**First Day Orders**”) in the Chapter 11 Proceedings to permit the Debtors to advance their reorganization. The First Day Orders included an order authorizing ITC to act as the foreign representative (in such capacity, the “**Foreign Representative**”) of the Debtors for the within proceedings (the “**Foreign Representative Order**”).
3. On February 14, 2019, the US Court granted the Foreign Representative Order and other First Day Orders.
4. On February 15, 2019, ITC, in its capacity as Foreign Representative, commenced an application before the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (R.S.C. 1985, c. C-36, as amended) (the “**CCAA**”).
5. On February 20, 2019, the Canadian Court granted an initial recognition order (the “**Initial Recognition Order**”), *inter alia*: (i) declaring that ITC is a “foreign representative” as defined in section 45 of the CCAA; (ii) declaring that the Chapter 11 Proceedings are recognized as a “foreign main proceeding” under the CCAA; and (iii) granting a stay of proceedings against the Debtors in Canada. The Debtors’ proceedings under the CCAA are referred to herein as the “**Recognition Proceedings**”.
6. Also on February 20, 2019, the Canadian Court granted a supplemental order (the “**Supplemental Order**”), pursuant to section 49 of the CCAA, *inter alia*: (i) recognizing and giving full force and effect in Canada to certain of the First Day Orders; (ii) appointing Richter Advisory Group Inc. (“**Richter**”) as the information officer (the “**Information Officer**”) in respect of these proceedings; (iii) staying any proceedings, rights or remedies against or in respect of the Debtors, the business and property of the Debtors, the directors and officers of the Debtors in Canada, and the Information Officer; (iv) restraining the right of any person or entity to, among other things, discontinue or terminate any supply of products or services required by the Debtors in Canada; (v) granting a super-priority charge over the Debtors’ property in Canada in favour of the Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings, up to a maximum

- amount of \$200,000; and (vi) recognizing and giving full force and effect in Canada to certain of the First Day Orders.
7. On March 19, 2019 and, March 22, 2019, the US Court entered various orders sought by the Debtors at their “second day hearing” (the “**March 19 & 22 Entered Orders**”).
 8. On March 25, 2019, the US Court entered an Order Establishing Procedures for Interim Compensation and Reimbursement of Professionals (the “**Interim Compensation & Reimbursement Order**”).
 9. On March 26, 2019, the US Court entered an Order Authorizing Debtors to (I) Pay Their Prepetition Insurance Obligations, (II) Pay Their Prepetition Bonding Obligations, (III) Maintain Their Postpetition Insurance Coverage, and (IV) Maintain Their Bonding Program (the “**Final Insurance and Bonding Order**” and, together with the March 19 & 22 Entered Orders and the Interim Compensation & Reimbursement Order, the “**Second Day Orders**”).
 10. On April 3, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the following Second Day Orders:
 - (a) a final Order (I) Authorizing Debtors to Pay Certain Prepetition Claims of Shippers, Lien Claimants, Royalty Interest Owners, and 503(b)(9) Claimants, (II) Confirming Administrative Expense Priority of Undisputed and Outstanding Prepetition Orders, and (III) Granting Related Relief;
 - (b) a final Order (I) Authorizing the Filing of (A) a Consolidated Master List of Creditors, (B) a Consolidated List of the Top Thirty Law Firms Representing Talc Claimants, and (C) a Consolidated List of Creditors Holding the Thirty Largest Unsecured Claims, and (II) Approving Certain Notice Procedures for Talc Claimants;
 - (c) a final Order (I) Authorizing Payment of Prepetition Claims of Critical Vendors; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief;
 - (d) a final Order Authorizing Payment of Prepetition Taxes and Fees;
 - (e) a final Order Authorizing Payment of Certain Prepetition Workforce Obligations, Including Compensation, Expense Reimbursements, Benefits, and Related Obligations, (II) Confirming Right to Continue Workforce Programs on Postpetition Basis, (III) Authorizing Payment of Withholding and Payroll-Related Taxes, (IV) Authorizing Payment of Prepetition Claims Owing to Administrators of, or Third Party Providers Under, Workforce Programs, and (V) Authorizing Banks to Honor Prepetition Checks and Fund Transfers for Authorized Payments;

- (f) a final Order Authorizing (I) the Debtors to Honor Prepetition Obligations to Customers and to Otherwise Continue Customer Programs and (II) Financial Institutions to Honor and Process Related Checks and Transfers;
- (g) a final Order (I) Authorizing Payment of Prepetition Claims of Foreign Vendors; (II) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Granting Related Relief;
- (h) a final Order (I) Prohibiting Utility Companies from Altering or Discontinuing Service on Account of Prepetition Invoices, (II) Approving Deposit as Adequate Assurance of Payment, and (III) Establishing Procedures for Resolving Requests by Utility Companies for Additional Assurance of Payment;
- (i) a second interim Order (I) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Check, and Business Forms, (II) Authorizing Continuation of Existing Deposit Practices, (III) Approving the Continuation of Intercompany Transactions, and (IV) Granting Superpriority Administrative Expense Status to Certain Postpetition Intercompany Claims (the **“Second Interim Cash Management Order”**);
- (j) an Order Extending Time for Filing Schedules and Statements;
- (k) an Order Authorizing the Employment and Retention of KCIC, LLC as Insurance and Valuation Consultant, Nunc Pro Tunc to the Petition Date;
- (l) an Order Authorizing the Debtors to Employ and Retain Richards, Layton & Finger, P.A. as Co-Counsel to the Debtors, Nunc Pro Tunc to the Petition Date;
- (m) an Order Authorizing Employment and Retention of Stikeman Elliott LLP as Canadian Counsel, Nunc Pro Tunc to the Petition Date;
- (n) an Order Authorizing Employment and Compensation of Professionals Utilized in Ordinary Course of Business;
- (o) an Order Authorizing the Employment and Retention of Prime Clerk LLC (**“Prime Clerk”**) as Administrative Advisor nunc pro tunc to the Petition Date;
- (p) the Interim Compensation & Reimbursement Order; and
- (q) the Final Insurance and Bonding Order.

11. The primary purpose of the Chapter 11 Proceedings is to confirm a plan of reorganization pursuant to the Bankruptcy Code that channels all present and future Talc Claims (as hereinafter defined) against the Debtors to a trust so that the Debtors can emerge from these restructuring proceedings free of historic talc-related liabilities.
12. Richter, in its capacities as Proposed Information Officer and Information Officer, has previously provided the Canadian Court with two reports (the “**Prior Reports**”). The Prior Reports, copies of the orders granted by the Canadian Court and other material documents pertaining to the Recognition Proceedings are available on the Information Officer’s website at <http://www.richter.ca/insolvencycase/imerys-talc-canada-inc>. As well, there is a link on the Information Officer’s website to the Debtors’ restructuring website maintained by Prime Clerk, which includes copies of the US Court materials and orders, notices and additional information in respect of the Chapter 11 Proceedings.

II. PURPOSE OF REPORT

13. The purpose of this second report (the “**Second Report**”) of the Information Officer is to provide the Canadian Court with information concerning:
 - (a) the motion of the Foreign Representative returnable May 24, 2019, for recognition in Canada of the A&M Retention Order, the L&W Retention Order, the NGE Retention Order, and the Final Cash Management Order (each as hereinafter defined);
 - (b) an update on other matters relating to the Chapter 11 Proceedings;
 - (c) an update on matters relating to ITC; and
 - (d) the activities of the Information Officer since the first report (the “**First Report**”) dated April 1, 2019.

III. TERMS OF REFERENCE

14. In preparing this Second Report, the Information Officer has relied solely on information and documents provided by the Debtors and their advisors, including unaudited financial information, declarations and affidavits of the Debtors’ executives and other information provided in the Chapter 11 Proceedings (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Second Report, Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

15. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.
16. Capitalized terms not otherwise defined herein are as defined in the application materials, including the affidavit of Alexandra Picard, Chief Financial Officer of the Debtors, sworn on May 15, 2019 (the “**May 15 Picard Affidavit**”) and filed in support of the Foreign Representative’s application. This Second Report should be read in conjunction with the May 15 Picard Affidavit, as certain information contained in the May 15 Picard Affidavit has not been included herein in order to avoid unnecessary duplication.

IV. ORDERS OF THE US COURT FOR WHICH RECOGNITION IS SOUGHT

A&M Retention Order

17. On April 1, 2019, the US Court entered an Order Authorizing the Employment and Retention of Alvarez & Marsal North America, LLC as the Debtors’ financial advisor *nunc pro tunc* to the Petition Date (the “**A&M Retention Order**”).
18. The Information Officer understands Alvarez & Marsal North America, LLC (“**A&M**”) specializes in interim management, crisis management, turnaround consulting, operational due diligence, creditor advisory services, and financial and operational restructuring.
19. Pursuant to the engagement letter between A&M and the Debtors, dated February 1, 2019, A&M will be paid by the Debtors for the services at their customary hourly billing rates. A&M will also seek reimbursement for all expenses incurred in connection with its provision of services in the Chapter 11 Proceedings.
20. In the Debtors’ view, the recognition of the A&M Retention Order in Canada is appropriate as A&M has been providing services to all the Debtors in connection with their role, all of which potentially affect ITC and Canadian creditors. The Information Officer notes that while not currently forecasted in ITC’s cash flows, A&M could seek to have certain of its fees and disbursements paid for by ITC for services provided to the Debtors, the allocation of which will be subject to review by the Information Officer.

L&W Retention Order

21. On April 2, 2019, the US Court entered an Order Authorizing the Employment and Retention of Latham & Watkins LLP (“**Latham**”) as the Debtors’ bankruptcy co-counsel *nunc pro tunc* to the Petition Date (the “**L&W Retention Order**”).
22. The L&W Retention Order authorized the Debtors to retain and employ Latham as the Debtors’ bankruptcy co-counsel. Prior to the commencement of the Chapter 11 Proceedings, the Debtors retained Latham to assist with

certain talc litigation matters. The Debtors believe that Latham is well qualified to represent them based on the firm's extensive experience and knowledge practicing before bankruptcy courts in large and complex Chapter 11 cases.

23. Latham will charge the Debtors for its legal services on an hourly basis at its ordinary and customer rates in effect on the date that such services are rendered. Latham will also seek reimbursement for all expenses incurred in connection with its representation of the Debtors in the Chapter 11 Proceedings.
24. In the Debtors' view, the recognition of the L&W Retention Order in Canada is appropriate as Latham has been providing services to all the Debtors in connection with their role, all of which potentially affect ITC and Canadian creditors. The Information Officer notes that while not currently forecasted in ITC's cash flows, Latham could seek to have certain of its fees and disbursements paid for by ITC for services provided to the Debtors, the allocation of which will be subject to review by the Information Officer.

NGE Retention Order

25. On April 4, 2019, the US Court entered an Order Authorizing the Employment and Retention of Neal, Gerber, & Eisenberg LLP ("**NGE**") as the Debtors' special insurance coverage and indemnification counsel *nunc pro tunc* to the Petition Date (the "**NGE Retention Order**").
26. Prior to the commencement of the Chapter 11 Proceedings, the Debtors retained NGE to act as insurance coverage counsel. The Debtors believe that NGE has the necessary background and knowledge to deal effectively with potential legal issues arising from the Chapter 11 Proceedings.
27. NGE intends to charge the Debtors for its services on an hourly basis and to seek reimbursement for all expenses incurred in connection with its provision of services in the Chapter 11 Proceedings.
28. In the Debtors' view, the recognition of the NGE Retention Order in Canada is appropriate as NGE has been providing services to all the Debtors in connection with their role, all of which potentially affect ITC and Canadian creditors. The Information Officer notes that while not currently forecasted in ITC's cash flows, NGE could seek to have certain of its fees and disbursements paid for by ITC for services provided to the Debtors, the allocation of which will be subject to review by the Information Officer.
29. Each of the A&M Retention Order, the L&W Retention Order and the NGE Retention Order were entered by the US Court after all informal comments received by the Debtors were resolved by the Debtors to the satisfaction of the interested parties, there were no objections to the motions seeking entry of the Orders filed with the US Court, and the US Court was satisfied with the form of the orders.

Final Cash Management Order

30. On April 24, 2019, the US Court entered a final Order (I) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Check, and Business Forms, (II) Authorizing Continuation of Existing Deposit Practices, (III) Approving the Continuation of Intercompany Transactions, and (IV) Granting Superpriority Administrative Expense Status to Certain Postpetition Intercompany Claims (the “**Final Cash Management Order**”).
31. As noted in the First Report, the Debtors originally sought the Final Cash Management Order at their “second day hearing”; however prior to the hearing, the Debtors received informal comments from (i) the Office of the United States Trustee (the “**Trustee**”) and (ii) the Official Committee of Tort Claimants (the “**Committee**”), and ultimately submitted a revised form of order granting the relief requested on a further interim basis. The Information Officer understands the Final Cash Management Order was entered by the US Court without further hearing as all informal comments received by the Debtors were resolved by the Debtors prior to the scheduled hearing date of April 26, 2019.
32. The Information Officer notes the Final Cash Management Order contains, among other things, certain modifications as compared to the Second Interim Cash Management Order:
 - (a) the Debtors are granted a waiver of the requirements of section 345(b) of the Bankruptcy Code provided that by no later than May 15, 2019, ITC shall open a new bank account at SunTrust Bank (the “**New ITC Account**”) in its name and on each Monday thereafter, ITC will sweep funds from the existing ITC bank accounts at the Royal Bank of Canada (the “**RBC Accounts**”) that are in excess of CAD\$2 million in the aggregate of all RBC Accounts, based on balances calculated as of the close of business on the prior Friday, to the New ITC Account;
 - (b) in the event that ITC determines that amounts in the RBC Accounts are insufficient to fund disbursements (a “**Shortfall**”) in a given week, ITC shall have the right to transfer funds from the New ITC Account to the RBC Accounts solely in an amount sufficient to cover such a Shortfall;
 - (c) the Debtors shall attach to their monthly operating reports filed on the docket in the Chapter 11 Proceedings copies of the bank statement or statements from the RBC Accounts; and
 - (d) notwithstanding the entry of the Final Cash Management Order, the Committee shall retain all rights it may have under applicable law to object to the payment, and seek disgorgement, of any intercompany expenses paid pursuant to the Final Cash Management Order, or the interim orders previously entered.

33. The Information Officer understands the above noted changes were in response to the comments received from the Trustee with respect the RBC Accounts. The Trustee raised the issue that the Royal Bank of Canada (ITC's banking institution) does not have a uniform depository agreement (“UDA”) with the Trustee's office and the Trustee requires, pursuant to section 345(b) of the Bankruptcy Code, that the estate funds that are not otherwise insured or guaranteed in full by the U.S. federal government or otherwise backed by a bond or security be held at banking institutions with a UDA, such as SunTrust Bank. After discussions with the Trustee, the Debtors determined that CAD\$2 million would be a sufficient cash balance to maintain in the RBC Accounts to fund normal course transactions, and agreed, pursuant to the Trustee's request, that an excess to be swept to the New ITC Account on a weekly basis. The Information Officer notes that the CAD\$2 million balance represents the maximum aggregate cash to be held in the RBC Accounts, not a minimum balance/reserve, and as such the actual cash balance could be lower than CAD\$2 million on a week to week basis.
34. As noted, ITC will still have full control of the New ITC Account but all transactions with customers and suppliers will continue to be funded through the RBC Accounts. The New ITC Account was opened on April 26, 2019 and the Information Officer understands the first cash sweep will occur on or about May 20, 2019.
35. Subsequent to the granting of the Final Cash Management Order, the Information Officer engaged in discussions with A&M to understand the implications of the changes to the ITC bank accounts as noted above. The Information Officer has been advised that appropriate measures are in place to ensure ITC has sufficient access to cash to fund operations and payments in the ordinary course. Further, the Debtors have agreed to provide the Information Officer with additional weekly cash flow reporting to alleviate any potential concerns.

V. UPDATE ON CERTAIN OTHER MATTERS IN THE CHAPTER 11 PROCEEDINGS

36. The May 15 Picard Affidavit describes the material motions that have been or are to be heard within the Chapter 11 Proceedings. The Information Officer has provided commentary on two of those motions which may be of particular interest to the Canadian Court.

Proposed Future Claims Representative

37. As noted above, the Debtors commenced the Chapter 11 Proceedings in an attempt to manage the mounting potential liabilities arising from the thousands of plaintiffs' claims alleging personal injury caused by exposure to talc mined, processed, and/or distributed by one or more of the Debtors (the “**Talc Claims**”).

38. Prior to the Petition Date, the Debtors retained James L. Patton (“**Mr. Patton**”) of Young, Conaway, Stargatt & Taylor, LLP to serve as a proposed future claimants’ representative (the “**FCR**”) to represent the interests of individuals who may in the future assert Talc Claims against the Debtors.
39. On February 27, 2019, the Debtors filed a motion (the “**FCR Motion**”) for entry of an order appointing Mr. Patton, as legal representative for future talc personal injury claimants *nunc pro tunc* to the Petition Date.
40. On March 13, 2019, certain of the Debtors’ insurers, including Columbia Casualty Company, Continental Casualty Company, the Continental Insurance Company, and Stonewall Insurance Company (now known as Berkshire Hathaway Specialty Insurance Company in respect of policies issued prior to 1981) (collectively, the “**Insurers**”) filed a limited objection (the “**Insurers’ Objection**”) to the FCR Motion on the basis that the Debtors’ pre-petition employment of Mr. Patton raised questions about his independence from the Debtors that necessitated more disclosure than was made in the FCR Motion. Among other things, the Insurers asserted that they were concerned about the potential disclosure of privileged information being shared with the proposed FCR and his advisors.
41. The hearing for the FCR Motion was originally scheduled to be heard by the US Court on March 20, 2019 but, at the request of the Trustee, was adjourned and rescheduled to be heard by on April 26, 2019, with an objection deadline of April 10, 2019 for the Trustee.
42. On April 10, 2019, the Trustee filed an objection (the “**Trustee Objection**”) to the FCR Motion and also its own motion (the “**Trustee Motion**”) to Appoint a Legal Representative for Future Talc Personal Injury Claimants. The Trustee Motion did not propose a particular candidate, or a particular process, but rather requested that the US Court permit other parties in interest to nominate alternative candidates and suggested the Debtors needed to provide more robust disclosures in support of Mr. Patton’s appointment.
43. The Debtors and the Committee filed replies in support of the FCR Motion and an objection or response to the Trustee Motion. In the Debtors’ reply, they argued that the Insurers did not have standing to be heard in connection with the FCR Motion.
44. On April 26, 2019, the US Court held a hearing to consider the FCR Motion, the Trustee Motion, the Insurers’ Objection and the Trustee Objection. At the hearing, the US Court heard submissions from each of the parties, as well as live testimony from Mr. Patton. The US Court permitted the Insurers to participate at the hearing (notwithstanding the Debtors’ standing argument) and at the conclusion of the hearing, the US Court reserved judgment on the matter.

45. On May 7, 2019, the US Court announced its decision and concluded:
- (a) the Insurers have standing in connection with the FCR Motion;
 - (b) the process followed by the Debtors was appropriate for the case and provided sufficient time to obtain information about the proposed FCR and/or propose other candidates; and
 - (c) Mr. Patton meets the standard for approval of a future claimants' representative and is able to act as the FCR in this matter, subject to further disclosures to be reviewed by the US Court.
46. In its reasons released on May 8, 2019 to accompany the decision, the US Court noted that while it concluded Mr. Patton was able to act as the FCR, additional disclosures needed to be made by Mr. Patton with respect to certain conflict issues raised by the Insurers. Accordingly, on May 13, 2019, Mr. Patton filed a Supplemental Declaration in support of the proposed FCR Motion, which included the additional disclosures required by the US Court.
47. The order approving the appointment of the FCR remains outstanding, as do orders relating to professionals assisting the FCR (namely Yong Conaway Stargatt & Taylor LLP as legal counsel and Ankura Consulting Group LLC as claims and financial valuation consultants).

Upcoming Matters in the Chapter 11 Proceedings

48. The US Court has scheduled omnibus hearings on June 27, 2019, July 24, 2019, August 21, 2019, and September 18, 2019; no agenda has been set for these hearings as of the date of this Second Report.
49. The Information Officer will report further to the Canadian Court in respect of these hearings as part the Foreign Representative's motion for an order seeking recognition of any orders granted by the US Court in connection therewith.

VI. UPDATE ON ADVERSARY PROCEEDING

50. As noted in the Prior Reports, on March 7, 2019, the Debtors filed a complaint and motion (the "**Adversary Proceeding**") for injunctive and declaratory relief to seek a declaration that (i) ITA owns all rights to the proceeds of the Insurance Policies related to the pre-transfer talc liabilities and (ii) section 362(a)(3) of the Bankruptcy Code applies to prohibit any effort by Cyprus Mines Corporation ("**Cyprus Mines**") and Cyprus Amax Minerals Company ("**Cyprus Minerals**") and, together, with Cyprus Mines' historical predecessors and affiliates other than Cyprus Talc Corporation, "**Cyprus**") to access such proceeds.

Motion to Intervene

51. On March 21, 2019, the Committee filed a motion to intervene in the Adversary Proceeding as a party in interest on behalf of those tort claimants holding personal injury and wrongful death claims against the Debtors. The Information Officer understands the Debtors consented to the relief sought by the Committee in the motion, but Cyprus informed the Committee that they would not consent.
52. On March 29, 2019, the proposed FCR filed a motion to intervene as a plaintiff in the Adversary Proceedings.
53. On May 3, 2019, the US Court entered an Order (A) Granting Motions to Intervene in the Adversary Proceeding filed by the Committee dated March 21, 2019 and the proposed FCR on March 29, 2019; (B) Authorizing Intervention in the Adversary Proceeding by the Committee and the proposed FCR; and (C) Granting Related Relief.

Scheduling Order

54. On March 26, 2019, the US Court entered an order setting out the schedule for discovery and established trial dates with the US Court for June 4 and June 5, 2019 (the “**Original Scheduling Order**”).
55. On April 23, 2019, the US Court entered an amended scheduling order setting out an amended schedule and established trial dates with the US Court for August 5 and August 6, 2019 (the “**Amended Scheduling Order**”). The Information Officer understands that the scheduling order was amended to accommodate the resolution of disputes regarding certain documents protected from disclosure based on the common interest doctrine (the “**Common Interest Materials**”), in which further details are noted below.

Common Interest Materials

56. In accordance with the Original Scheduling Order, the Debtors and Cyprus each served written discovery requests on March 29, 2019. Among the documents that might be responsive to both the Debtors’ and Cyprus’ discovery requests are the Common Interest Materials.
57. On April 11, 2019, the Debtors wrote to the US Court noting that the Debtors do not believe the Common Interest Materials are necessary or relevant to the resolution of the claims in the Adversary Proceeding and proposed to treat as non-responsive documents. Cyprus declined the Debtors’ proposal and advised that they intend to use such documents in the Adversary Proceeding. Cyprus also advised that they object to making such documents available to the Committee and proposed FCR.

58. The Debtors seek the US Court's assistance in preserving their privilege in the form of a limitation on discoverability and use of such materials, or in the form of a Court order ensuring that such production or use in this Adversary Proceeding is not construed as a broader waiver.
59. On April 11, 2019, the Committee and the proposed FCR wrote to the US Court regarding the Common Interest Materials and noted that they believe Cyprus cannot voluntarily inject the Common Interest Materials into the litigation while, at the same time, withhold them from other parties on privilege grounds, use them at depositions, and make them part of the record without producing them to all parties.
60. On April 12, 2019, Cyprus responded to the Debtors, Committee, and proposed FCR's comments on the Common Interest Materials, arguing that these parties' arguments are not valid and asked the US Court to (1) permit Cyprus discovery and use of the Common Interest Materials and (2) determine that such discovery and use of the documents does not waive or impair any applicable privilege or protection that might apply to them.
61. In accordance with the Amended Scheduling Order, the parties must submit an agreed protective order or seek to resolve any protective order disputes with Court assistance in relation to the Common Interest Materials by the week of May 20, 2019.
62. On April 22, 2019, the Debtors filed a Certification of Counsel Regarding Stipulated Protective Order (the "**COC**"), requesting entry of an order approving a Stipulated Protective Order represented to have been agreed to by the Debtors and the Committee on April 22, 2019. On April 23, 2019, Cyprus filed a limited objection to the COC (the "**Objection**"). To resolve the Objection, the Debtors and Cyprus agreed to a revised form of proposed order approving the Stipulated Protective Order (the "**Revised Proposed Order**"). The Certification of Counsel concerning the Revised Proposed Order was filed by the Debtors on May 1, 2019. The entered Revised Proposed Order remains outstanding.

VII. UPDATE ON CERTAIN MATTERS RELATING TO IMERYS TALC CANADA INC.

63. As noted in the May 15 Picard Affidavit, the Canadian Court had previously been advised that the fees and disbursements of the Debtors' Canadian legal counsel, Stikeman Elliott LLP ("**Stikeman**"), were being paid by ITA and ITV. The First Report noted at paragraph 35 that, while not forecasted in ITC's cash flows, the Debtors could seek to have certain of its fees or disbursements paid for by ITC. The Debtors have since advised that Stikeman's fees will be paid by ITC during the Recognition Proceedings and ITC's cash flows have been updated to reflect same. The Information Officer notes that all professional costs in the Chapter 11 Proceedings, including those of Stikeman, may be subject to further allocation, and the Information Officer will continue to monitor the cash flow statements in the ordinary course.

64. Subsequent to the granting of the Supplemental Order, the Debtors have provided reporting to the Information Officer with respect to the cash flows of ITC. For the 15 weeks ended May 10, 2019, ITC had total cash receipts of approximately \$17.0 million (as compared to forecast cash receipts of \$17.8 million), including \$1.4 million received from the Parent, and total cash disbursements of \$12.3 million (as compared to forecast cash disbursements of \$20.0 million), for a net cash inflow of \$4.7 million (as compared to forecast net cash outflow of \$2.2 million) over the period.
65. As at May 10, 2019 the Information Officer understands that ITC had approximately \$7.1 million of cash on hand.

VIII. ACTIVITIES OF THE INFORMATION OFFICER

66. The activities of the Information Officer since the First Report include:
- (a) responding to creditor inquiries regarding the Chapter 11 Proceedings and the Recognition Proceedings;
 - (b) communicating with the Debtors' advisors and the Information Officer's counsel regarding the status of matters related to the Chapter 11 Proceedings and the Recognition Proceedings;
 - (c) reviewing materials filed by various parties in the Chapter 11 Proceedings in connection with the A&M Retention Order, the L&W Retention Order, the NGE Retention Order, and the Final Cash Management Order;
 - (d) corresponding with the Debtors' advisors in connection with Final Cash Management Order, and specifically the New ITC Account and the RBC Accounts;
 - (e) reviewing materials filed by various parties in the Adversary Proceeding;
 - (f) reviewing the ITC's cash flow reporting and corresponding with A&M on same;
 - (g) attending before the Canadian Court for recognition of the Second Day Orders; and
 - (h) preparing this Second Report.

IX. INFORMATION OFFICER'S RECOMMENDATION

67. Based on the Information received and reviewed to date, the Information Officer is of the view that it is reasonable to recognize the A&M Retention Order, the L&W Retention Order, the NGE Retention Order, and the Final Cash Management Order, and respectfully recommends that the Canadian Court grant the recognition orders sought by the Foreign Representative.

All of which is respectfully submitted on this 17th day of May, 2019.

Richter Advisory Group Inc.
in its capacity as Information Officer of
Imerys Talc America, Inc., Imerys Talc Vermont, Inc. and Imerys Talc Canada Inc.
and not in its personal capacity

Per:

A handwritten signature in black ink, appearing to read 'P. Patel', with a long horizontal flourish extending to the right.

Pritesh Patel,
MBA, CFA, CIRP, LIT
Senior Vice President

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED
AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC
VERMONT, INC., AND IMERYYS TALC CANADA INC.
APPLICATION OF IMERYYS TALC CANADA INC. UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT, 1985, c. C-36, AS AMENDED

Court File No. CV-19-614614-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT TORONTO

SECOND REPORT OF THE INFORMATION
OFFICER
May 17, 2019

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