

RICHTER

Richter Advisory Group Inc.
181 Bay Street, 35th Floor
Toronto, ON M5J 2T3
www.richter.ca

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

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

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

November 27, 2019

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	PURPOSE OF REPORT.....	5
III.	TERMS OF REFERENCE.....	6
IV.	ORDERS OF THE US COURT FOR WHICH RECOGNITION IS SOUGHT.....	6
V.	UPDATE ON ADVERSARY PROCEEDING	10
VI.	UPDATE ON CERTAIN MATTERS RELATING TO IMERYYS TALC CANADA INC.	12
VII.	ACTIVITIES OF THE INFORMATION OFFICER.....	13
VIII.	INFORMATION OFFICER'S RECOMMENDATION.....	14

**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**

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

NOVEMBER 27, 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; and (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.

7. On March 19, 2019 and March 22, 2019, the US Court entered various orders (the “**March 19 & 22 Entered Orders**”) sought by the Debtors at their “second day hearing”, including but not limited to:
 - (a) an Order Authorizing the Employment and Retention of KCIC, LLC (“**KCIC**”) as Insurance and Valuation Consultant, Nunc Pro Tunc to the Petition Date (the “**KCIC Retention Order**”);
 - (b) an Order Authorizing the Debtors to Employ and Retain Richards, Layton & Finger, P.A. (“**RL&F**”) as Co-Counsel to the Debtors, Nunc Pro Tunc to the Petition Date (the “**RL&F Retention Order**”);
 - (c) an Order Authorizing Employment and Retention of Stikeman Elliott LLP (“**Stikeman**”) as Canadian Counsel, Nunc Pro Tunc to the Petition Date (the “**Stikeman Retention Order**”); and
 - (d) an Order Authorizing the Employment and Retention of Prime Clerk LLC (“**Prime Clerk**”) as Administrative Advisor nunc pro tunc to the Petition Date (the “**Administrative Advisor Order**”).
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 1, 2019, the US Court entered an Order Authorizing the Employment and Retention of Alvarez & Marsal North America, LLC (“**A&M**”) as the Debtors’ financial advisor *nunc pro tunc* to the Petition Date (the “**A&M Retention Order**”).
11. 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**”).
12. On April 3, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to certain of the Second Day Orders, including the KCIC Retention Order, the RL&F Retention Order, the Stikeman Retention Order and the Administrative Advisor Order.

13. 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**").
14. 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**").
15. On May 21, the US Court entered Orders:
 - (a) Authorizing the Employment and Retention of Willkie Farr & Gallagher LLP as special litigation and corporate counsel to the Official Committee of Tort Claimants (the "**Committee**") (the "**Willkie Farr & Gallagher Order**"); and
 - (b) Authorizing the Employment and Retention of Robinson & Cole LLP as counsel to the Committee (the "**Robinson & Cole Order**").
16. On May 22, 2019 and June 25, 2019, respectively, the US Court entered Orders Appointing M. Jacob Renick of M.J Renick & Associates LLC as Fee Examiner and Establishing Related Procedures for the Review of Applications of Retained Professionals (collectively, the "**Fee Examiner Orders**").
17. On May 24, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the A&M Retention Order, the L&W Retention Order, the NGE Retention Order and the Final Cash Management Order.
18. On June 3, 2019, the US Court entered an order appointing James L. Patton, Jr. as legal representative for future talc personal injury claimants (the "**FCR**") *nunc pro tunc* to the Petition Date (the "**FCR Order**").
19. On June 6, 2019, the US Court entered Orders:
 - (a) Authorizing the Employment and Retention of Young, Conaway, Stargatt & Taylor LLP as attorneys for the FCR *nunc pro tunc* to the Petition Date (the "**Young Conaway Order**"); and
 - (b) Authorizing the Employment and Retention of Gilbert LLP ("**Gilbert**") as special insurance counsel to the Committee (the "**Gilbert Order**").

20. On June 12, 2019, the US Court entered an Order Authorizing the Employment and Retention of Ankura Consulting Group, LLC as claims evaluation and financial valuation consultants for the FCR *nunc pro tunc* to the Petition Date (the “**Ankura Order**”).
21. On June 25, 2019, the US Court entered an Order Authorizing the Employment and Retention of Legal Analysis Systems, Inc as tort liability consultant to the Committee (the “**Legal Analysis Systems Order**”);
22. On July 25, 2019, the US Court entered an Order (I) Establishing Bar Dates and Related Procedures for Filing Proofs of Claim Other than With Respect to Talc Personal Injury Claims and (II) Approving Form and Manner of Notice Thereof (the “**Bar Date Order**”).
23. On August 7, 2019, the US Court entered Orders:
 - (a) Authorizing the Employment and Retention of Ducera Partners LLC and Ducera Securities LLC (collectively, “**Ducera**”) as investment banker for the Committee (the “**Ducera Order**”); and
 - (b) Authorizing the Employment and Retention of GlassRatner Advisory & Capital Group, LLC as financial advisor to the Committee (the “**GlassRatner Order**”, and together with the Willkie Farr & Gallagher Order, the Robinson & Cole Order, the Gilbert Order, the Legal Analysis Systems Order and the Ducera Order, the “**Committee Professional Advisors Retention Orders**”).
24. Also on August 7, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the Bar Date Order and the Fee Examiner Orders.
25. On August 16, 2019, the US Court entered an Order (A) Authorizing the Debtors to Assume Certain Unexpired Leases of Nonresidential Real Property and (B) Granting Related Relief (the “**Assumption of Leases Order**”).
26. On September 26, 2019, the US Court entered an Order Authorizing the Co-Retention of Ducera as investment banker for the Committee and the FCR (the “**Ducera Co-Retention Order**”).
27. On September 27, 2019, the US Court entered an Order Authorizing the Co-Retention of Gilbert as special insurance counsel for the FCR and the Committee (the “**Gilbert Co-Retention Order**”, and together with the Young Conaway Order, the Ankura Order and the Ducera Co-Retention Order, the “**FCR Professional Advisors Retention Orders**”). Also on September 27, 2019, the US Court entered an Order Approving the Stipulated Protective Order (the “**Stipulated Protective Order**”), which would govern the disclosure of information and documents, including testimony and transcripts, in connection with the Chapter 11 Proceedings.

28. On October 28, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the FCR Order, the FCR Professional Advisors Retention Orders, the Committee Professional Advisors Retention Orders, the Assumption of Leases Order, and the Stipulated Protective Order.
29. 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 personal injury claims (the “**Talc Claims**”) against the Debtors to a trust so that the Debtors can emerge from these restructuring proceedings free of historic talc-related liabilities.
30. Richter, in its capacities as Proposed Information Officer and Information Officer, has previously provided the Canadian Court with five 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

31. The purpose of this fifth report (the “**Fifth Report**”) of the Information Officer is to provide the Canadian Court with information concerning:
 - (a) the motion of the Foreign Representative returnable December 3, 2019, for recognition in Canada of the KERP Order and the Indirect Talc Claims Bar Date 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 fourth report (the “**Fourth Report**”) dated October 24, 2019.

III. TERMS OF REFERENCE

32. In preparing this Fifth 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 Fifth 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.
33. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.
34. Capitalized terms not otherwise defined herein are as defined in the application materials, including the affidavit of Anthony Wilson, Treasurer and Director of Finance, sworn on November 26, 2019 (the "**November 26 Wilson Affidavit**") and filed in support of the Foreign Representative's application. This Fifth Report should be read in conjunction with the November 26 Wilson Affidavit, as certain information contained in the November 26 Wilson Affidavit has not been included herein in order to avoid unnecessary duplication.

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

KERP Order

35. On November 22, 2019, the US Court entered an Order (I) Authorizing Implementation of a Key Employee Retention Program (the "**KERP**"), (II) Approving the Terms of the Debtors' Key Employee Retention Program, and (III) Granting Related Relief (the "**KERP Order**").
36. Originally, the motion returnable on November 22, 2019 was for approval of a KERP as well as a Key Employee Incentive Program (the "KEIP"). On November 20, 2019, the United States Trustee for the District of Delaware filed an objection to the KEIP portion of the motion to approve the KERP and the KEIP. The Debtors ultimately adjourned the hearing of the KEIP portion of the motion to December 17, 2019. The Information Officer notes that the KEIP, while not the subject of recognition in respect of the within motion, applies only to employees of ITA.
37. As detailed in the November 26 Wilson Affidavit, the Debtors propose to implement a retention program to incentivize certain key employees to remain with the Debtors during the pendency of these Chapter 11 Proceedings. The Debtors are dependent on certain key employees that have critical knowledge relating to the

Debtors' products, vendors, customers, finances, and business operations. In light of the Debtors' primary purpose for these Chapter 11 Proceedings, the Debtors determined it is necessary to develop the KERP to properly motivate and retain certain critical employees.

38. The Information Officer notes that in developing the KERP, the Debtors, in consultation with their financial advisor, A&M, took into consideration the Debtors' existing compensation packages, including their current bonus and severance policies offered to employees, as well as a benchmark analysis to ensure that the KERP is within market guidelines. Further the Boards of Directors of the Debtors reviewed, commented on and ultimately approved the KERP.
39. The KERP was designed to retain sixteen (16) key non-insider employees (the "**KERP Participants**") that the Debtors have determined are essential to maintaining their current operations during the Chapter 11 Proceedings as each KERP Participant has specific qualifications, skills, and expertise that is essential to the core business functions of the Debtors. The Information Officer understands that five (5) of the KERP Participants are employed by ITC and the remaining eleven (11) are employed by either ITA or ITV.
40. The salient terms of the KERP are as follows:
 - (a) the KERP Participants would receive retention bonuses between 30% and 35% of their annual salary;
 - (b) proposed compensation under the KERP is unique to each KERP Participant, taking into consideration, among other things, each individual's retention risk and importance of the individual's role in the Debtors' operations;
 - (c) the aggregate retention pool under the KERP is \$672,000. In addition, there is a \$100,000 discretionary pool for other key, non-insider employees later identified for inclusion in the KERP by the Debtors' senior management;
 - (d) payments under the KERP are contemplated to be made in two tranches. The first payment (representing 50% of the total potential entitlement) would be paid in a lump sum upon the earlier of June 30, 2020 and the effective date of the Debtors' plan of reorganization in the Chapter 11 Proceedings. Assuming the Debtors plan of reorganization has not gone effective on or before June 30, 2020, a second payment (representing up to 50% of the total potential entitlement) would be paid in a lump sum upon the earlier of December 31, 2020 and the effective date of the Debtors' plan of reorganization in the Chapter 11 Proceedings; and

- (e) payments to a KERP Participant will be forfeited upon voluntary termination or termination for cause prior to payment. Forfeited amounts may be reallocated to other KERP Participants at the Debtors' discretion in order to compensate the remaining KERP Participants for the additional responsibilities they will be required to assume as a result of a termination.
41. There are no KERP Participants who are also participants under the proposed KEIP or vice versa.
42. The Information Officer understands that only the KERP entitlement for the five KERP Participants employed by ITC will be paid out of the ITC estate. ITC will not be responsible for any of the KERP payments to non-ITC employees.
43. As noted above, only the motion respecting the KERP was approved on November 22, 2019. The recognition of the KERP Order in Canada is appropriate as certain of the KERP Participants are employees of ITC and, in the Debtors' view, the KERP provides the necessary incentives to the applicable KERP Participants to add value to the Debtors' estates and to promote the successful resolution of the Chapter 11 Proceedings. Further, without the implementation of the KERP, the applicable KERP Participants may pursue other employment or may not be incentivized to perform optimally. The terms of the KERP appear reasonable under the circumstances and consistent with market practice in insolvency proceedings.

Indirect Talc Claims Bar Date Order

44. On November 12, 2019, the Debtors filed a motion (the "**Indirect Talc Claims Bar Date Motion**") for an Order (I) Establishing a Bar Date for Indirect Talc Claims and Related Procedures for Filing Proofs of Claim for Indirect Talc Claims and (II) Approving Form and Manner of Notice Thereof (the "**Indirect Talc Claims Bar Date Order**").
45. The Indirect Talc Claims Bar Date Motion, among other things, establishes a bar date (the "**Indirect Talc Claims Bar Date**") by which any corporation, co-defendant of a Debtor, or predecessor of a Debtor with a Talc Claim (as defined in the Indirect Talc Claims Bar Date Motion) for contribution, reimbursement, subrogation, or indemnity whether contractual or implied by law (as those terms are defined by applicable non-bankruptcy law of the relevant jurisdiction), and any other derivative talc claim of any such claimant whether the nature of or sounding in contract, tort, warranty, or other theory of law (the "**Indirect Talc Claims**"), must file proofs of claim with Prime Clerk LLC ("**Prime Clerk**") in the Chapter 11 Proceedings. For the avoidance of doubt, an Indirect Talc Claim shall not include any claim for or otherwise relating to death, injury, or damages caused by talc or a product or material containing talc that is asserted by or on behalf of any injured individual, the estate, legal counsel, relative, assignee, or other representative of any injured individual, or an individual who claims injury or damages as a result of the injury or death of another individual. The Information Officer understands that, at this time, the

Debtors are not seeking a bar date for Talc Claims that are not Indirect Talc Claims but reserve the right to seek such relief in the future if necessary or appropriate.

46. Also on November 12, 2019, the Debtors filed a motion for an Order Shortening the Notice and Objection Periods for the Indirect Talc Claims Bar Date Motion (the “**Motion to Shorten**”).
47. The Motion to Shorten requests (i) shortening the notice and objection periods as related to the Indirect Talc Claims Bar Date Motion, (ii) setting the deadline to file objections (the “**Objection Deadline**”) to the Indirect Talc Claims Bar Date Motion as November 19, 2019 at 4:00 p.m., and (iii) scheduling the hearing to consider the Indirect Talc Claims Bar Date Motion for November 22, 2019 at 2:00 p.m.
48. The Debtors asserted that the inability to file the Indirect Talc Claims Bar Date Motion prior to November 8, 2019 was due to protracted discussions with the Committee regarding the scope of the relief requested in the Indirect Talc Claims Bar Date Motion. The Debtors believe that a delay in setting the Indirect Talc Claims Bar Date will hinder the Debtors’ efforts to finalize and eventually solicit, a plan of reorganization in a timely manner. The US Court granted the relief sought by the Debtors and on November 13, 2019, entered the Order Shortening Notice and Objection Periods for the Indirect Talc Claims Bar Date Motion.
49. On November 20, 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, Lamorak Insurance Company (formerly known as OneBeacon America Insurance Company), as successor to Employers’ Surplus Lines Insurance Company, National Union Fire Insurance Company of Pittsburgh PA, and Lexington Insurance Company) (collectively, the “**Insurers**”), filed an objection to the Indirect Talc Claims Bar Date Motion (the “**Insurers’ Indirect Talc Claims Objection**”). The Insurers object on the basis that the Debtors seek relief that the Court cannot grant, the definitions of claims are confusing, and the procedures are unduly complex and incompatible. The Debtors ultimately carved out certain insurer groups from being bound by the Indirect Talc Claims Bar Date Order, being the Insurers and certain Underwriters at Lloyds’, London and certain London market insurers who had provided the Debtors with informal comments on the Indirect Talc Claims Bar Date Motion, but did not formally object.
50. On November 22, 2019, the US Court entered the Indirect Talc Claims Bar Date Order. At the hearing, the Debtors clarified the scope of what constituted an Indirect Talc Claim on the record and noted that claimants with unknowable future claims that are not based upon existing contracts are not covered by the Indirect Claims Bar Date.

51. Pursuant to the Indirect Talc Claims Bar Date Order, the Indirect Talc Claims Bar Date was set as January 9, 2020 at 5:00 p.m., prevailing Eastern Time. The Debtors intend to serve a notice of the Indirect Talc Claims Bar Date (the “**Indirect Talc Claims Bar Date Notice**”) and a proof of claim form (together with the Indirect Talc Claims Bar Date Notice, the “**Indirect Talc Claims Bar Date Notice Package**”) to various entities, including but not limited to, all known entities holding potential Indirect Talc Claims against the Debtors no later than 13 days after entry of the Indirect Talc Claims Bar Date Order.
52. The Debtors shall also provide notice in substantially the form of a publication notice within 13 days of entry of the Indirect Talc Claims Bar Date Order, or as soon as practicable thereafter, in both U.S. and Canadian national newspapers and such other local newspapers, trade journals, or similar publications, if any, as the Debtors deem appropriate.
53. Pursuant to the Indirect Talc Claims Bar Date Order, any entity holding an Indirect Talc Claim against the Debtors that arose prior to the Petition Date and whose claim is either: (i) not listed on the Schedules or is listed on the Schedules as disputed, contingent, unliquidated, (ii) improperly classified on the Schedules or listed in an incorrect amount, or (iii) is included in the Schedules against an incorrect Debtor, must file a proof of claim with Prime Clerk prior to the Indirect Talc Claims Bar Date.
54. The Information Officer will also post a copy of the Indirect Talc Claims Bar Date Order, along with the Indirect Talc Claims Bar Date Notice Package to its website in order to provide additional notice to creditors in Canada of the claims process and the Indirect Talc Claims Bar Date.
55. The Foreign Representative seeks recognition of the Indirect Talc Claims Bar Date Order in Canada in order to give effect to a uniform claims process and claims bar date to identify and quantify the Indirect Talc Claims against the Debtors.

V. UPDATE ON ADVERSARY PROCEEDING

56. 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 to access such proceeds.

Motions to Compel

57. On October 8, 2019, 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**”) filed a motion to produce documents pursuant to the Stipulated Protective Order (the “**Cyprus Motion to Compel**”).

58. On the same day, the Debtors filed a separate motion to facilitate production of non-privileged documents (the “**Debtors’ Motion to Compel**” and together with the Cyprus Motion to Compel, the “**Motions to Compel**”).
59. The Motions to Compel seek the US Court’s assistance in resolving an ongoing discovery dispute in the Adversary Proceeding related to the production of non-privileged documents (the “**Contested Documents**”). Pursuant to the informal exchange procedures put in place to facilitate document discovery in the Adversary Proceeding, the Debtors and Cyprus exchanged responsive documents and worked together to identify any documents containing information subject to common interest protections. To the extent certain information contained in the documents was protected from disclosure, the parties applied redactions and prepared them for formal production.
60. Prior to formal production, the Debtors and Cyprus provided the Contested Documents to certain of the Insurers for review. The Insurers did not provide consent to the production of the Contested Documents and filed an objection to the Motions to Compel on October 16, 2019 (the “**Insurers’ Objection**”). The Insurers assert that neither Cyprus nor the Debtors can explain why the Contested Documents need to be produced in the Adversary Proceeding, and therefore, the Motions to Compel should be denied.
61. To accommodate for the ongoing dispute regarding the Contested Documents, the US Court entered the Second Amended Scheduling Order (as defined herein).

Second Amended Scheduling Order

62. As noted in the Prior Reports, 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**”).
63. 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**”) to accommodate the resolution of disputes regarding certain documents protected from disclosure based on the common interest doctrine (the “**Common Interest Materials**”). To resolve the disputes regarding the Common Interest Materials, the US Court entered the Stipulated Protective Order, which governs the disclosure of information and documents.

64. After entry of the Stipulated Protective Order, on October 8, 2019, Cyprus and the Debtors each filed motions seeking Court approval to formally produce the Contested Documents.
65. As a result of the outstanding document production issues, the Debtors, Cyprus, the Committee, and the FCR agreed to a further amended schedule (the "**Second Amended Scheduling Order**") subject to the following:
 - (a) there shall be no further delays, adjustments or modifications to the schedule for the Adversary Proceeding;
 - (b) depositions shall proceed in the window set forth in the Second Amended Scheduling Order, regardless of whether any issues regarding document production remain outstanding; and
 - (c) the parties shall work cooperatively to negotiate a full deposition schedule no later than November 8, 2019.
66. On November 7, 2019, the US Court entered into the Second Amended Scheduling Order to accommodate the ongoing dispute regarding the Contested Documents. The Second Amended Scheduling Order sets out an amended schedule and established trial dates for March 25 and March 27, 2020.

VI. UPDATE ON CERTAIN MATTERS RELATING TO IMERY'S TALC CANADA INC.

67. 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 5-week period from October 11, 2019 to November 15, 2019, ITC had total cash receipts of approximately \$3.8 million (as compared to forecast cash receipts of \$4.1 million) and total cash disbursements of \$4.4 million, including \$1.2 million paid to ITA as reimbursement of professional fees paid to Latham, A&M, Prime Clerk, NGE, KCIC and RL&F (as compared to forecast cash disbursements of \$5.5 million, including \$1.0 million for reimbursement to ITA), for a net cash outflow of \$0.6 million (as compared to forecast net cash outflow of \$1.4 million) over the period.
68. As at November 15, 2019, the Information Officer understands that ITC had approximately \$12.9 million of cash on hand, which includes balances held in ITC's accounts at SunTrust Bank pursuant to the Final Cash Management Order.

VII. ACTIVITIES OF THE INFORMATION OFFICER

69. The activities of the Information Officer since the Fourth 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 KERP Order and the Indirect Talc Claims Bar Date Order sought in the Chapter 11 Proceedings;
- (d) reviewing materials filed by various parties in the Adversary Proceeding;
- (e) reviewing ITC's cash flow reporting and corresponding with A&M on same;
- (f) attending before the Canadian Court for recognition of the FCR Order, the FCR Professional Advisor Retention Orders, the Committee Professional Advisors Retention Orders, the Assumption of Leases Order, and the Stipulated Protective Order; and
- (g) preparing this Fifth Report.

VIII. INFORMATION OFFICER'S RECOMMENDATION

70. Based on the Information received and reviewed to date, the Information Officer is of the view that it is reasonable to recognize the KERP Order and the Indirect Talc Claims Bar Date 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 27th day of November, 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:



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

FIFTH REPORT OF THE INFORMATION OFFICER
November 27, 2019

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, Ontario M5J 2T9
Tel: 416.863.1500
Fax: 416.865.1515

Kathryn Esaw (LSO # 58264F)
Email: kesaw@airdberlis.com

*Lawyers for the Information Officer, Richter Advisory
Group Inc.*