CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-060613-227

SUPERIOR COURT

Commercial Division

IN THE MATTER OF THE PLAN OF ARRANGEMENT AND COMPROMISE OF:

RISING PHOENIX INTERNATIONAL INC.

- and -

10864285 CANADA INC., doing business under the trade name **M COLLEGE OF CANADA.**

- and -

11753436 CANADA INC.

- and -

CDSQ IMMOBILIER INC.

- and -

COLLÈGE DE L'ESTRIE INC.

- and -

ÉCOLE D'ADMINISTRATION ET DE SECRÉTARIAT DE LA RIVE SUD INC.

- and -

9437-6845 QUÉBEC INC.

- and -

9437-6852 QUÉBEC INC.

Applicants

- and -

RICHTER ADVISORY GROUP INC.

Monitor

<u>AMENDED</u> APPLICATION FOR THE ISSUANCE OF AN AMENDED AND RESTATED INITIAL ORDER

(Sections 9, 11, 11.51, 11.52 and 23 of the *Companies' Creditors Arrangement Act*)

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TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE APPLICANTS RESPECTFULLY SUBMIT THE FOLLOWING:

1. <u>ORDERS SOUGHT</u>

1. The Applicants hereby seek the issuance of the following orders by this court pursuant to the *Companies Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended, (the "**CCAA**"):

   (a) a first day initial order (the "**First Day Order**"), a draft copy of which is communicated herewith as **Exhibit R-1**:

      (i) declaring that the Applicants are corporations to which the CCAA applies;

      (ii) staying all proceedings and remedies taken or that might be taken in respect of the Applicants or any of their property, except as otherwise set forth in the First Day Order or as otherwise permitted by law, for an initial period of ten (10) days in accordance with the CCAA (the "**Stay Period**");

      (iii) ordering the procedural consolidation of these CCAA proceedings in respect of each of the Applicants, for administrative purposes only;

      (iv) appointing Richter Advisory Group Inc. ("**Richter**" or the "**Monitor**") as the monitor of the Applicants in these proceedings with certain extended powers;

      (v) granting an Administration Charge and a Directors' Charge (as such terms are defined below);

      (vi) sealing the confidential exhibits which will be filed in support of this Application;

   (b) an amended and restated initial order (the "**Initial Order**"), a draft copy of which is communicated herewith as **Exhibit R-2**, along with a blackline of the Initial Order against the Model CCAA Initial Order, communicated as **Exhibit R-2a** :

      (i) extending the Stay Period until <u>February 28, 2022</u>;

      (ii) confirming the appointment of Richter as Monitor of the Applicants in these proceedings;

      (iii) confirming the Administration Charge and the Directors' Charge previously granted in the First Day Order, as well as increasing the quantum of the Administration Charge;

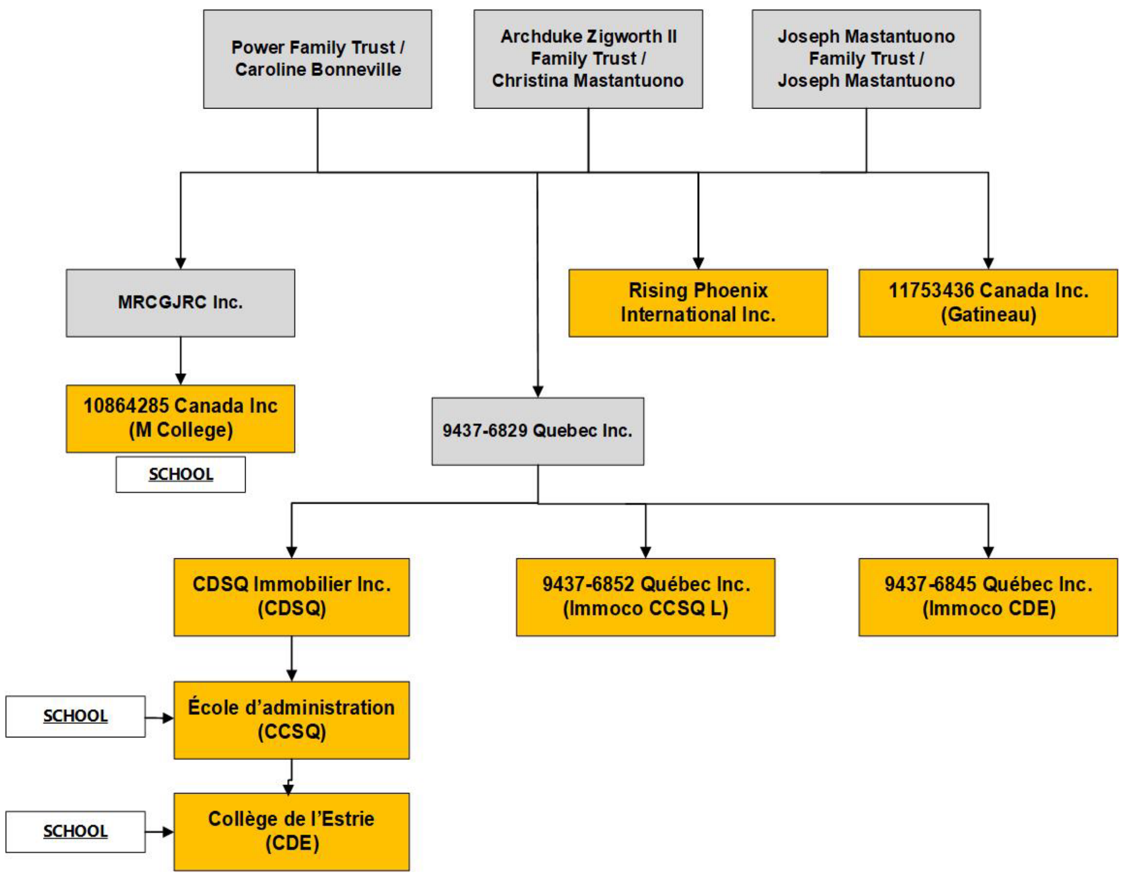
(iv) approving an Interim Financing Term Sheet (as defined below) and allowing the Applicants to borrow thereunder the amounts required to fund their liquidity needs, as well as granting a related Interim Financing Charge (as defined below); and

(v) confirming the sealing the confidential exhibits which will be filed in support of this Application.

2. THE FACTS

2.1 FILING ENTITIES

2. The following organigram highlights the Applicants (in yellow) and their place within the broader corporate structure:



(a) Rising Phoenix International Inc. ("**RPI**"): the principal operating entity of the RPI Group, acts as a recruiter of students for its partner colleges and third-party private colleges, as further detailed below. RPI is a private corporation that was incorporated under the *Business Corporations Act*, RLRQ, c. S-31.1 and continued under the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44, ("**CBCA**"), with its registered office in Montreal, Quebec. A copy of the corporate file from the Quebec enterprise register is attached hereto as **Exhibit R-3**.

(b) 10864285 Canada Inc.: operates a college referred to as *M College of Canada* (“**M College**”), in leased premises located at 8564 Newman Blvd, LaSalle, Montreal H8N 1Y5. It is a private corporation that was incorporated under the CBCA, with its registered office in Montreal, Quebec. A copy of the corporate profile from Corporations Canada is attached hereto as **Exhibit R-4**.

(c) Ecole d’Administration et de Secrétariat de la Rive-Sud Inc. : operates a college referred to as *Collège de comptabilité et de secrétariat du Québec* (“**CCSQ**”) in two campuses located at 910 Curé-Poirier Blvd West, Longueuil J4K 2C7 (the “**Longueuil Campus**”), and 174 Sainte-Foy Blvd, Longueuil (the “**Jacques Cartier Campus**”). It is a private corporation that was incorporated under the Quebec *Companies Act*, part 1A, CQLR, c C-38 (the “**QBCA**”), with its registered office in Montreal, Quebec. A copy of the corporate file from the Quebec enterprise register is attached hereto as **Exhibit R-5**.

(d) Collège de l’Estrie Inc.: operates a college referred to as *Collège de l’Estrie* (“**CDE**”), in premises located at 37 rue Wellington Nord, in Sherbrooke J1H 5A9. It is a private corporation incorporated under the QBCA, with its registered office in Montreal, Quebec. A copy of the corporate file from the Quebec enterprise register is attached hereto as **Exhibit R-6**.

(e) CDSQ Immobilier Inc.: owns the immovable located at 174 Sainte-Foy Blvd, Longueuil J4J 1W9, from which CCSQ operates the Jacques Cartier Campus. It is a private corporation which was incorporated under the QBCA, with its registered office in Montreal, Quebec. A copy of the corporate file from the Quebec enterprise register is attached hereto as **Exhibit R-7**.

(f) 9437-6852 Québec Inc.: owns the immovable situated at 910 Curé-Poirier Blvd W., in Longueuil, from which CCSQ operates the Longueuil Campus. It is a private corporation which was incorporated under the QBCA, with its registered office in Montreal, Quebec. A copy of the corporate file from the Quebec enterprise register is attached hereto as **Exhibit R-8**.

(g) 9437-6845 Québec Inc.: owns the immovable located at 37 Wellington Street N., in Sherbrooke, from which CDE operates. It is a private corporation which was incorporated under the QBCA, with its registered office in Montreal, Quebec. A copy of the corporate file from the Quebec enterprise register is attached hereto as **Exhibit R-9**.

(h) 11753436 Canada Inc.: owns the immovable situated at 115 rue Champlain, in Gatineau J8X 3R1. This asset is not used in connection with the colleges operated by the RPI Group and is currently the object of an accepted letter of intent from a purchaser, who has provided a deposit and is currently performing due diligence with a view to closing a transaction within approximately 40 days. 11753436 Canada Inc. is a private corporation which was incorporated under the CBCA, with its registered office in Montreal, Quebec. A copy of the corporate profile from Corporations Canada is attached hereto as **Exhibit R-10**.

4. The Applicants are all directly or indirectly owned and/or controlled by members of the Mastantuono family, namely Caroline Bonneville Mastantuono, Christina Mastantuono and Joseph Mastantuono (the "**Mastantuono**") which are all, together with Giuseppe Mastantuono, current or former directors of one or another of the Applicants (the "**Directors**").

2.2 DESCRIPTION OF THE BUSINESS

5. The entities that form part of the RPI Group provide student recruitment services for partner colleges as well as educational services to local and international students in three colleges, namely M College, CCSQ and CDE (collectively, the "**Colleges**").

A. Student Recruitment Services

6. In the Province of Quebec, Bill 101 restricts English education and the ability for local students to attend English-speaking schools. However, international students can choose the language they wish to be instructed in, so long as they remain in Canada under a temporary Canadian Study Permit (a student visa issued by the Federal Government).

7. RPI was started by Caroline Mastantuono in March of 2017, to recruit international students and build international networks and partnerships. RPI is currently involved in attracting, recruiting and managing international students for several educational institutions, including the Colleges as well as certain third-party schools and colleges (collectively with the Colleges, the "**Partner Institutions**").

8. RPI also handles several functions for the entities in the RPI Group, including marketing, advertising and administrative tasks such as human resources, accounting, and payroll, the costs of which are charged back to the entities that benefit from RPI's services.

9. In connection with its activities, RPI has entered into service contracts with certain student recruiters, including Rehill Services Inc. (Ontario), Rehill Services Inc. (Quebec) and Bestway Education Group (collectively, "**Rehill**"), and certain third-party Partner Institutions, such as ISI College ("**ISI**") and CCSQ Sherbrooke, a non-profit vocational school in the city of Sherbrooke.

10. RPI recruits international students who wish to integrate into an educational institution with a view to benefitting from a Quebec accreditation as well as an immigration path to Canada (described in detail below). Students are charged between $28,000-$30,000 in tuition and related fees for a two-year (four semesters) educational program, half of which is paid by the student upon applying to a Partner Institution to cover two semesters of study, a quarter of which is paid 8 months after arrival (or after the start of classes) to cover the third semester, and the final quarter which is paid 12 months after arrival (or after the start of classes).

11. The student tuition and related fees are always paid to RPI, which in turn pays the Partner Institution after deducting its commission and student health insurance fees. The RPI commission typically represents between 30 to 33.75% of the total tuition fee portion of the amount charged to the student. Where another intermediary such as Rehill is used to recruit an international student, the RPI commission is paid by RPI to the recruiter (typically RPI maintains 1/3 of the commission and 2/3 is paid to the recruiter).

B. Educational Services

12. Over time, the Mastantuono family pursued a vertical integration strategy by opening its own college and purchasing other learning institutions. The license to operate M College was issued by the Quebec Ministry of Education in August 2019 and in June 2020, the family purchased another technical college, CDE and one vocational college, CCSQ.

(i) M College

13. M College is a private institution accredited by the *Ministère de l'Éducation et de l'Enseignement supérieur (Quebec)* ("**MEES**"). It is registered and recognized as a "Designated Learning Institution" (DLI: O142824217682) and it is sanctioned to dispense the *Attestation d'études collégiales* ("**AEC**").

14. M College offers courses in several areas, including the following:

    (a) Business Management / *Gestion de commerce*;

    (b) Project Management in Graphic Communication / *Techniques de gestion de projet en communications graphiques*;

    (c) Multimedia Integration Techniques / *Techniques d'intégration multimedia*; and

    (d) Early Childhood Education / *Techniques d'éducation à l'enfance*.

15. All the programs are delivered regularly over the course of 2 years; however, Business Management and Early Childhood Education are also offered in an accelerated or fast track program over the course of 1 year, with the same program being delivered at an accelerated rate (more hours per week) to allow students to opt into a shorter program.

16. There are currently 688 students enrolled at M College. Of these students, 59 are studying abroad, mainly in India.

(ii) CDE

17. CDE is a private institution accredited by the MEES. It is also registered and recognized as a "Designated Learning Institution" (DLI: O19338281175) and it is sanctioned to dispense the AEC.

18. CDE offers courses in several areas, including the following:

    (a) Accounting and Management / *Comptabilité et gestion*;

    (b) Business Management / *Gestion de commerce*;

    (c) Network Administration / *Gestion de réseaux informatiques*;

    (d) Programmer-Analyst and Application Development / *Programmeur-analyste, développement d'application Web*;

    (e) Office Systems Techniques / *Techniques de bureautique*; and

    (f) Web Design (Program was inactive due to lack of interest).

19. All of CDE's programs are delivered over two years.

20. There are currently 220 students enrolled at CDE, all studying here, in Canada.

(iii) CCSQ

21. CCSQ is a private institution accredited by the MEES which operates out of the Longueil Campus and the Jacques Cartier Campus. It is also registered and recognized as a "Designated Learning Institution" (DLI: O246881964391) and sanctioned to dispense vocational training programs leading to a diploma of vocational studies, the *Diplôme d'études professionnelles* ("**DEP**"), as well as an attestation of vocational specialization, the *Attestation de spécialisation professionnelle* ("**ASP**").

22. CCSQ offers courses in several areas, including the following:

    (a) Accounting (DEP) / *Comptabilité (DVS)*;

    (b) Secretarial Students (DEP) / *Secrétariat (DVS)*;

    (c) Medical Secretary (AEP) / *Secrétariat medical (ASP)*; and

    (d) Medical Office Specialist (DEP+AEP).

23. The most popular program for CCSQ is the combined program Medical Office Specialist which is a double program of Secretarial studies followed by an AEP in Medical Secretary. This combined program is attractive to international students for its post graduation immigration benefits. Over 90% of the students at CCSQ are in this program.

24. There are currently 269 students enrolled at CCSQ, all studying here, in Canada.

C. Path Towards Immigration

25. As appears from the table below, an important number of students enrolled at the Colleges come from international locations, with a majority of students from India.

The proportion of Indian students alone represents 95% out of the total student population at the Colleges.

STUDENTS ENROLLMENT AT THE COLLEGES (BY ORIGIN)				
School	**Local Students**	**Indian Students**	**Misc. International**	**Total**
M College	0	647	41	688
CDE College	2	218	0	220
CCSQ College	4	253	12	269
TOTAL	**6**	**1,118**	**53**	**1,177**

26. Of these 1,177 students, 59 students from M College are studying abroad. In addition to the above-mentioned numbers, there are 318 students waiting in the pipeline with no answer from Immigration and Citizenship Canada (the "**IRCC**") as to their status. In some cases, these students have been waiting for over one year.

School / College	**Waiting in the Pipeline (no response from IRCC)**
M College	199
CDE College	32
CCSQ College	73
CCSQ Sherbrooke (Partner school)	14
TOTAL	**318**

27. The popularity of these programs for international students stems from the immigration path that is opened up through these studies. It should be noted that the Federal Government actively promotes and encourages internationalism. The Canadian Government's campaign to "Study, Work, Immigrate" was implemented by Immigration and Citizenship Canada to attract international students and retain them as successful immigrants, as an answer to Canada's declining population.

28. The *Canadian Study, Work, Immigrate* program has been the competitive advantage that allowed Canada to skyrocket to one of the top study destinations for international students around the world. This process as it pertains to foreign students studying in the Province of Quebec can be summarized as follows:

(a) <u>Step 1: Selection of a school</u>

Potential student candidates and parents select the Partner Institution based on the eligibility criteria set by each institution. Agents and subagents promote the different colleges or schools, help students to prepare the documentation and send it to the Partner Institution for acceptance, based on academic criteria. Along with documentation, students must send payment for the first year of tuition. Once the Partner Institution receives the application package along with confirmation of payment, it provides a “Letter of Acceptance” (“**LOA**”) and an official receipt. This is required to move to the 2nd step, the *Certificat d’acceptation du Québec*.

(b) Step 2: *Certificat d'acceptation du Québec* (“**CAQ**”)

The CAQ is a mandatory immigration document for all international students who wish to study in the province of Quebec. The *Ministère de l'Immigration, de la Francisation et de l'Intégration du Québec* (the “**MIFI**”) grants the CAQ upon successful completion of the application which is done online. The normal processing time for an application is one to two months. A student must have a CAQ granted to move to the next step.

(c) Step 3: Canadian Study Permit (the “**Student Visa**”)

The Canadian Student Visa is a federal immigration document which students must apply for in their home country prior to entering Canada. The Student Visa is issued by IRCC. The application process includes providing copies of the LOA, the receipt, the CAQ and accompanying personal and academic documents, which enables a student to apply for a Student Visa which is issued to the student at the port of entry. For a Quebec recognized College or school to offer sanctioned education to international students, the student in question must have a CAQ and Student Visa, failing which the educational institution may not authorize grades or have official transcripts authorized through the Ministry.

29. On July 15, 2020, the Government of Canada announced changes to the foregoing process, through the “Approval in Principle” (“**AIP**”) initiative. The initiative was announced to support international students seeking higher education in Canada.

30. The changes included the creation of a new two-stage study permit approval process to help candidates who cannot submit the required documents due to COVID-19 closures. This process is available to students starting a program in the fall semester who submit a study permit application before September 15, 2020. Candidates initially receive AIP, allowing them to begin their studies online before they receive full approval at a later date when the required documents can be submitted.

31. The time spent studying online abroad will count towards their PGWP (Post Graduate Work Permit), provided they submit a study permit application and at least 50 % of their program is completed in Canada. Canada has also committed to providing priority study permit processing for students who have submitted a complete application online, to ensure that permits are processed as quickly as possible.

32. An IRCC statement issued on July 14, 2020 stated that: “*This measure will reassure students that they can enroll and begin their studies this fall online, even*

when they are not able to submit all required documentation due to pandemic-related closures". However, as the COVID outbreak continued, the Federal Government told students to continue to study online even though all files could not be processed and ultimately most applications have been rejected and a significant number are still waiting for final approval.

2.3 ASSETS AND LIABILITIES

A. Overview

33. The RPI Group's assets and liabilities are more fully described in the Monitor's Pre-Filing Report (as defined herein) which will be filed at the time of the hearing. The major assets and liabilities of each filing entity can however be summarized as follows:

(a) RPI: the principal assets consist of intercompany loans and advances to related parties and commissions receivables from Partner Institutions (which are contested). As of the filing, RPI's liabilities are approximately $14.5 million including trade payables, related party payables, tuition fee deposits/refunds owing and a guarantee of the FCC loan.

(b) 10864285 Canada Inc. (M College): the principal assets consist of intercompany loans and advances to related parties and fixed assets. As of the filing, M College's liabilities are approximately $6.9 million consisting of tuition fee deposits/refunds owing and trade payables.

(c) Ecole d'Administration et de Secrétariat de la Rive-Sud Inc. (CCSQ): the principal assets consist of investment in subsidiary, fixed assets and accounts receivable (which may be disputed). As of the filing, CCSQ's liabilities are approximately $7.1 million including trade payables, related party payables, tuition fee deposits/refunds owing and a guarantee of the FCC loan.

(d) CDE: the principal assets consist of investment in subsidiary, fixed assets and accounts receivable (which may be disputed). As of the filing, CDE's liabilities are approximately $8.1 million including related party payables, tuition fee deposits/refunds owing and a guarantee of the FCC loan.

(e) CDSQ Immobilier Inc. ("**CDSQ**"): the principal assets consist of investments in a subsidiary, land and a building located at 174 Boul. Sainte-Foy, Longueuil, QC and related party advances. As of the filing, CDSQ's liabilities are approximately $11.2 million including related party payables and the FCC loan which was made to CDSQ.

(f) 9437-6852 Québec Inc. ("**Immoco CCSQ L**"): the principal asset consists of the land and building located at 910 boul. Cure-Poirier Ouest, Longueuil, QC. As of the filing, Immoco CCSQ L's liabilities are approximately $5.7 million consisting primarily of the guarantee of the FCC loan.

(g) 9437-6845 Québec Inc (“**Immoco CDE**”).: the principal asset consists of the land and building located at 37 Wellington, Sherbrooke, QC. As of the filing, Immoco CDE’s liabilities are approximately $5.7 million consisting primarily of the guarantee of the FCC loan.

(h) 11753436 Canada Inc. (“**Gatineau**”): the principal asset consists of the land and building located at 115 rue Champlain, Gatineau, QC. As of the filing, Gatineau’s liabilities are approximately $16.1 million including related party payables and a guarantee of the FCC loan.

34. In addition to the foregoing, a description and comparative table outlining the assets and liabilities of each of the entities in the RPI Group is included in the Monitor’s Pre-Filing Report (as defined herein).

B. Hypothecary Loans to CDSQ Immobilier Inc.

(i) Loan from Firm Capital Mortgage Fund Inc.

35. On March 29, 2021, CDSQ, as borrower, entered into a mortgage/hypothecary loan commitment with Firm Capital Corporation (“**FCC**”), which was then assigned by FCC to Firm Capital Mortgage Fund Inc. (the “**Lender**”), pursuant to which the Lender granted CDSQ a loan of $5,750,000 for a term of eighteen (18) months (the “**Hypothecary Loan Offer**”). The funds were reimbursed to RPI and used to support its cash flow requirements.

36. On April 15, 2021, FCC, the Lender and CDSQ, 9437-6852 Québec Inc., 11753436 Canada Inc. and 9437-6845 Québec Inc entered into a *Deed of Hypothecary Loan*, a copy of which is attached hereto as **Exhibit R-11**.

37. Pursuant to the Deed of Hypothecary Loan, the obligations of CDSQ are secured by a first-ranking movable hypothec, as well as an immovable hypothec on the following property:

(a) the immovable located at 174 Sainte-Foy Blvd, Longueuil, from which CCSQ operates the Jacques Cartier Campus (owed by CDSQ);

(b) the immovable situated at 910 Curé-Poirier Blvd W., in Longueuil, from which CCSQ operates the Longueuil Campus (owed by 9437-6852 Québec Inc.);

(c) the immovable situated at 115 rue Champlain, in Gatineau (owned by 11753436 Canada Inc.); and

(d) the immovable located at 37 Wellington Street N., in Sherbrooke, from which CDE operates (owned by 9437-6845 Québec Inc.).

38. As at December 28, 2021, an amount $5,750,000 is owing as principal pursuant to the Hypothecary Loan Offer.

(ii) Loan from RPI

39. Pursuant to Deeds of immovable and movable hypothecs published on June 2, 2020, 9042-0704 Québec inc. (who then merged to become the current CDSQ), École d'Administration et de Secrétariat de la Rive-Sud Inc. and CDE, as borrowers, each granted a hypothec in the amount of $10,970,000.00 in favor of RPI to secure the advances of $10,900,000.00 made on June 1, 2020 for the purchase of the CDE and CCSQ colleges (the "**RPI Hypothecs**"), on the following immovables:

    (a) the immovable located at 174 Sainte-Foy Blvd, Longueuil, from which CCSQ operates the Jacques Cartier Campus (owned by CDSQ);

    (b) the immovable situated at 910 Curé-Poirier Blvd W., in Longueuil, from which CCSQ operates the Longueuil Campus (owned by 9437-6852 Québec Inc.); and

    (c) the immovable located at 37 Wellington Street N., in Sherbrooke, from which CDE operates (owned by 9437-6845 Québec Inc.).

    copies of which are attached hereto as **Exhibits R-12, R-13** and **R-14.**

40. RPI ceded rank in favor of FCC, such that FCC is the first ranking secured creditor over the abovementioned immovables.

C. Hypothec granted by 11753436 Canada inc.

41. Pursuant to a Deed of hypothec published on December 9, 2021, 11753436 Canada Inc. has granted a hypothec in the amount of $1,635,000 in favor of RPI to secure RPI's obligations in respect of an indebtedness of $1,634,542 towards student candidates that have applied to study at Les Consultants 3 L M Inc. (operating under the name *Institut supérieur d'informatique ISI*) ("**ISI**") and to secure all of the obligations of 11753436 Canada inc. towards RPI, on the immovable situated at 115 rue Champlain, in Gatineau, copy of which is attached hereto as **Exhibits R-15.**

D. Hypothec granted by 9437-6852 Québec inc.

42. Pursuant to a Deed of hypothec published on December 22, 2021, 9437-6852 Québec inc. has granted a hypothec in the amount of $400,000 in favor of Lavery, De Billy, Limited Liability Partnership ("**Lavery**") to secure RPI's obligations in respect of present and future indebtedness towards Lavery for professional services provided or to be provided to RPI, on the immovable situated at 910 Curé-Poirier Boulevard West, in Longueuil, copy of which is attached hereto as **Exhibits R-16.**

E. Litigation

43. There are a number of ongoing litigation and arbitration proceedings in which the Applicants, and in some cases its Directors, are involved, including the following:

(a) *Bestway (Rehill Services) vs. RPI* (500-17-117268-212, 500-11-059918-215, 500-11-059913-216,500-17-116997-217): This action was recently settled (the "**Settlement Agreement**"), although the execution of the terms thereof are currently in dispute.

(b) *College Universel/College CSM vs. RPI* (500-17-110236-190): An action was instituted by College Universel against RPI for $4 million. This action has been suspended *sine die*, as the parties have agreed to proceed to arbitration instead. Arbitration is scheduled to commence in March/April 2022.

(c) *ISI vs. RPI et als.*: An action for $17 million was instituted against RPI and certain members of the Mastantuono family. The case is currently being arbitrated, closing arguments were presented in December 2021 and the Arbitrator's decision is pending.

(d) *Benoit Sansoucy vs 11753436 Canada Inc. et als.* (500-17-115064-209): An action was instituted in respect of commissions of $327,678.75 claimed following the purchase by 11753436 Canada Inc. of the Gatineau Property (as herein below defined). The entire claim is contested.

44. Over the last two years, the RPI Group has incurred legal fees and other professional costs in excess of $3 million.

F. Premiums Owing to Insurer

45. In the context of its operations, RPI has purchased emergency hospital and medical coverage for its international students, as appears from a copy of the policy, attached hereto as **Exhibit R-17**. The program is underwritten by Berkley Insurance Company and administered by JF Insurance Agency Group (the "**Insurer**").

46. All foreign students are required to have health and medical insurance as a condition of their Student Visas and to remain in Canada.

47. Recently, and in light of its financial difficulties described below, RPI missed the December 1, 2021 payment owing to the Insurer. Accordingly, it negotiated an agreement whereby certain unpaid premiums would be paid on the first of each month, but in light of its deteriorating financial situation, RPI has not been able to abide by these terms.

48. On December 10, 2021 and December 23, 2021, the Insurer issued formal notices to RPI in which it requested the payment of approximately $620,000 in insurance premiums arrears owing with respect to 3,075 policies.

49. RPI contests the right of the Insurer to cancel these policies.

50. RPI is the payor of the insurance premium under a delegation of payment from each of the individual students, duly accepted by both RPI and the Insurer.

51. RPI pays monthly installments to the Insurer out of the Fees paid by the students to RPI.

52. There are policies issued to approximately 1,215 foreign students studying at the Colleges, plus an additional 403 students who study at ISI.

53. The Insurer has advised that there were 1,217 student policies that would be cancelled, should RPI fail to pay the premiums.

54. In its notice sent on December 23, 2021, the Insurer advised RPI that on December 31, 2021, it would give notice of the cancellation of 1,215 student policies, effective on January 14, 2022, and would reduce the duration of 1858 other student policies, the whole as appears from a copy of the December 23 notice from the Insurer, attached hereto, under confidential seal, as **Exhibit R-18**.

55. On December 31, 2021, the Insurer advised CDE, M College and CCSQ that, unless it receives an appropriate response and payment from RPI, the 658 student policies (343 for CDE, 284 for M College and 31 for CCSQ) that were issued after June 2, 2021 will be cancelled on January 14, 2022 and, the duration of the 735 student policies (241 for CDE, 427 for M College and 67 for CCSQ) issued before June 2, 2021 will be reduced in order to recover the outstanding premium, the whole as appears from a copy of the December 31 notice from the Insurer, attached hereto, *en liasse* under confidential seal, as **Exhibit R-19,**

56. It is to be assumed that a similar notice was also sent to ISI, whose international students were also insured trough RPI;

57. These modifications could reduce the policy durations or altogether eliminate the coverage for the RPI Group's most vulnerable group of stakeholders, leaving foreign students with reduced or non-existent health and medical coverage during the current Pandemic.

58. The cancellation of the policies could also place an important number of foreign students in breach of their conditions to maintain their Canadian Study Permits, thereby jeopardizing their ability to remain in Canada.

59. The cash flow of the Applicants forecasts making monthly payments of $75,000 for January and $55,000 thereafter to the Insurer on a go-forward basis, which payments are meant to preserve the insurance coverage of the foreign students for the post-filing period, calculated on the basis of the average daily insurance cost of $1.50 per student.

G. Security Pursuant to the Act Respecting Private Education

60. Pursuant to the *Act Respecting Private Education*, chapter E-9.1, CDE and M College have furnished the Minister of Higher Education, Research, Science and

Technology with bonds issued by *Compagnie d'Assurance Trisura Garantie* in the amount of $300,000 to secure the performance of their obligations under Chapter IV of the Act in accordance with government regulations. These bonds secure any refunds owing to students or clients in the scenario where an educational institution has not met its obligations, as appears from a copy of the Bond certificates attached hereto as **Exhibit R-20**.

2.4 THE RPI GROUP'S FINANCIAL DIFFICULTIES

A. Overview

61. The insolvency of the RPI Group is attributable to a cascade of unfortunate events, the impact of the COVID-19 pandemic, untimely and improperly financed expansions, changes to the immigration process for international students, as well as the litigation and public relations issues faced by the group, as further detailed below. These compounded to create a "perfect storm" that is effectively preventing the RPI Group from continuing its operations as a going concern.

B. The College Universel crisis and the purchase of the Gatineau Property

62. In May 2019, RPI started to have trouble with one of its partner school, the College Universel in Gatineau.

63. College Universel had issued more letters of acceptance for the May 2019 intake than they had seats for the students and made other errors which caused them to change the schedules for the students that were already attending the college.

64. Students arrived in Canada and either had no open seat waiting for them or were offered a seat, but their schedules were changed from 3 or 4 days a week to 5 or 6 days, and in some cases, 7 days a week.

65. This created a crisis, in so far as students felt that RPI and its agents had misled them. RPI worked as hard as it could to resolve these issues, however College Universel saw massive withdrawals from students.

66. By January 2020, RPI and College Universel's partnership ended acrimoniously and RPI refunded all students for whom they had taken payments for College Universel. College Universel refused to pay RPI's commissions and litigation ensued.

67. RPI and its recruitment partner for India, Rehill, had invested time and money in promoting the city of Gatineau as a study destination and wanted to preserve their business market in the region. RPI and Rehill had already proven they could bring 600+ students to the region yearly and, at that moment, had no alternative to offer in the area to replace Universel College.

68. RPI made the decision to acquire a building located at 115 Champlain in Gatineau (the "**Gatineau Property**") and to apply for an additional campus for M College in that region.

69. In March of 2020, as the COVID-19 pandemic was starting, RPI advanced $9,500,000 to 11753436 Canada Inc. for the purchase of the Gatineau Property, using its own working capital that came from the student fees it had collected and the commissions it had earned.

70. Although it was thought to be a sound business decision at the time, the purchase of the Gatineau Property ultimately contributed to the downfall of RPI.

C. The COVID-19 Pandemic

71. The global COVID-19 pandemic (the "**Pandemic**") and the associated public health and safety measures caused waves of closures and re-openings at the Colleges which detrimentally affected revenues, increased costs and severely restricted the Colleges' ability to operate.

72. The bulk of the RPI Group revenue comes from RPI's commissions deducted from the tuition paid by local and international students who attend the Colleges.

73. Because of the Pandemic, Canada closed its border with India for a significant part of 2020, as well as a portion of 2021. Students from India make-up the quasi-totality of the student body at M College. Without the ability to come to Canada, the interest of these students in the programs offered dropped significantly, with international recruiting decreasing by nearly 90% as the entire student market was clouded with uncertainty surrounding the Pandemic.

74. Even for international students already enrolled in the program, cancelled flights, reduced flight availabilities, and increased prices for airline travel made it difficult for students to afford tickets even if the border reopened.

75. Over a 12-month period starting in March 2020, the revenues of the RPI Group decreased by 45% and have since continued their decline.

76. In parallel, the RPI Group faced mounting costs directly related to the Pandemic. The transitioning of students to online classes alone entailed increased costs in several areas, including the following:

    (a) Provision of laptops to all students in Canada and India;

    (b) Provision of wireless dongles with prepaid internet service to students in India;

    (c) Provision of cameras, microphones and other accessories to teachers; and

    (d) Upgrade of the RPI Group's digital network and purchase of single software licenses for each student studying from home (versus licenses for machines used by multiple users).

77. The implementation of health and safety measures in the College campuses, such as the purchase of PPE and plexiglass to create personal study pods, also created unexpected costs as did the fact that the RPI Group covered the costs associated with the 14-day quarantine for arriving international students.

78. Costs also mounted because of students choosing to defer future intakes. Viable classes of thirty or more students were often reduced to classes of five to ten students, which left RPI no choice but to cancel classes and refund students or open classes that either lost money or broke even.

79. In July 2020, when students were asked to come back to the College campuses, additional staff was required in light of social distancing and other measures, creating an additional financial burden.

80. Over time, the RPI Group continued to invest in the health and safety of its students without knowing that it would be facing continued lockdowns and travel restrictions well into 2021, on the expectation that it would re-build and grow more quickly once the Pandemic finally receded.

D. The Purchase of CDE and CCSQ

81. As the Pandemic was starting and at the same time as the purchase of the Gatineau Property, in March 2020, RPI was advised that the former owners of CDE and CCSQ were looking to sell their colleges. They naturally approached RPI since 95% of the active students in these two colleges were international students recruited by RPI.

82. To protect its interest and market, RPI decided to make an offer to acquire the two colleges.

83. Discussions with several banks were immediately initiated to finance the purchase, with the Business Development Bank ("**BDC**") and Toronto-Dominion Bank ("**TD**") showing the greatest interest.

84. While the BDC and the TD financing were well advanced and only delayed by the Pandemic slowdowns, the sellers insisted upon closing on June 1, 2020, the agreed upon closing date. RPI needed a bridge until the BDC and TD financing could be finalized. In order to avoid litigation, RPI decided to temporarily advance funds from its working capital to close the pending purchase the two colleges.

85. On June 1, 2020, RPI advanced CDSQ $10,900,000 to purchase the CDE and CCSQ colleges, together with their three buildings located at 910 Curé-Poirier Blvd W., in Longueuil, 174 Sainte-Foy Blvd, in Longueuil and 37 Wellington St. North, in Sherbrooke. Hypothecs were registered in favour of RPI to secure its advances until they could be reimbursed, upon disbursement of the BDC and TD financing.

86. By September 2020, RPI had commitments for $10.6 million in financing from BDC and TD to reimburse all of its outstanding advances and loans granted for the purchase of the CDE and CCSQ Colleges, as well as the infrastructure for M College and renovations and upgrades of the new acquisitions. These loans were never disbursed.

E. The public relations issues and their trickle-down effect

87. In early November 2020, negative media reports criticizing private and some public schools for recruiting large numbers of English-speaking international students from India began to surface. Several of these articles focused on M College and called into question recruitment firms and their practices, the quality of education at private colleges and the fact that students were not required to learn French.

88. On November 18, 2020, the BDC loan of $5,500,000 was signed with the notary and was to be disbursed the following Monday, on November 23, 2020.

89. On November 20, 2020, Caroline and Christina Mastantuono (the "**Defendants**") were arrested by members of the *Unité permanente anticorruption* ("**UPAC**"). The grounds of this arrest had to do with an alleged use of false documents by the Defendants to facilitate the processing of student permit applications, while working for the Lester-B.-Pearson School Board from 2014 to 2016, before they started RPI.

90. The Defendants deny any wrongdoing and have contested the charges brought against them. The proceedings remain ongoing and contested to this day.

91. Although the charges alleged by UPAC were in no way related to the activities of the RPI Group, several media outlets published articles about the arrests which referred to RPI and to the Colleges. The numerous articles that criticized the international student industry in Quebec also systematically referred to the arrests, RPI and the Colleges.

92. On November 24, 2020, BDC pulled back its loan commitment, stating they were not comfortable with the bad press.

93. By Friday of that same week, RPI had heard from TD and all other banks it had approached, that all were no longer willing to work with RPI Group, due to the media firestorm the took place at the end of November 2020.

94. The media storm gained in strength and the Quebec Ministry of Education and the *ministère de l'Immigration, de la Francisation et de l'Intégration* soon came under fire.

95. On December 30, 2020, the Quebec Government suspended CAQ applications for all students participating in RPI programs and those of other colleges implicated as attracting large student populations from India. Although this suspension was subsequently reversed 12 days later, it had already done significant damage to RPI and to the Colleges.

96. Students, partners and suppliers started to blame RPI for delays or suspensions of immigration documents. Partners started to cancel their contracts with RPI, suppliers served RPI with lawsuits without merit and parties who owed RPI money for services rendered stopped remitting payments.

97. In February 2021, Rehill, whose principals Gurpreet Rehill Singh and Rohit Uppal were also 40% shareholders of M College's holding company, the sole shareholder

of M College, and despite having been paid in full up to December 2020 and having failed to pay back nearly $2 million dollars in advances on its commissions, instituted legal proceedings to terminate its contract with RPI, and claimed $3.4 million dollars in commissions. The matter has since been settled on terms yet to be implemented.

98. ISI, RPI's largest partner school, also moved to cancel its partnership with RPI. The claim was contested and RPI claimed the payment of its unpaid commissions. ISI countersued for over $14 million. The matter has been arbitrated and the parties are awaiting the Arbitrator's decision on the merits.

99. Late December 2020, and despite CAQ's being issued as normal, a backlog started to build at the Federal Immigration Visa Department, where Student Visas processing for Quebec soon came to a full stop.

100. As outlined above, under the newly introduced "Approval in Principle" (AIP) system, the Federal Government had allowed colleges to start providing courses to AIP students before they received a proper Student Visa. The Quebec Ministry of Education also strongly encouraged all institutions to get online and avoid bringing students into the Colleges due to Covid concerns.

101. Historically, Student Visa approval rates for regular applications had been in the high 80%. Since RPI did not change the type of student profile which it recruited and these students had been "Approved in Principle", it assumed that the same approval rates would continue to apply.

102. RPI therefore made investments to start classes for these students from Canada while they studied online from India. As mentioned, RPI supplied computers, internet access and increased staffing hours to make up for the different time zones.

103. By March 2021, hundreds of students started to become nervous that they had yet to receive any answer regarding their application for a Student Visa. This panic spread on social media and students began to demand refunds.

104. In all, RPI refunded more than 788 students, for an aggregate amount of $10,400,000, the whole as detailed in the spreadsheet attached hereto as **Exhibit R-21.**

105. As a result, RPI scrambled to find financing with private lenders in order to be able to meet its obligations as they became due.

106. Ultimately, and as mentioned above, in March 2021, RPI, through CDSQ Immobilier, borrowed $5,750,000 from FCC to help with reimbursement of students and to support its cash flow requirements.

107. The Colleges incurred significant legal fees in seeking out answers for unexplained processing delays. Students blamed the Colleges for the delays, despite the IRCC claiming they were backlogged as a result of COVID.

108. Finally, the IRCC announced, in May 2021, that any student who had a complete file submitted to them by May 15, 2021 would receive an answer to their application by August 6, 2021. Initially this brought a measure of calm to the students. But as July was ending and not one Student Visa had been issued, students again started to become nervous. Students who had been studying online started asking for refunds and expected to get all their fees back despite having been in classes for the better part of a year. Some pipeline students also started to get nervous and asked for refunds.

109. By August 6, 2021, a few visas began to trickle out, but nothing close to covering the 1,000+ backlogged pending students for the Applicants' Colleges. Refund requests once more started to flood the Colleges, pipeline students wanted out, existing students wanted to withdraw and demanded all their money be returned. The IRCC was giving no explanation or updates on the delays except platitudes blaming the Pandemic, but without any relief or conclusion in sight.

110. As August ended and the Fall semester started, this issue became a full-blown disaster as the visa refusal rates started to skyrocket. In a matter of weeks, visa approval rates across all learning institutions dropped from 80% to 25-30%. This meant that RPI and the Colleges were now going to see a reduction in expected revenues of 50-75%, after having invested in all the previously mentioned additional costs.

111. Since then, the processing for Student Visas remains backlogged, with reports in November 2021 citing that the Federal Government had 1.8 million files still to be processed and additional files coming in every day. The following table summarizes the drop in the number of students since the beginning of the Pandemic as well as the rejection numbers pertaining to AIP students:

Student Recruitment and AIP Rejections			
School	**Students Recruited or Active before COVID**	**Students Recruited and Active since COVID**	**AIP Students who received services and were rejected**
M College	966	26	181
CDE College	348	5	35
CCSQ College	153	53	0

112. As of this day, the tuition fees due to schools and refund claims from 633 students against the entities forming part of the RPI Group are estimated at $6,390,000 with $3,435,000 in claims against M College alone.

113. In addition to the above refund claims, there are potential additional claims of approximately $5 million from pipeline students awaiting a decision on their

Student Visa application. These potential additional claims have been included as liabilities in the payable summaries of each entity (where applicable).

2.5 MEASURES ADOPTED BY THE RPI GROUP

A. Cost Reductions

114. As of March 2020, the RPI Group employed approximately 16 teaching staff and 75 administrative staff. Of these, approximately 90% were employed on a full-time basis. The RPI Group did not own CDE and CCSQ at that time and M College had only opened in February 2020.

115. As the Pandemic introduced waves of closures and re-openings, despite the associated reduction in certain segments of its business, such as student recruitment, the RPI Group initially resisted laying off its teaching and administrative staff.

116. As of November 29, 2021, the 3 colleges employed 80 teachers, most of whom were hired on a contract basis and paid on an hourly wage. On November 30, 2021, these 80 teachers, as well as 70 members of the administrative staff, were laid off.

B. Financing Attempts

117. As mentioned above, after the failed attempt at refinancing with the BDC and TD bank, RPI obtained temporary financing from FCC for $5,750,000, which was disbursed in March 2021.

118. Since February 2021, Caroline Mastantuono has invested, personally or through her own holding company, more than $1.1 million to support the cash flow requirements of the RPI Group.

119. On November 8, 2021, RPI entered into a $3 million bridge loan financing agreement with Groupe Financier CHOK Inc., which was to be secured by a second ranking hypothec on the Gatineau Property. On November 16, 2021, the lender decided to pull out without offering any explanation.

C. Potential Sale of one Immovable

120. Based on evaluations performed by independent appraisers in 2020 (as more fully summarized in the Pre-Filing Report of the Monitor), the RPI Group owns immovables valued at over $13 million. Nonetheless, despite its significant efforts, it has not able to secure financing over and above the $5,750,000 from FCC.

121. As such, on January 22, 2021, RPI decided to put the Gatineau Property up for sale in order to replenish its working capital and try to meet its obligations.

122. On October 1st, 2021, an offer was accepted for the sale of the Gatineau Property. However, the prospective purchaser ultimately decided not to proceed with the transaction.

123. On November 19, 2021, a *Letter of intent agreement* (the "**LOI**") was entered into by 11753436 Canada inc. as the seller, and a potential purchaser, for the purchase of the Gatineau Property, a copy of which is filed in support of this Application, under confidential seal, as **Exhibit R-22**. The LOI provides for a due diligence period of 60 days, which is currently underway, following which a formal offer to purchase is to be signed between the seller and the purchaser.

D. Graduating the Students

124. Despite the public relations issues mentioned hereinabove, it is to be noted that in August 2021, the Ministry of Education renewed the permits for all 3 Colleges.

125. RPI and the Colleges are working on a plan to graduate 320 students by January 30, 2022, and another group of 181 students by February 28, 2022, for a total of 501 students.

126. As for the other students, their academic training will be temporarily suspended, so that the Monitor, working in consultation with the RPI Group, can determine if a potential buyer for the three Colleges can be secured quickly, failing which, the students will have the time to transition to other colleges.

127. In the meantime, the Colleges, in collaboration with the Ministry of Education, will take the necessary measures to safeguard the rights of students.

E. Contribution of the Directors

128. The Mastantuono have been involved in each aspect of building and operating the entities forming part of the RPI Group. Accordingly, the involvement of the Directors will be essential during the restructuring process in order for the Colleges to continue their operations, to effectively ensure the graduation of as many students as possible and to market and sell the Colleges as going concerns.

129. The Directors will not be paid a salary during the course of these CCAA proceedings, and accordingly, from a cost benefit perspective, particularly considering their unique expertise as regards to the RPI Group, their continued involvement throughout the restructuring allows the RPI Group to operate as efficiently as possible, to the benefit of all of its stakeholders.

130. More specifically, Carol Mastantuono, the current president of RPI and founding president of the Colleges, will be essential for the following reasons:

    (a) She will ensure, through strategic planning and implementation, that the required actions to maximize the number of students who are able to successfully complete their studies during the restructuring period are appropriately taken;

(b) She has over 30 years' experience in educational services in the domain of international students, which will allow her to oversee the reduced educational staff and teachers in order to implement smooth transitions in the instructional processes and schedules; and

(c) She was the principal director involved with the recruitment of not only international students, but the educational agents who acted as the local representatives for each student. Her contributions toward the communications and strategy will lead to the most efficient use of resources to diminish the number of active students, which would reduce potential creditors, leaving the remaining creditors the ability to recoup higher amounts.

131. Christina Mastantuono, the current Vice President of RPI, is also essential, and will provide the following services:

(a) She will continue her role in the financial management of the companies, working closely with the Monitor and accountants to provide a smooth transition of all financial procedures and processes that were in place at RPI and the Colleges;

(b) She will also manage the small team that will assume the role of Registrar for the Colleges to enter and transmit student marks and other pertinent information to the Ministry of Higher Education; and

(c) She will help manage and oversee the end of the year tax form preparation for international students as well as end of year tax forms for employees, including the current employees and the 150 employees that were laid off this past November. Her knowledge of the financial processes related to international students will not only be critical, but will also greatly reduce the costs associated to the issuance of said documents.

132. Finally, Joseph Mastantuono, the former VP of RPI and current president of M College, CDE College and CCSQ College, will provide the following essential services:

(a) He will form the core of the student services team, taking on the nonacademic duties and responsibilities required for students to continue at the Colleges; and

(b) He will provide variety of services to ensure an orderly transition for those students who will be graduating, which he is best positioned to do, considering his founding role in RPI as Vice President of Operations, which included the student services department.

133. All three Directors are committed to working in earnest and **without cost** for the Colleges and affiliate companies, the whole in an effort to ensure the best possible outcomes for all stakeholders, including students and other creditors.

3. RELIEF SOUGHT

134. The Applicants seek protection under the CCAA in order to restructure, at least in part, their business, all the while allowing a maximum number of students to complete their programs and graduate from their respective colleges.

135. In addition to the foregoing, the Applicants will ask the Monitor to market and solicit offers for the sale of the Colleges as going concerns, or alternatively sell the real estate, in a manner which will ultimately allow them to preserve enterprise value for the benefit of all of its stakeholders, including current students.

136. The Applicants believe that the structure and oversight provided by the CCAA process is necessary to implement their restructuring efforts and accordingly, require the following relief to be ordered by this Court.

3.1 STAY OF PROCEEDINGS

137. As mentioned, given its current financial situation, the Applicants are concerned that unless a stay of proceedings is ordered, certain creditors and other stakeholders may take steps that will deplete the Applicants' assets which would jeopardize any efforts to restructure.

138. The Applicants hereby request that the stay of proceedings, initially ordered until January 14, 2022, as extended to January 17, 2022 (the "**Stay Period**") be extended until February 28, 2022, so as to preserve the *status quo* and prevent creditors and others from taking any steps to try and better their positions in comparison to other creditors. All stakeholders generally, including creditors, will benefit from the requested order.

139. The Applicants also request an order specifically preventing the Insurer from modifying the duration of the issued policies or from cancelling any of the policies.

140. Attached as Exhibit "**D**" to the Report of the Monitor are weekly cash-flow projections (the "**Cash-Flow Forecasts**") for the Applicants, forecasting the Applicants' principal use of cash during the next 13 weeks, which will consist of the payment of ongoing day-to-day operational expenses, such as payroll and office related expenses, student related expenses including insurance and teacher salaries, real estate related expenses and professional fees and disbursements in connection with these CCAA proceedings.

141. The Applicants' cash flow forecast projects that, subject to the approval by this Court of the Interim Financing (as defined below), they will have sufficient cash to fund their projected operating costs until the end of the stay period.

142. The Monitor has reviewed the cash flow forecast, which it has appended to its Supplemental Report dated January 16, 2022.

3.2 APPOINTMENT OF RICHTER AS MONITOR

143. Richter has been assisting the Applicants with the pending CCAA application and is aware of their financial situation. The Applicants believe that it is in the best interests of all stakeholders that Richter act as the monitor of the Applicants pursuant to the CCAA. Richter has valuable insights into the Applicants' business and has confirmed that it consents and is in a position to perform the monitoring duties without any delay.

144. The Applicants understand that Richter will be filing its Pre-Filing Report with this Honourable Court as Monitor in conjunction with the Applicants' request for relief under the CCAA, which will provide, *inter alia*, additional details relating to the RPI Group's pre-filing restructuring efforts, as well as its views and recommendations in connection the present Application and the relief set out herein.

3.3 THE EXTENSION OF RICHTER'S POWERS AS MONITOR

145. The RPI Group, in consultation with the Monitor, have determined that it would be in the best interest of all stakeholders, as well as the RPI Group more generally, that Richter be granted the following expanded powers:

(a) the authority to open bank accounts and to monitor the receipts and collection of all monies and accounts owed, owing or paid to the RPI Group, and to control any disbursement by RPI;

(b) the authority to market and solicit offers for the sale of the Colleges, as going concerns, in a manner which will ultimately allow them to preserve enterprise value for the benefit of all of its stakeholders and, alternatively, to market and solicit offers for the sale of the immovables.

146. In light of the instability surrounding the business of the RPI Group, the significant number of ongoing disputes between RPI and several of its partners, the UPAC arrests of the Defendants and the public relations issues relating thereto, the RPI Group has determined that providing these extended powers to the Monitor, will not only reassure all stakeholders but will also aid in the restructuring process.

3.4 INTERIM FINANCING AND INTERIM LENDER'S CHARGE

147. Over the course of the past week, the Applicants, together with the Monitor, have had several discussions regarding their financing needs to ensure the funding of the proposed restructuring process.

148. On the basis of these discussions, Gestion Levy inc. (in such capacity, the "**Interim Lender**") is prepared to provide interim financing to the Applicants on the terms and conditions set forth in the interim financing facility term sheet (the "**Interim Financing Term Sheet**") which provides for a credit facility in the *total* amount of \$1,750,000 (the "**Interim Financing Facility**") to be guaranteed and secured by a super-priority charge (the "**Interim Lender's Charge**") on all present and after-acquired property of the Applicants. A copy of the Interim Financing Term Sheet is communicated herewith, under confidential seal, as **Exhibit R-23.**

149. The Interim Financing Facility, R-23, contained a right of first refusal, in favour of FCC, to provide the Applicants with financing on terms substantially similar to the terms hereof or on terms preferable to the Applicants (the "**Alternative Facility**").

150. On January 16, 2022, FCC exercised its right of first refusal and offered an Alternative Facility to the Applicants (the "**FCC Interim Financing Facility**"). A copy of the Interim Loan Commitment (the "**Interim Financing Agreement**") is communicated herewith, under confidential seal, as **Exhibit R-23A.**

151. Given the current financial situation of the Applicants including their cash position, and given the exercise by FCC of its right of first refusal, the FCC Interim Financing Facility is the only feasible financing alternative available to the Applicants, and is on terms that are fair, reasonable and adequate in the circumstances.

152. The FCC Interim Financing Facility sought by the Applicants is critical to their ongoing operations and restructuring as set out in the Monitor's report.

153. To reach an agreement with FCC and to secure the necessary Interim Financing required to maintain the ongoing operations and the restructuring of the Applicants, Caroline Mastantuono gave a personal guarantee for the full amount of the FCC Interim Financing Facility.

154. In light of the foregoing, and pursuant to sections 14 and 15 of the Interim Financing Term Sheet (Exhibit R-23) with Gestion Levy Inc., the Applicants seek the authorization to pay Gestion Levy Inc. the Break Fee and Expense Reimbursement, as those terms are defined in Exhibit R-23.

155. The FCC Interim Financing Facility will allow the Applicants to implement measures to ensure the graduation of a minimum of 320 students in January 2022 and, perhaps, another 181 students in the following month, all the while preserving the value of the Colleges until they can be sold as going concerns or, alternatively, until their real estate can be sold.

156. The Applicants understand that the Monitor is supportive of the proposed Interim Financing Facility and the Interim Lender's Charge, as well as the manner in which the advances thereunder should be made.

3.5 DIRECTORS' CHARGE

157. In order to continue to carry on business during the CCAA proceedings, the Applicants require the active and committed involvement of its directors, *de facto* directors, as well as certain senior officers.

158. Although the Applicants intend to comply with all applicable laws and regulations, including the timely remittance of deductions at source and federal and provincial sales taxes, the directors and officers of the Applicants are nevertheless concerned about the potential for their personal liability in the context of the present CCAA proceedings.

159. Since the Applicants' operations and contemplated restructuring require the continued assistance of these directors and officers, the latter require the

Applicants' to indemnify them for all liabilities which they may incur in the context of their employment after the filing of these proceedings.

160. The Applicants therefore request a Court-ordered charge (the "**Directors' Charge**") in the amount of $75,000, as part of the First Day Order (and to be then confirmed as part of the Initial Order), over their assets, property and undertaking to indemnify their directors and officers in respect of any liability which may be assessed from and after the commencement of these proceedings.

161. The Applicants submit that the requested Directors' Charge is reasonable and adequate given, notably, the complexity of their business, and the corresponding potential exposure of the Applicants' directors and officers to personal liability.

162. Absent the protections sought in the conclusions of the present Application, the Applicants are concerned that one or more of its directors or officers will be forced to resign from their posts, which would, in all likelihood, jeopardize the continuation of the Applicants' business, the whole to the detriment of the Applicants' stakeholders.

163. In addition, the Applicants' further submit that the Directors' Charge will provide assurances to the Applicants' employees that their obligations towards them for accrued wages and vacation pay shall be satisfied.

164. Indeed, while the insolvency of the Applicants and its non-payment of various employee obligations may trigger the personal liability of the Applicants' directors and officers, any recourse initiated by the Applicants' employees does not guarantee them any recovery. Therefore, the creation of a security in favour of the Applicants' directors and officers for sums for which they may be held liable to employees (but for which the Applicants are ultimately liable) enhances such employees' chances of recovery by, in effect, creating a security for their claims.

3.6 ADMINISTRATION CHARGE

165. As mentioned above, Richter is prepared to act as Monitor during the CCAA proceedings and to assist the Applicants with the preparation of cash flow projections and with all aspects in relation to a restructuring and sale process pursuant to, and subject to, the terms of the Initial Order and the statutory provisions of the CCAA.

166. The Applicants' counsel, the Monitor and the Monitor's solicitors are essential to the Applicants' restructuring. Accordingly, the Applicants seek an administration charge (the "**Administration Charge**") in the <u>total</u> amount of <u>$600,000</u>, <u>to take rank as set out in the amended draft Restated and Amended Initial Order, produced herewith as **Exhibit R-2B**</u>, which shall affect their assets and secure the payments to be made to the Monitor, counsel to the Monitor and counsel to the Applicants.

3.7 SEALING

167. As mentioned, the Applicants are privately owned, and therefore have no statutory securities disclosure obligations.

168. The Applicants and the Monitor will shortly be initiating a sale process to solicit offers for the Colleges and their real estate. In order to preserve and maximize the value thereof, applicants submit that any recent offers obtained and any appraisals performed should be kept confidential and under seal.

169. The Applicants submit that all such documents produced and/or communicated in the context of the present proceedings including via the reports of the Monitor should be kept strictly confidential and under seal. Such information could be made available to creditors of the Applicants who execute a confidentiality agreement.

170. It is submitted that public disclosure of such documents containing sensitive information would be very prejudicial to the Applicants, notably due to the potential use of this information by potential creditors, competitors or purchasers in the context of the Applicants' potential efforts to finalize a sale of their assets and operations.

171. At the same time, this would cause no prejudice to the Applicants' creditors, as the information would nevertheless be filed with this Court and could be made available to those creditors who agree to sign a confidentiality agreement.

172. The Applicants also seek that the list of students who are identified in the Notices filed under Exhibit R-18 and R-19, as well as the list of students who are creditors or potential creditors, be kept under confidential seal by the Monitor, as opposed to being made publicly available on the Monitor's website.

173. The purpose of this request is two-fold: (a) preserve personal information (names, addresses etc.) pertaining to individual students; and (b) preserve valuable commercial information (student names), the public release of which could potentially lead to a poaching of students that could lower the value of the colleges in a sale scenario.

4. CONCLUSIONS

174. As appears from the above, the Applicants are currently in a challenging financial position. As a result of the abrupt and devastating cessation of operations due to the Pandemic, as well as the contribution of the particular circumstances outlined above, the Applicants are no longer able to meet their financial obligations and require the protection afforded by the CCAA while they seek to conduct this restructuring process.

175. In the present case, the numerous and varied stakeholders of the Applicants which include employees, creditors, students and suppliers, will benefit from the relief sought herein.

176. Accordingly, the Applicants believe that the best way to preserve enterprise value for the Applicants and their stakeholders is for the Court to grant the Orders sought herein.

177. Considering the urgency of the situation, the Applicants respectfully submit that the notices given of this Application for the purposes of all orders sought herein are proper and sufficient and that said Application should be granted in accordance with its conclusions.

WHEREFORE, MAY THIS COURT:

GRANT this *Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order, and an Order Approving a Sale and Investment Solicitation Process* (the "**Application**").

ISSUE orders substantially in the form of the amended draft Initial Order communicated as Exhibit R-2B;

WITHOUT COSTS, save and except in case of contestation.

MONTRÉAL, January 16, 2022

Kaufman Lawyers

KAUFMAN LAWYERS LLP
Att. Me Martin P. Jutras
800 Boulevard René-Lévesque O.
Bureau 2220
Montréal (Québec) H3B 1X9

Attorneys for the Applicants

SWORN STATEMENT

I, the undersigned, **Caroline Bonneville (Mastantuono)**, having my principal place of business at 2140 rue de la Montagne, 3rd Floor, in the city of Montreal, Province of Quebec, solemnly declare the following:

1. I am the president of Rising Phoenix International Inc.;

2. All the facts alleged in the *Application for the Issuance of a First Day Initial Order and an Amended and Restated Initial Order* are, to the best of my knowledge, true.

AND I HAVE SIGNED

C. Mastantuono

Caroline Bonneville

Solemnly declared before me at Montreal, on the 16th day of January 2022

Commissioner of oath for the Quebec

Commissaire à l'Assermentation
ANDREW ADESSKY
#106 091
Pour tous les Districts judiciaires du Québec

SWORN STATEMENT

I, the undersigned, **Joseph Mastantuono**, having my principal place of business at 2140 rue de la Montagne, 3rd Floor, in the city of Montreal, Province of Quebec, solemnly declare the following:

1. I am the president of 10864285 CANADA INC., 11753436 CANADA INC., CDSQ IMMOBILIER INC., COLLÈGE DE L'ESTRIE INC., ÉCOLE D'ADMINISTRATION ET DE SECRÉTARIAT DE LA RIVE SUD INC., 9437-6845 QUÉBEC INC. and 9437-6852 QUÉBEC INC.

2. All the facts alleged in the *Application for the Issuance of a First Day Initial Order and an Amended and Restated Initial Order* are, to the best of my knowledge, true.

AND I HAVE SIGNED

Joseph Mastantuono

Solemnly declared before me at Montreal, on the 16th day of January 2022

Commissioner of oath for the Quebec

Commissaire à l'Assermentation
ANDREW ADESSKY
#106 091
Pour tous les Districts Judiciaires du Québec

<u>NEW</u> NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Application for the Issuance of a First Day Initial Order and an Amended and Restated Initial Order* will be presented for adjudication before one of the Honourable Judges of the Superior Court of Quebec, Commercial Division, at the Montréal Courthouse located at 1 Notre-Dame Street East, on <u>January 17th, 2022, at 9:15, in room 16.04</u>.

The Teams link, to participate in the virtual hearing, is available on the site http://www.tribunaux.qc.ca

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, January 16, 2022

Kaufman Lawyers

KAUFMAN LAWYERS LLP
Attorneys for the Applicants

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-060613-227

SUPERIOR COURT

Commercial Division

IN THE MATTER OF THE PLAN OF ARRANGEMENT AND COMPROMISE OF:

RISING PHOENIX INTERNATIONAL INC.

- and -

10864285 CANADA INC.

- and -

11753436 CANADA INC.

- and -

CDSQ IMMOBILIER INC.

- and -

COLLÈGE DE L'ESTRIE INC.

- and -

ÉCOLE D'ADMINISTRATION ET DE SECRÉTARIAT DE LA RIVE SUD INC.

- and -

9437-6845 QUÉBEC INC.

- and -

9437-6852 QUÉBEC INC.

Applicants

- and -

RICHTER ADVISORY GROUP INC.

Monitor

AMENDED INVENTORY OF EXHIBITS

Exhibit R-1: Draft copy of the first day initial order**;**

Exhibit R-2: Draft copy of the amended and restated initial order;

Exhibit R-2a: Blackline of the Initial Order against the Model CCAA Initial Order:

Exhibit R-2B: Amended Draft copy of the amended and restated initial order;

Exhibit R-3: Copy of Rising Phoenix International Inc.'s ("**RPI**") corporate file from the Québec enterprise register;

Exhibit R-4: Copy of 10864285 Canada Inc.'s ("**M College**") corporate file from the Québec enterprise register;

Exhibit R-5: Copy of École d'Administration et de Secrétariat de la Rive-Sud Inc.'s ("**CCSQ**") corporate file from the Québec enterprise register;

Exhibit R-6: Copy of Collège de l'Estrie Inc.'s ("**CDE**") corporate file from the Québec enterprise register;

Exhibit R-7: Copy of CDSQ Immobilier Inc.'s corporate file from the Québec enterprise register;

Exhibit R-8: Copy of 9437-6852 Québec Inc.'s corporate file from the Québec enterprise register;

Exhibit R-9: Copy of 9437-6845 Québec Inc.'s corporate file from the Québec enterprise register;

Exhibit R-10: Copy of 11753436 Canada Inc.'s corporate file from the Québec enterprise register;

Exhibit R-11: Copy of the *Deed of Hypothecary Loan* entered into by Firm Capital Corporation, Firm Capital Mortgage Fund Inc., 11753436 Canada Inc. and 9437-6845 Québec Inc.;

Exhibit R-12: Copy of a Deed of immovable and movable hypothec entered into by 9042-0704 Québec inc. (CDSQ Immobilier inc.) and RPI;

Exhibit R-13: Copy of a Deed of immovable and movable hypothec entered into by École d'Administration et de Secrétariat de la Rive-Sud Inc. and RPI;

Exhibit R-14: Copy of a Deed of immovable and movable hypothec entered into by CDE and RPI;

Exhibit R-15: Copy of a Deed of immovable and movable hypothec entered into by 11753436 Canada inc and RPI;

Exhibit R-16: Copy of a Deed of immovable and movable hypothec entered into by 9437-6852 Québec inc. and Lavery;

Exhibit R-17: Copy of the emergency hospital and medical insurance coverage policy;

Exhibit R-18: Copy of the Notice issued by the Insurer on December 23, 2021, **under confidential seal**;

Exhibit R-19: Copy of the Notices issued by the Insurer on December 31, 2021, *en liasse* **under confidential seal**;

Exhibit R-20: Copy of the Bonds issued in favour of the Minister of Higher Education, Research, Science and Technology by *Compagnie d'Assurance Trisura Garantie*;

Exhibit R-21: Spreadsheet detailing the refunds by RPI to 788 students, for an aggregate amount of $10,400,000;

Exhibit R-22: Copy of the *Letter of intent agreement* for the purchase of the Gatineau Property **under confidential seal**;

Exhibit R-23: Copy of the Interim Financing Term Sheet, **under confidential seal**.

Exhibit R-23A: Copy of the Interim Financing Agreement, **under confidential seal**.

Exhibit R-24: Copy of the Monitor's Pre-Filing Report, as amended (Exhibit "D" **under confidential seal**).

Exhibit R-25: Copy of the Monitor's Supplemental First Report (Exhibit "A" and "C" **under confidential seal**).

MONTRÉAL, January 16, 2022

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Attorneys for the Applicants

Nº: 500-11-060613-227

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTREAL
PROVINCE OF QUÉBEC

IN THE MATTER OF THE PLAN OF ARRANGEMENT AND COMPROMISE OF:

RISING PHOENIX INTERNATIONAL INC.
10864285 CANADA INC. (M College of Canada)
11753436 CANADA INC.
CDSQ IMMOBILIER INC.
COLLÈGE DE L'ESTRIE INC.
ÉCOLE D'ADMINISTRATION ET DE SECRÉTARIAT DE LA RIVE SUD INC.
9437-6845 QUÉBEC INC.
9437-6852 QUÉBEC INC.
Applicants
and
RICHTER ADVISORY GROUP INC.
Monitor

Amended Application for the Issuance of a First Day Initial Order and an Amended and Restated Initial Order (Sections 9, 11, 11.51, 11.52 and 23 of the Companies' Creditors Arrangement Act)

ORIGINAL

Me Martin Jutras
mjutras@klcanada.com
1 514 871 5320
Our file: 15480-1

KAUFMAN LAWYERS

KAUFMAN LAWYERS LLP
800 RENÉ-LÉVESQUE BLVD. WEST, SUITE 2220
MONTREAL, QUEBEC H3B 1X9
TEL. 1 514 875-7550 FAX 1 514 875-7147
KLCANADA.COM

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