

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



THE HONOURABLE REGIONAL
SENIOR JUSTICE MORAWETZ

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FRIDAY, THE 10th
DAY OF MARCH, 2017

IN THE MATTER OF MAPLE BANK GmbH

AND IN THE MATTER OF THE *WINDING-UP AND RESTRUCTURING ACT*,
R.S.C. 1985, C.W-11, AS AMENDED

AND IN THE MATTER OF THE *BANK ACT*, S.C. 1991, C.46, AS AMENDED

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

MAPLE BANK GmbH

Respondent

DISTRIBUTION ORDER

THIS MOTION, made by KPMG Inc. ("**KPMG**"), in its capacity as the Court-appointed Liquidator (the "**Liquidator**") pursuant to the *Winding-Up and Restructuring Act*, R.S.C. 1985, c. W-11. as amended ("**WURA**") of the business in Canada (the "**Business**") of Maple Bank GmbH ("**Maple Bank**") and its assets as defined in section 618 of the *Bank Act*, S.C. 1991, C.46, as amended (the "**Bank Act**") for an order:

- (a) abridging the time for service of the amended Notice of Motion, the Motion Record and the Supplemental Motion Record, herein, if required, and validating service so that the Motion is properly returnable on the proposed date and dispensing with the requirement for any further service thereof;
- (b) approving the Eleventh Report of the Liquidator dated March 2, 2017 (the “**Eleventh Report**”) and the activities of the Liquidator as set out in the Eleventh Report;
- (c) authorizing and directing the Liquidator to make a partial distribution in the amount of up to but not materially different from \$660.6 million to the GIA (as defined below) of a portion of the estimated surplus of funds, which have been realized by the Liquidator from the liquidation and/or sale of the Assets and the Business of the Toronto Branch (the “**Distribution**”), on, or after March 10, 2017 (the “**Distribution Date**”);
- (d) approving the notice to creditors of the Toronto Branch published in the National Edition of the Globe and Mail and the International Edition of the Wall Street Journal on March 3, 2017 giving notice of the Distribution by the Distribution Date substantially in the form of the notice attached as Schedule “A”, hereto (the “**Distribution Notice**”);
- (e) approving the Receipts and Disbursements (“**R&D**”) for the Toronto Branch for the period from February 16, 2016 to February 28, 2017;
- (f) approving the fees in the amount of \$2,681,417.00 and the disbursements in the amount of \$47,811.53 (plus applicable HST totalling \$354,809.49 on the foregoing amounts) of Gowling WLG (Canada) LLP (“**Gowling**”) as former counsel for the Liquidator for the period from February 16, 2016 to November 25, 2016;
- (g) approving the fees in the amount of \$4,323,352.05 and the disbursements in the amount of \$294,949.87 (plus applicable HST totalling \$600,379.25 on the

foregoing amounts) of the Liquidator for the period from February 16, 2016 to November 30, 2016;

- (h) approving the Report of the court appointed cost counsel dated March 6, 2017 (the “**ICC Report**”) and the activities of Jonathan Wigley of the law firm Gardiner Roberts LLP, in his capacity as court appointed cost counsel (“**Independent Cost Counsel**”) as set out in the ICC Report;
- (i) amending the order of the Court dated June 8, 2016 appointing Mr. Jonathan Wigley of the law firm of Gardiner Roberts LLP as the Independent Cost Counsel (the “**Appointment Order**”) by:
 - (i) in paragraph 2 adding “and Borden Ladner Gervais LLP (“**BLG**”)” following “Gowling WLG (Canada) LLP (“**Gowling**”)”; and
 - (ii) adding “and BLG” following each subsequent reference to “Gowling”; and
- (j) such further relief as may be required in the circumstances and which this Court deems as just and equitable,

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

ON READING the Eleventh Report, the affidavit of Lilly Wong sworn March 7, 2017, the affidavit of Philip Reynolds sworn March 8, 2017 and the ICC Report, filed, and on hearing the submissions of counsel for the Liquidator, counsel for the German Insolvency Administrator of Maple Bank, representative counsel for the Non-Exec Employees, counsel for Radius Financial Inc., and such other parties who were in attendance and no one else appearing although served as evidenced by the Affidavit of Service of Rachael Belanger sworn March 3, 2017, filed,

Service / Approval of the Activities of Liquidator

1. **THIS COURT ORDERS** that all defined terms used herein, not otherwise defined shall have the meaning attributed to them in the Eleventh Report.

2. **THIS COURT ORDERS** that the time for service of the amended Notice of Motion, Motion Record and Supplemental Motion Record is validated so that the Motion is properly returnable today and hereby dispenses with further service thereof, including without limitation, any prescribed notice requirements under the WURA.

3. **THIS COURT ORDERS** that the Eleventh Report and the activities of the Liquidator as set out in the Eleventh Report be and are hereby approved.

Approval of the Distribution

4. **THIS COURT ORDERS** that the Liquidator is hereby authorized and directed to make the Distribution, on, or after the Distribution Date.

5. **THIS COURT ORDERS** that the Distribution Notice be and is hereby approved, *nunc pro tunc*.

Approval of the Liquidator's R&D

6. **THIS COURT ORDERS** that the R&D for the Toronto Branch for the period from February 16, 2016 to February 28, 2017 be and is hereby approved.

Approval of Professional Fees and ICC Report

7. **THIS COURT ORDERS** that the fees in the amount of \$2,681,417.00 and the disbursements in the amount of \$47,811.53 (plus applicable HST totalling \$354,809.49 on the foregoing amounts) of Gowling as former counsel for the Liquidator for the period from February 16, 2016 to November 25, 2016 are hereby approved.

8. **THIS COURT ORDERS** that the fees in the amount of \$4,323,352.05 and the disbursements in the amount of \$249,949.87 (plus applicable HST totalling \$600,379.25 on the foregoing amounts) of the Liquidator for the period from February 16, 2016 to November 30, 2016 are hereby approved.

9. **THIS COURT ORDERS** that the ICC Report and the activities of the Independent Cost Counsel as set out in the ICC Report are hereby approved.

Amending the Appointment Order

10. **THIS COURT ORDERS** that the Appointment Order is hereby amended by:
- (a) in paragraph 2 adding “and Borden Ladner Gervais LLP (“**BLG**”)” following “Gowling WLG (Canada) LLP (“**Gowling**”)”; and
 - (b) adding “and BLG” following each subsequent reference to “Gowling”.

General

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the Republic of Germany, including the assistance of the Amtsgericht Frankfurt am Main [Insolvency Court] to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 10 2017

PER / PAR:



Schedule "A"

**NOTICE TO CREDITORS
of MAPLE BANK GmbH, TORONTO BRANCH
(also known as Maple Bank – Toronto Branch)
(hereinafter referred to as "Maple Bank")**

**RE: NOTICE OF DISTRIBUTION FOR MAPLE BANK PURSUANT TO THE
WINDING-UP AND RESTRUCTURING ACT (the "WURA")**

PLEASE TAKE NOTICE that this notice is being published in order to give notice that KPMG, in its capacity as a court appointed liquidator (the "**Liquidator**") of the business in Canada of Maple Bank and its related assets will be requesting an order from the Superior Court of Justice of Ontario [Commercial List] on March 10, 2017 to approve a distribution by the Liquidator to the German Insolvency Administrator in respect of a portion of the estimated surplus of funds, which have been realized from the liquidation and/or sale of the assets and the business of Maple Bank by the Liquidator on or after March 10, 2017.

DATED at Toronto this 3rd day of March, 2017.

KPMG Inc. in its capacity as Court-appointed
Liquidator of the business in Canada of Maple Bank GmbH, (Toronto Branch) and its
related assets
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5, Canada

Attention: Phillip J. Reynolds: pjreynolds@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-8415

ATTORNEY GENERAL OF CANADA – Applicant

- and -

MAPLE BANK GmbH, – Respondent

ONTARIO

**SUPERIOR COURT OF JUSTICE
[COMMERCIAL LIST]**

(PROCEEDING COMMENCED AT TORONTO, ONTARIO)

DISTRIBUTION ORDER

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Lawyers for KPMG Inc. in its capacity as the Court-appointed
Liquidator of the business in Canada of Maple Bank GmbH and its
assets as defined in section 618 of the *Bank Act*.