

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)



THE HONOURABLE REGIONAL) TUESDAY, THE 26th DAY
SENIOR JUSTICE MORAWETZ) OF SEPTEMBER, 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

SECOND INTERIM 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 Notice of Motion and the 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 Twelfth Report of the Liquidator dated September 19, 2017 (the "**Twelfth Report**") and the activities of the Liquidator as set out in the Twelfth Report;
- (c) authorizing and directing the Liquidator to make a partial distribution in the amount of \$91.4 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 "**Second Interim Distribution**"), on, or after September 26, 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 September 15, 2017 giving notice of the Second Interim 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 28, 2017 to August 31, 2017;
- (f) approving the Radius Settlement, and the activities of the Liquidator with respect to the Global One Settlement, the settlement of the Non-Executive Employees' claims, and the partial settlement of the Executive Employees' claims, pursuant to the Claims Procedure, and as defined and described in the Confidential Supplement to the Twelfth Report;
- (g) approving the fees in the amount of \$709,735.00 and the disbursements in the amount of \$12,181.49 (plus applicable HST totalling \$93,784.54 on the foregoing amounts) of Borden Ladner Gervais LLP ("**BLG**") as counsel for the Liquidator

for the period from November 30, 2016 to July 31, 2017, as well as fees in the amount of \$44,296.32 and the disbursements in the amount of \$5,727.12 (plus applicable HST totalling \$6,482.25 on the foregoing amounts) of Gowling WLG (Canada) LLP (“**Gowling**”) as counsel for certain tax and transactional tasks;

- (h) approving the fees in the amount of \$1,275,152.00 and the disbursements in the amount of \$74,553.50 (plus applicable HST totalling \$175,461.71 on the foregoing amounts) of the Liquidator for the period from February 16, 2016 to November 30, 2016 to July 31, 2017;
- (i) approving the Report of the court appointed cost counsel dated September 18, 2017 (the “**Second 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 Second ICC Report;
- (j) sealing from the public record the Confidential Supplement to the Twelfth Report, as containing certain commercially-sensitive and confidential information and documents;
- (k) 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 Twelfth Report and Confidential Supplement, Second ICC Report, and affidavits of Lilly Wong, Douglas Smith, and Nick Brearton filed, and on hearing the submissions of counsel for the Liquidator, counsel for the German Insolvency Administrator of Maple Bank, 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 Marie Pacheco sworn September 19, 2017, filed,

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

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and 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 Twelfth Report and the activities of the Liquidator as set out in the Twelfth Report, and related Confidential Supplement, be and are hereby approved.

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

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



6. **THIS COURT ORDERS** that the Radius Settlement, as defined in the Twelfth Report, is hereby approved.

7. **THIS COURT ORDERS** that the R&D for the Toronto Branch for the period from February 28, 2017 to July 31, 2017 be and is hereby approved.

8. **THIS COURT ORDERS** that the fees in the amount of \$709,735.00 and the disbursements in the amount of \$12,181.49 (plus applicable HST totalling \$93,784.54 on the foregoing amounts) of BLG as counsel for the Liquidator for the period from November 30, 2016 to July 31, 2017 are hereby approved.

9. **THIS COURT ORDERS** that the fees in the amount of \$44,296.32 and the disbursements in the amount of \$5,727.12 (plus applicable HST totalling \$6,482.25 on the foregoing amounts) of Gowling are hereby approved.

10. **THIS COURT ORDERS** that the fees in the amount of \$1,275,152.00 and the disbursements in the amount of \$74,553.50 (plus applicable HST totalling \$175,461.71 on the foregoing amounts) of the Liquidator for the period from November 30, 2016 to July 31, 2017 are hereby approved.

 10.1 THIS COURT ORDERS THAT THE CONFIDENTIAL SUPPLEMENT ^{IS} HEREBY ~~BE~~ SEALED TO THE EARLIER OF A FINAL RESOLUTION OF THE EXECUTIVES' DISPUTED CLAIM AND THE CLAIMS OF CANADA REVENUE AGENCY, OR FURTHER ORDER OF THE COURT 

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

General

12. **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:

SEP 26 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 on September 26, 2017, KPMG Inc., 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 Ontario Superior Court of Justice (Commercial List) to approve a distribution by the Liquidator to the German Insolvency Administrator on or after September 26, 2017, 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 in Canada of Maple Bank by the Liquidator.

DATED at Toronto this 15th day of September, 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: Nick Brearton
email: nbrearton@kpmg.ca
Fax: (416) 777-3364

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

SECOND INTERIM DISTRIBUTION ORDER

BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto ON M5H 4E3

Alex MacFarlane - LSUC No. 28133Q
Tel: 416.367.6305
amacfarlane@blg.com

Bevan Brooksbank - LSUC No. 56717U
Tel: 416.367.6604
bbrooksbank@blg.com

Lawyers for KPMG Inc., in its capacity as Liquidator of the
business in Canada of Maple Bank GmbH