

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE

)

MONDAY, THE 2<sup>nd</sup>

)

CHIEF JUSTICE MORAWETZ

)

DAY OF MARCH, 2020



**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:**

**THE ATTORNEY GENERAL OF CANADA**

Applicant

-and-

**MAPLE BANK GmbH**

Respondent

**ORDER**

**ON READING** the Order of Regional Senior Justice Morawetz (as he then was) dated June 8, 2016, and on hearing the submissions of counsel for KPMG Inc., in its capacity as the liquidator (the “**Liquidator**”) in respect of the winding up of the business in Canada (the “**Business**”) of Maple Bank GmbH (the “**Toronto Branch**”) and its related assets as defined under

section 618 of the *Bank Act* (the “**Assets**”) and the submissions of the proposed replacement Independent Cost Counsel, Alexander Ilchenko, C.S.,

### **APPOINTMENT OF INDEPENDENT COST COUNSEL**

1. **THIS COURT ORDERS** that Alexander Ilchenko, C.S. of the law firm Pallett Valo LLP, be and he is hereby appointed as replacement Independent Cost Counsel (the “**Independent Cost Counsel**”) to review the fees and disbursements of the Liquidator and its counsel, Borden Ladner Gervais LLP (“**BLG**”), (collectively the “**Professional Fees**”) and to make submissions to this Court with respect to the fairness and reasonableness of the Professional Fees and whether the Professional Fees ought to be assessed and allowed as filed upon the hearing of a motion to be brought by the Liquidator to have the Professional Fees assessed and allowed by this Court.
2. **THIS COURT ORDERS** that, on the motion to be brought for approval of the Professional Fees, the Liquidator and BLG shall each file with the Court an affidavit attesting as to the accuracy of the Exhibits attached thereto, which exhibits shall consist of:  
(i) a summary of the respective fees and disbursements for the Liquidator and BLG for the applicable period; and, (ii) copies of the file or files on appropriate media in electronic form readable on computer by the current version of Acrobat Reader.
3. **THIS COURT ORDERS** that the Liquidator and BLG shall, at the request of the Independent Cost Counsel, meet with the Independent Cost Counsel as may be necessary and answer any inquiries the Independent Cost Counsel may reasonably ask in order to fulfill his duties hereunder.

4. **THIS COURT ORDERS** that any expenditure or liability which shall be properly made or incurred by the Independent Cost Counsel, including the fees and disbursements of the Independent Cost Counsel incurred at the rates and charges agreed to between the Independent Cost Counsel and the Liquidator, shall be allowed to him in passing his accounts and shall be forthwith paid by the Liquidator out of the funds of the estate of the Toronto Branch.
5. **THIS COURT ORDERS** that the Independent Cost Counsel shall pass his accounts from time to time and, for this purpose, the accounts of the Independent Cost Counsel are referred to the Judge of the Commercial List of the Superior Court of Justice seized of this proceeding.

**PROTECTIONS AND LIMITATION ON LIABILITY**

6. **THIS COURT ORDERS** that the fees of Independent Cost Counsel shall be included as costs incurred in the winding up of the Toronto Branch and shall be afforded the priority as provided under section 94 of the *Winding-Up and Restructuring Act*.
7. **THIS COURT ORDERS** that Independent Cost Counsel shall incur no liability, or obligations as a result of his appointment, or in respect of the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on his part. Independent Cost Counsel shall also be afforded all the rights and protections afforded to an officer of this Court and nothing included in this Order, as applicable, shall derogate from the above-noted protections afford to Independent Cost Counsel.

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

MAR 04 2020

PER / PAR:



IN THE MATTER OF THE 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

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PROCEEDINGS COMMENCED AT TORONTO

**ORDER**

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the business in Canada of Maple Bank GmbH