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SUPREME COURT SCHEDULING

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IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED

AND

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT
OF NEW WALTER ENERGY CANADA HOLDINGS, INC., NEW WALTER
CANADIAN COAL CORP., NEW BRULE COAL CORP., NEW WILLOW CREEK
COAL CORP., NEW WOLVERINE COAL CORP. AND CAMBRIAN
ENERGYBUILD HOLDINGS ULC

PETITIONERS

NINTH REPORT OF THE MONITOR, KPMG INC.

March 10, 2017

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INTRODUCTION AND PURPOSE OF THE MONITOR'S SPECIAL PURPOSE REPORT

1. This is the ninth report of the Monitor (the "**Ninth Report**") and has been prepared as a special purpose report to provide this Honourable Court with information regarding the following:
 - a) The background to the disputes between Walter Canada and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-424 ("**USW**");
 - b) The planned distribution of the funds held in trust by Victory Square Law Office LLP, counsel for USW in the amount of \$780,660.61, inclusive of interest to January 18, 2017, and interest, if any, accruing thereafter (the "**Fund**"); and
 - c) The Monitor's observations and recommendations in respect of the planned distribution of the Fund (the "**Fund Distribution**").
2. Terms not specifically defined herein shall have the meanings as defined in the Eighth Report of the Monitor dated January 12, 2017 (the "**Eighth Report**"). For further information in respect of the changes to the composition of Walter Canada / the Petitioners please refer to the Eighth Report.
3. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

BACKGROUND OF THE DISPUTES BETWEEN WALTER CANADA AND THE USW

Events Preceding the CCAA Proceedings

4. The Wolverine Mine was the last of Walter Canada's three operating mines to be idled and put on a care and maintenance program. On or about April 15, 2014, Wolverine Coal Partnership (the "**Employer**") announced a temporary layoff of workers at the Wolverine Mine, including approximately 300 members of the USW. The Employer did not give notice pursuant to section 54(1) of the *Labour Relations Code*, R.S.B.C. 1966, c. 244(b) (the "**Code**") to the USW at least 60 days before the date on which the layoff occurred.
5. On May 9, 2014, the USW filed an application to the British Columbia Labour Relations Board (the "**Board**") alleging the Employer breached section 54 of the Code. In its initial decision the Board found that the Employer did in fact breach section 54 of the Code. However, on December 11, 2014, the initial decision was overturned by a reconsideration panel and the matter was remitted to a new Vice-Chair of the Board. Supplementary submissions were then received by the Board with an oral hearing taking place on May 4 and 5, 2015. On June 9, 2015, the Board upheld its original decision and ordered that the Employer pay damages equivalent to 60 days' pay for each affected employee, subject to mitigation.
6. Due to the Chapter 11 filing in the United States of Walter Energy, Inc., the USW was concerned that a filing in Canada would also take place, thus jeopardizing its ability to quantify and collect the amounts owing to its members. On July 15, 2015, the USW applied to the Board for further relief and on July 22, 2015, the Board ordered that the Employer pay \$771,378.70 to the USW, in trust, pending final disposition of the matter.
7. The Employer paid the amount ordered to Victory Square Law Office LLP "in trust" on July 29, 2015 and the Fund was invested in an interest bearing account. Interest of \$9,281.91 has accrued to January 18, 2017 bringing the total held in trust to \$780,660.61.
8. On November 20, 2015, the Employer sought judicial review of the decisions of the Board (the "**Adjustment Plan Judicial Review**").
9. Already ongoing at that time was a separate proceeding, filed on February 13, 2015, where the USW was seeking a judicial review of a decision of the Board in regards to a northern

allowance for its members (the “**Northern Allowance Judicial Review**”).

10. Pursuant to the Initial Order granted by this Honourable Court on December 7, 2015, both the Adjustment Plan Judicial Review and the Northern Allowance Judicial Review (collectively, the “**Judicial Review Applications**”) were stayed by the CCAA Proceedings.

Events Subsequent to the CCAA Proceedings

11. On January 24, 2017, the Monitor received a request from the USW to consent to lift the stay of proceedings in respect of the Judicial Review Applications. The intention of this request was to seek an Order dismissing the Judicial Review Applications and to have the Monitor perform the Fund Distribution to the affected former employees.
12. The Monitor and its counsel performed a review of the Fund to determine whether it should form part of the estate of Walter Canada and is of the view that the Fund constitutes a trust in favour of the USW for those of its members who the Board ruled were entitled to notice under section 54 of the Code and therefore should not form part of the assets of Walter Canada.
13. On March 2, 2017, New Wolverine Coal Corp. and the Monitor consented to a lifting of the stay for the sole purpose of the discontinuance or dismissal of the Judicial Review Applications. On March 6, 2017, New Wolverine Coal Corp. and the Monitor consented to the discontinuance or dismissal of the Adjustment Plan Judicial Review and also consented to the discontinuance or dismissal of the Northern Allowance Judicial Review. The Board consented to the discontinuance of the Judicial Review Applications without costs. The Adjustment Plan Judicial Review and the Northern Allowance Judicial Review have since been discontinued without costs to any party.
14. The Monitor has agreed to assist the USW by distributing the Fund on a *pari passu* basis to the USW members whose section 54 Claims have been allowed pursuant to the Claims Process.

PLANNED DISTRIBUTION

15. Pursuant to the Claims Process Order granted on August 16, 2016, a negative claim process was commenced for former employees. Former employees were not required to file proofs

of claim. Instead, they were sent notice of their Claim amounts, including the section 54 Claim amounts, based on calculations prepared by Walter Canada, in consultation with the Monitor and the USW.

16. Twenty Notices of Dispute of Employee Claim filed by individual employees were received by the Monitor prior to the required deadline as set by the Claims Process Order, all of which have been resolved as of the date of this report. The USW has also filed certain Notices of Dispute of Employee Claim. Discussions regarding the USW's Claims are ongoing, but these matters are not relevant for the purposes of the Fund Distribution.
17. The Claims of the USW members pursuant to section 54 of the Code total \$2,573,695.78 and include 207 former employees as detailed in the Fund Distribution Schedule attached as Schedule "A".
18. The Fund Distribution to the former employees will be deducted from the portion of their Claims related to section 54 of the Code in calculating any subsequent distribution from the Walter Canada estate.

THE MONITOR'S OBSERVATIONS AND RECOMMENDATIONS

19. The Monitor is of the view that the Fund Distribution should proceed at this stage.
20. Based on the foregoing discussion in this report, the Monitor recommends to this Honourable Court that it approve the payment of the Fund to the Monitor for distribution to the former employees and that the Monitor be authorized and directed to distribute the Fund in accordance with the attached Schedule "A".

All of which is respectfully submitted this 10th day of March, 2017.

**KPMG INC., in its sole capacity as
Monitor of New Walter Energy Canada Holdings, Inc. et al**



Per: Philip J. Reynolds
Senior Vice President



Per: Anthony Tillman
Senior Vice President

Schedule "A"

Fund Distribution Schedule

Fund Distribution Schedule

#	Name of USW Employee	Accepted Claim Amounts	Accepted Section 54 Claims	Distribution Amount
1	Abromovich, Shawn	45,147.99	5,474.60	1,660.57
2	Adekat, Lester Mervin	50,252.42	15,476.99	4,694.52
3	Arsenault, Kriston	45,482.43	12,747.24	3,866.53
4	Arsenault, Lloyd	55,510.03	16,051.19	4,868.69
5	Bailey, Bobby Douglas	47,228.46	2,955.09	896.35
6	Bargy, Brenda F	44,032.33	14,444.53	4,381.36
7	Barker, Eugene	57,259.71	12,986.34	3,939.05
8	Beausoliel, Katrina	51,764.70	14,932.14	4,529.26
9	Begon, Gary R	44,045.53	14,457.73	4,385.36
10	Bennett, Garrett Colin	43,119.93	3,809.64	1,155.55
11	Bergson, Patti N	40,758.00	14,457.73	4,385.36
12	Bielecki, Artur	65,506.50	18,741.94	5,684.86
13	Bisset, Jason T	46,405.17	13,390.11	4,061.53
14	Bisset, John T	41,213.89	11,626.09	3,526.46
15	Bisson, Tyla	65,206.75	18,442.19	5,593.94
16	Boutilier, Trevor David	48,179.08	14,694.93	4,457.31
17	Bowerman, Kevin	49,266.80	9,593.41	2,909.90
18	Bradley, Kenneth	3,291.19	3,291.19	998.29
19	Brake, Cassandra Mary	48,179.08	14,694.93	4,457.31
20	Bredeson, Shaia Lynn	43,788.91	7,091.19	2,150.92
21	Bright, Clint S	44,045.53	14,457.73	4,385.36
22	Brown, Monika	55,612.67	16,021.85	4,859.79
23	Brown, Troy Richard	44,778.88	14,984.69	4,545.20
24	Browne, Drew M	44,045.53	14,457.73	4,385.36
25	Bryla, William Richard	57,396.49	16,302.67	4,944.97
26	Caljouw, Steve	62,059.71	17,786.34	5,395.00
27	Campbell, Lloyd	55,440.14	15,766.75	4,782.41
28	Case, Erin Edith	47,333.07	14,457.73	4,385.36
29	Chabot, Adelard	53,729.97	15,476.99	4,694.52
30	Chapman, Kevin Oakley	47,333.07	14,457.73	4,385.36
31	Chmelyk, Bailey W	33,075.62	11,830.99	3,588.61
32	Clare, Kevin R	44,045.53	14,457.73	4,385.36
33	Cook, Ronald J	55,695.24	16,021.85	4,859.79
34	Corbett, Jesse R	43,174.35	14,457.73	4,385.36
35	Curtis, Brandon R	44,045.53	14,457.73	4,385.36
36	Curtis, Gordon	57,396.49	16,302.67	4,944.97
37	Cyr, Sandra	55,440.14	15,766.75	4,782.41
38	Dawborn, Eric	52,788.96	13,115.57	3,978.25
39	Dewetter, Lee	50,876.00	11,126.12	3,374.81
40	Doonan, Marcie	40,176.25	3,680.79	1,116.47
41	Dore, Darcy C	44,045.53	14,457.73	4,385.36
42	Drover, Ann Marie	60,955.43	18,442.19	5,593.94
43	Dubois, Jarrod S	50,006.27	15,230.84	4,619.86

Fund Distribution Schedule

#	Name of USW Employee	Accepted Claim Amounts	Accepted Section 54 Claims	Distribution Amount
44	Duck, Jody	51,764.70	14,932.14	4,529.26
45	Duhaime, Jack	39,421.94	10,434.21	3,164.93
46	Dunn, James	51,609.79	14,918.94	4,525.25
47	Durand, Orville	55,384.61	14,290.79	4,334.72
48	Durdle, David L	39,048.41	5,564.26	1,687.77
49	Erickson, Bruce	53,729.97	15,476.99	4,694.52
50	Estate of William F Lenart	43,335.69	5,082.71	1,541.70
51	Farmer, Devon Jesse	53,608.99	11,095.75	3,365.59
52	Felker, Lisa M	44,045.53	14,457.73	4,385.36
53	Ferguson, Eric Cody	38,444.27	6,403.74	1,942.40
54	Fergusson, Bret	57,479.35	10,714.79	3,250.04
55	Filion, Pascal	42,866.09	10,130.90	3,072.93
56	Fiss, Stefanie	55,404.76	16,021.85	4,859.79
57	Fitzgerald, Dave	51,764.70	14,932.14	4,529.26
58	Fleury, Jason	55,695.24	16,021.85	4,859.79
59	Fortier, Alisan R	33,075.62	11,830.99	3,588.61
60	Gano, Darlene S	48,179.08	14,694.93	4,457.31
61	Gashinsky, Craig Andre	48,179.08	14,694.93	4,457.31
62	Grant, Kristina M	45,361.79	12,486.45	3,787.42
63	Greene, Arthur D	31,175.25	1,884.13	571.50
64	Grinnell, Frederick E	44,045.53	14,457.73	4,385.36
65	Guimont, Sylvie	48,179.08	14,694.93	4,457.31
66	Haider, Brian	45,122.46	10,305.83	3,125.99
67	Hall, Joseph J	55,023.89	18,142.45	5,503.02
68	Halverson, Jaelene	53,570.19	15,510.52	4,704.69
69	Hammon, Mark D	42,565.07	12,977.27	3,936.30
70	Hampel, William	51,527.49	14,694.93	4,457.31
71	Hanna, Cody W	35,933.53	6,345.73	1,924.80
72	Hansen, Dusty A	45,377.00	14,984.69	4,545.20
73	Harvey, Crystal G	44,045.53	14,457.73	4,385.36
74	Hewitt, Ewart	51,764.70	14,932.14	4,529.26
75	Hohner, Sarah J	44,045.53	14,457.73	4,385.36
76	Homister, Marty	53,729.97	15,476.99	4,694.52
77	Homister, Patrick S	47,294.18	1,300.02	394.33
78	Howes, Kevin Cassey	41,232.83	6,457.40	1,958.68
79	Hughes, Dawson D	54,342.98	14,669.59	4,449.62
80	Hughes, Gary	41,249.25	4,198.62	1,273.54
81	Hunter, Wayne	45,427.70	5,754.31	1,745.41
82	Hurley, Melvin P	53,729.97	15,476.99	4,694.52
83	Hutchison, Matthew R	51,011.08	14,694.93	4,457.31
84	Irving, Kyle R	44,717.75	4,000.03	1,213.30
85	Jamieson, Kimberly D	53,716.77	15,463.79	4,690.52
86	Jamieson, Shane M	41,790.61	696.79	211.35

Fund Distribution Schedule

#	Name of USW Employee	Accepted Claim Amounts	Accepted Section 54 Claims	Distribution Amount
87	Jaswal, Guleena	48,179.08	14,694.93	4,457.31
88	Jeffrey, Joshua D	51,257.81	14,694.93	4,457.31
89	Jensen, Don	51,764.70	14,932.14	4,529.26
90	Johnston, Justin D	44,045.53	14,457.73	4,385.36
91	Jones, Jenifer D	39,441.77	14,457.73	4,385.36
92	Just, Daniel Christopher	48,044.24	14,694.93	4,457.31
93	Just, Jamie K	46,684.42	5,966.70	1,809.84
94	Kao, Natasha	51,534.66	18,142.45	5,503.02
95	Kirkham, Brody R	43,506.17	14,457.73	4,385.36
96	Klikach, Kade Barry	47,395.83	14,694.93	4,457.31
97	Kloosterboer, Ryan K	50,717.66	17,325.45	5,255.20
98	Knowles, Clayton J	54,965.16	15,291.77	4,638.34
99	Knowles, Jason E	46,984.96	5,891.14	1,786.92
100	Kortz, Jason	48,179.08	14,694.93	4,457.31
101	Lacey, Timothy G	51,418.17	14,694.93	4,457.31
102	Landa, Chuck Dustin	43,015.90	6,183.34	1,875.55
103	Larsson, Carl D	51,527.49	14,694.93	4,457.31
104	Leblanc, Bernard G	44,045.53	14,457.73	4,385.36
105	Lemon, Amber Nicole	51,527.49	14,694.93	4,457.31
106	Lewis, Kristopher	55,801.07	16,051.19	4,868.69
107	Loxam, Colin P	45,466.26	5,792.87	1,757.11
108	Lutgen, Nicole	47,075.15	14,457.73	4,385.36
109	Lutz, Erin M	29,718.19	500.00	151.66
110	MacEachern, Lorne E	57,359.64	16,566.70	5,025.06
111	Mackay, Ashlee	50,424.02	15,766.75	4,782.41
112	Mackie, Corey A	46,816.02	6,098.30	1,849.75
113	Mackie, Jessica Jane	51,833.47	15,766.75	4,782.41
114	Marie, Rolain L	44,045.53	14,457.73	4,385.36
115	Martin, Maurice Leo	48,179.08	14,694.93	4,457.31
116	Matthews, Robert D	44,045.53	14,457.73	4,385.36
117	Maxon, Jessie	51,687.07	15,766.75	4,782.41
118	McArthur, Rema A	46,980.75	14,105.41	4,278.49
119	McCallum, Michael G	40,758.00	14,457.73	4,385.36
120	McCarthy, Tina E	39,326.13	14,457.73	4,385.36
121	McClure, Dallas James	50,006.27	15,230.84	4,619.86
122	McClure, Roger A	45,381.66	16,038.63	4,864.88
123	McClure, Sandra L	40,758.00	14,457.73	4,385.36
124	Mendoza, Cresenciano A	55,429.99	13,204.72	4,005.29
125	Mercredi, Margaret S	55,149.66	15,766.75	4,782.41
126	Micha, Colin M	42,323.88	7,659.49	2,323.30
127	Miller, Fred C	51,605.89	13,352.91	4,050.24
128	Moineau, Robert Lucien	45,381.66	16,038.63	4,864.88
129	Nicholls, Crystal J	51,527.49	14,694.93	4,457.31

Fund Distribution Schedule

#	Name of USW Employee	Accepted Claim Amounts	Accepted Section 54 Claims	Distribution Amount
130	Nicholson, Jacob Ryan	39,299.89	5,815.74	1,764.05
131	O'Handley, Deborah	47,761.79	10,929.23	3,315.08
132	O'Handley, Joseph B	41,817.15	12,229.35	3,709.44
133	Pack, Justin J	43,074.75	10,339.56	3,136.22
134	Peitzsche, Ralph W	55,440.14	15,766.75	4,782.41
135	Pesonen, Harry E	55,294.90	15,766.75	4,782.41
136	Pettipas, Erin Patrice	52,442.16	12,768.77	3,873.06
137	Philpott, Ashton	44,045.53	14,457.73	4,385.36
138	Pidwerbeski, Donald C	65,164.10	18,741.94	5,684.86
139	Pimm, Trevor J	65,506.50	18,741.94	5,684.86
140	Pindera, Geoffrey L	49,574.88	13,287.65	4,030.45
141	Pittman, Jordan Myles	47,063.39	14,457.73	4,385.36
142	Pouliot, Dawn	43,310.69	14,457.73	4,385.36
143	Pouliot, Jordan D	56,016.00	13,930.68	4,225.49
144	Power, Conrad Phillip	39,151.72	9,392.45	2,848.94
145	Power, Elliot R	58,331.25	11,566.69	3,508.44
146	Rae, Neil A	53,729.97	15,476.99	4,694.52
147	Reimer, Al D	44,045.53	14,457.73	4,385.36
148	Rempel, Joshua David	48,179.08	14,694.93	4,457.31
149	Richards, Chad L	58,853.56	12,089.00	3,666.87
150	Robbins, Curtis	44,045.53	14,457.73	4,385.36
151	Roberge, Tavis	64,301.55	17,708.19	5,371.30
152	Robinson, Harold	53,729.97	15,476.99	4,694.52
153	Rosborough, Paul Philip	37,477.39	5,374.10	1,630.09
154	Rose, Tina F	39,364.28	9,776.48	2,965.43
155	Rowe, George D	47,426.46	11,155.36	3,383.68
156	Rumbolt, Karisa T	51,527.49	14,694.93	4,457.31
157	Sanders, Dave	41,696.78	3,443.80	1,044.58
158	Saul, George Karr	48,056.19	14,694.93	4,457.31
159	Schneider, Thomas	34,232.59	1,475.45	447.54
160	Schofield, Timmothy K	47,847.99	11,015.43	3,341.23
161	Sebastian, Deanna	47,189.65	10,357.09	3,141.54
162	Sevigny, Brent Adrian	60,119.64	18,442.19	5,593.94
163	Sherburne, Wayne	51,527.49	14,694.93	4,457.31
164	Simington, Robert G	65,506.53	18,741.97	5,684.87
165	Slaney, Jamie M	47,521.53	7,848.14	2,380.52
166	Smathers, Thomas L	41,733.16	11,004.32	3,337.86
167	Smith, Timothy W	7,226.59	7,226.59	2,191.99
168	Snodgrass, Walter H	49,839.10	9,046.16	2,743.91
169	Splinter, Christopher A	53,203.74	15,230.84	4,619.86
170	Stangoe, Ward Ian	50,766.42	17,992.58	5,457.56
171	Steele, Glenn	42,236.56	2,563.17	777.47
172	Stern, Matt J	44,045.53	14,457.73	4,385.36

Fund Distribution Schedule

#	Name of USW Employee	Accepted Claim Amounts	Accepted Section 54 Claims	Distribution Amount
173	Stevenson, Tyler R	45,884.22	13,149.03	3,988.40
174	Stirling, Philip C	42,617.90	2,944.51	893.14
175	Stjepanovic, Dennis S	43,758.68	4,008.80	1,215.96
176	Strand, Ole C	46,657.32	5,563.50	1,687.54
177	Strand, Tonia	41,550.01	4,717.45	1,430.91
178	Strang, Daniel V	49,645.32	5,371.95	1,629.43
179	Strang, Jeffrey M	44,045.53	14,457.73	4,385.36
180	Strong, Joseph	50,951.98	9,858.16	2,990.21
181	Tackaberry, Brian J	55,796.50	9,031.94	2,739.59
182	Taylor, Bruce	59,036.21	16,948.10	5,140.75
183	Taylor, Christopher S	40,394.37	3,898.91	1,182.63
184	Taylor, Eric	55,695.24	16,021.85	4,859.79
185	Taylor, Scot C	47,922.42	9,669.44	2,932.96
186	Thurston, Jason K	39,733.81	14,457.73	4,385.36
187	Torraville, Jared D	46,512.69	8,259.71	2,505.36
188	Torraville, Jordan S	58,776.11	14,826.90	4,497.34
189	Traverse, Fraser T	48,432.51	12,294.93	3,729.33
190	Van Basten, Jaylene Ashley	40,361.79	7,756.13	2,352.61
191	Verge, Hedley D	48,949.35	2,184.79	662.70
192	Verge, Holi	44,045.53	14,457.73	4,385.36
193	Wagner, Stephen Anthony	36,730.89	15,566.29	4,721.61
194	Walter, Richard	50,591.96	10,918.57	3,311.85
195	Warner, James L	59,936.45	15,663.08	4,750.97
196	Watt, Braden	47,980.97	11,418.09	3,463.37
197	Watt, Richard S	53,729.97	15,476.99	4,694.52
198	Wied, Brian Daniel	47,063.39	14,457.73	4,385.36
199	Williams, Don	55,695.24	16,021.85	4,859.79
200	Wilson, Keith O	49,049.53	16,038.63	4,864.88
201	Woods, Robert Kevin	48,179.08	14,694.93	4,457.31
202	Worthington, Richard Nicholas	51,310.75	15,766.75	4,782.41
203	Yandeu, Lance T	49,936.99	15,230.84	4,619.86
204	York, Charles C	14,016.14	14,016.14	4,251.41
205	Zavaglia, Geno	48,786.16	4,674.87	1,417.99
206	Zimmer, Justin A	33,075.62	11,830.99	3,588.61
207	Zunti, Conrad	44,820.38	3,726.56	1,130.35
Total		9,879,865.46	2,573,695.78	780,660.61