

## Fourth Reporting Letter of the Trustee – October 25, 2006

In this letter the Trustee provides an update on the following matters:

- the revised mandate of the Representative Counsel;
- update on the tax status of Portus registered products;
- Court approval of increase of up to 10% for Hardship claimants who have reached the initial 10% limit;
- additional Court approvals from October 6, 2006;
- resignation and replacement of one of the Inspectors; and
- outcomes of Inspectors meetings.

### *Revised Mandate of the Representative Counsel*

On August 10, 2006, the Trustee advised the Investors that a motion would be brought to discharge the Representative Counsel. The Trustee, after discussions with the Representative Counsel, with the concurrence of the Inspectors, has determined that it is appropriate for the Representative Counsel to continue with a revised mandate. As PAAM is now in bankruptcy, the Trustee has the primary obligation of dealing with the Investors and other stakeholders. The Trustee requests that all questions and concerns of Investors should first be directed to the Trustee. If an Investor has questions or concerns which remain unanswered, the Representative Counsel remains available to you and you should feel free to contact him.

### *Tax Status of Registered Products*

In previous reporting letters, the Trustee has advised Portus Creditors that, at this time, selling their registered PAAM claim directly to a third party **will** de-register their tax protected investment and **will** trigger tax on the sale. The Trustee is planning to get a Court order within the next month which should establish a process for the sale of registered claims such that income tax should not be automatically triggered on the sale of the investment. The intended process would provide that registered products must be transferred to another registered plan in order not to trigger income tax.

### *Hardship Payout Increased*

The Court authorized the Hardship Committee to pay approved Hardship claimants an additional 10 percent of the Investor's total funds invested (less any previous redemptions) to those Hardship claimants who have reached the initial 10% limit. This is over and above and additional to previously approved and paid claims. It will however be necessary for these claimants to reapply through the Hardship Committee process to be eligible. Information on how to apply for a Hardship consideration is available elsewhere on this website or by contacting the Call Centre at **1-866-260-5439**.

### *October 6, 2006 Court Approvals*

The following is a brief summary of decisions and information of interest to PAAM Investors coming out of the Ontario Superior Court of Justice proceedings held on October 6<sup>th</sup>.

The Court was advised of three recent class action lawsuits against two law firms and an accounting firm. The lawsuits were commenced without notice to the Trustee. The class action lawsuits demand the return of fees received by these law and accounting firms from the now bankrupt Portus.

The Trustee has been reviewing potential claims against third parties, including these firms, and its counsel has opened discussions with them.

As discussed above, the Court approved changes to the Hardship program so that additional amounts can be paid to an Investor who has already qualified for the "Hardship Program".

The Court also reviewed and approved interim draws for professional fees and expenses related to the Bankruptcy, subject to taxation by the Court.

*Inspectors – Resignation and New Appointment*

Inspector Michael A. Kelly has resigned. He was nominated by Manulife Financial. He resigned because he left Manulife for a new position elsewhere.

The Trustee thanks Mr. Kelly for his contributions over the last months.

Mr. David R. Kerr was elected to replace Mr. Kelly by the remaining Inspectors. Mr. Kerr is Assistant Vice President & Senior Counsel, Manulife Financial and is located in Toronto. Details on Mr. Kerr follow.

**Mr. David R. Kerr**

*Manulife Financial (Toronto, Ontario)*

*Position: Counsel (November 2000 – July 2003)*

*Assistant Vice President & Counsel (July 2003 – July 2005)*

*Assistant Vice President & Senior Counsel (July 2005 – Present)*

Provide legal advice and support to various areas within Manulife, including Corporate Treasury, Corporate Secretary and the Investments, Real Estate and Human Resources departments. Support is also provided to Manulife's Asia, Japan and U.S. divisions. Matters assisted on in respect of such areas include corporate finance activities, securities compliance, corporate disclosure documentation and compliance, mergers and acquisitions, contract negotiation and global policy administration.

*Cassels Brock & Blackwell LLP (Toronto, Ontario)*

*Position: Associate (May 1996 – October 2000)*

Provided legal advice and support in a variety of complex corporate and commercial transactions, with an emphasis on corporate finance, securities law, mergers and acquisitions and corporate secretarial matters.

**Education:**

*Law Society of Upper Canada*

Admitted to the Bar, 1996

Faculty of Law, University of Western Ontario – London, Ontario (1991-1994)

Bachelor of Laws, 1994

*Marietta College – Marietta, Ohio (1985-1988)*

Bachelor of Arts, *cum laude*, 1988

*Saint Mary's University – Halifax, Nova Scotia (1984-1985)*

### *Summary of Inspectors' Meetings*

The Inspectors have held eight meetings since June 21, 2006. The following is a summary of issues dealt with and discussed at recent Inspectors' meetings.

#### August 3, 2006 - Fourth Meeting of the Inspectors

- Development of a Creditor's communication protocol, including the use of the Call Centre, a commitment to ongoing Trustee's Reporting Letters, and the maintenance and enhancement of the Trustee's website,
- Review and consideration of preliminary information from the Trustee's legal counsel regarding possible litigation of Portus' reviewable and preferential transactions and dealings,
- Review of mandate of Representative Counsel.

#### August 22, 2006 - Fifth Meeting of the Inspectors

- Acceptance of the resignation of Inspector Michael A. Kelly,
- Election of a new Inspector, Mr. David R. Kerr.

#### August 28, 2006 - Sixth Meeting of the Inspectors

- Meeting with the Receiver's consultant, Northwater Capital Management Inc., to discuss the principal-protected notes issued by Société Générale (Canada) and the potential options available with respect to these assets and a briefing on the nature and complexity of the principal-protected notes,
- Review and consider recommendations contained in a report from legal counsel regarding possible litigation of Portus' reviewable and preferential transactions and dealings,
- Update and discuss developments related to third party investment companies which have expressed an intention to solicit and purchase claims. Discussions included access to the list of Creditors, the role of the Trustee with respect to assisting these firms with the purchase of claims and the role of the Trustee with respect to advising Creditors on the merits of selling their claims. A protocol was developed by the Trustee governing the delivery of information to prospective purchasers and the administration of claims purchased by them,

- Discussion of the role of Concentra Financial which is the third party Trustee of the Portus registered investment products.

#### September 13, 2006 - Seventh Meeting of the Inspectors

- Further discussion of the litigation brief prepared by legal counsel, including further discussion on options for additional recoveries through litigation,
- Discussion of the amount and timing of a possible interim distribution to Portus Investors,
- Review of the terms and role of the Hardship Committee, including approval of changes to the Hardship Program through additional payments to qualifying Investors,
- Discussion and recommendation on the acquisition of new office space as the existing lease expires on October 31,
- Review of bankruptcy administration costs and professional fees,
- Presentation and review of the Trustee's internal controls.

#### October 11, 2006 - Eighth Meeting of the Inspectors

- Consideration of the three recent class action lawsuits against two law firms and one accounting firm. The class action lawsuits demand the return of fees received by these law and accounting firms from the now bankrupt Portus,
- Review of the claims the Trustee could assert against these three firms,
- Update on third party investment companies efforts to purchase claims from Portus Investors.

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