

CANADA

PROVINCE OF QUEBEC
DISTRICT OF QUEBEC

N°: 200-11-025040-182

SUPERIOR COURT
(Commercial Division)

**IN THE MATTER OF THE ACT RESPECTING
THE REGULATION OF THE FINANCIAL
SECTOR :**

AUTORITÉ DES MARCHÉS FINANCIERS,

Plaintiff

v.

DOMINIC LACROIX,

Defendant

and

**RAYMOND CHABOT ADMINISTRATEUR
PROVISOIRE INC.,**

Interim Administrator

and

**THE AD HOC COMMITTEE OF INVESTORS
OF PLEXCOIN,**

Intervenant

and

MAXIME VAILLANCOURT et als.,

and

**LEMIEUX NOLET INC., *ès qualité of trustee
to the estates of DL Innov Inc., Micro-Prêts
Inc. and Finaone Inc.,***

Other Intervenants

**APPLICATION FOR THE PAYMENT OF LEGAL FEES OF COUNSEL FOR
THE AD HOC COMMITTEE OF INVESTORS OF PLEXCOIN**

**TO THE HONOURABLE MR. JUSTICE DANIEL DUMAIS OF THE SUPERIOR COURT,
SITTING IN COMMERCIAL DIVISION FOR THE DISTRICT OF QUÉBEC, THE
INTERVENANT STATES AS FOLLOWS:**

INTRODUCTION

1. This Application is made by the Intervenant *Ad Hoc Committee of Investors of Plexcoin* (the “**Committee**”) for an order from this Court to authorize and direct payment of the reasonable professional fees and disbursements of counsel for the Committee;
2. The Committee requests that the payment of the counsel’s reasonable professional fees and disbursements be paid from the funds to be distributed by the Interim Administrator to the investors of Plexcoin pursuant to the plans of distribution to be submitted and approved by the Court;

A. THE INITIAL PROCEEDINGS BY THE AMF

3. On or about July 20, 2017, the Autorité des marchés financiers (the “**AMF**”) instituted proceedings against the defendant and other parties regarding the cryptocurrency Plexcoin, in which thousands of investors have invested;
4. Proceedings related to Plexcoin were also commenced in the United States pursuant to a complaint filed by the *Securities and Exchange Commission* (the “**SEC**”) on December 1, 2017 before the *U.S. District Court for the Eastern District of New York*;
5. On July 5, 2018, on application by the AMF, Raymond Chabot Administrateur Provisoire Inc. has been appointed as Interim Administrator to the assets of defendant Lacroix;
6. Since his appointment, the Interim Administrator has succeeded in recovering some of the assets of defendant Lacroix, including cryptocurrencies, cash and mining equipment;

B. THE PLEXCOIN INVESTORS AND AD HOC COMMITTEE

7. Thousands of people have invested in Plexcoin during its presale in August 2017 and official launch in October 2017;
8. The mandate of the Interim Administrator was to seize, collect and recover as many assets of defendant Lacroix as possible, and to distribute the proceeds thereof to the investors of Plexcoin. As such, the investors of Plexcoin are the principal initial beneficiaries of these proceedings and it became important that they should be properly represented before the Court;
9. Given the number of investors, the management of investor communications requires considerable resources. The creation of an *ad hoc* committee and the appointment of representative counsel would ensure that the investors’ interests are communicated to the Interim Administrator and to the Court in the most effective way;

10. On or about November 7, 2019, the investors formed the Intervenant *Ad Hoc* Committee of Investors of Plexcoin and resolved to retain the services of Mtre Jean-Yves Simard, then of Lavery, De Billy LLP, now with DS Lawyers Canada LLP, to represent their interests and advocate their position before this Court;
11. On or about November 14, 2019, the Committee filed an *Application to Appoint an Investors Committee and a Representative Counsel*, as appears from the Court record;
12. On December 6, 2019, the Court granted in part the Application of the Committee and ordered that the *Ad Hoc* Committee of Investors of Plexcoin had standing to appear before the Court and was composed of the following investors, each of whom purchased Plexcoin at the ICO, namely:
 - Skip Shapiro from the United States;
 - Michael Isang from Nigeria;
 - Rose Thomas from the United States;
 - Marx Hu from Malaysia;
 - Roehl Dumlao from the Philippines;
 - Steve McQueen from the United States;
 - Frank D'Assisi from Canada;
 - Calvin Tewari from the Netherlands;
 - Javier Puente from the United States,

the whole, as more fully appears from the Court record. For ease of reference, the Committee files in support hereof a copy of the December 6, 2019 order from this Court (the “**Appointment Order**”), as **Exhibit Plex-1**;

13. In the Appointment Order, the Court noted:

[20] It is quite obvious that we are heading into a dispute between, at least, the ICO investors, the Second group and the trustee for Lacroix's bankrupt companies. Lacroix himself does not request an interest in the assets but intends to make submissions.

[21] Although the RCAP, AMF and SEC already took position in favor of the ICO investors in their proposed Plan of distribution, the Court considers it should allow the Committee to intervene through its representative counsel. It is expedient given the issues in dispute. The Committee's participation, legally represented, can certainly contribute usefully to the debate.

[22] The practice of appointing a representative counsel for special groups of stakeholders is acknowledged under the Companies Creditors Arrangement Act. By analogy, it should also be permitted in the current file. The intervention will facilitate the hearing and ensure that those who have an interest are heard, if such is their desire.

14. The Court however decided then not to allow the request of the Committee for the payment of the fees of the representative counsel, noting:

[38] The Court shares the view of Justice Newbould in *Urbancorp*¹⁶. It does not agree that the fees be paid from the recovered assets. However, the Court is willing to allow that individual payments be made to the law firm upon express instructions from an investor and subject to the limit of his/her recovery once the plan is executed. If such authorisations are given, the Committee could come back with a new application to this end.

(emphasis added)

15. In view of the Court's direction, express instructions were given to the Interim Administrator by the Plexcoin investors through the Committee on September 8, 2021, requesting that an amount representing 5% of any dividend or distribution to be paid by the Interim Administrator to the investors of Plexcoin under a plan of distribution be paid directly to the Committee's counsel for legal fees incurred in the representation of their interests in this matter, as appears from the direction of payment dated September 8, 2021 (the "**Direction of Payment**"), **Exhibit Plex-2**;

C. THE APPOINTMENT OF THE COMMITTEE AND ITS COUNSEL WAS USEFUL TO THE CASE

16. The appointment of the Committee and its counsel was useful to the case, and provided the Court with constant input and active representation of the interests of the Plexcoin investors including, without limitation:
- a. Attendance and representation at each case management hearing;
 - b. Reviewing and commenting on the initial Plan of Distribution dated November 4, 2019, including numerous exchanges with the Interim Administrator;
 - c. Attendance and representation in the context of the motion for declaratory judgment presented by the Interim Administrator, including, without limitation:
 - i. Attending the out of court examination of Mrs. Isabelle Côté from the AMF (July 13, 2020);
 - ii. Filing a written Outline of Position (August 13, 2020) arguing against the intervention of the other creditors and investors of defendant

Lacroix, and in favor of distributing the funds collected by the Interim Administrator only to the Plexcoin investors;

- iii. Attending the 5-day hearing on the motion for declaratory judgement from August 31 to September 4, 2020, including cross examination of witnesses, and making representations. At this hearing, it was the Committee, not the AMF, who advocated for the interests of the Plexcoin investors;
 - d. Reviewing and commenting on the Claims Process proceedings, including the filing of a *Summary Contestation of the Motion for Claims Procedure* dated March 29, 2021, attendance and representations at the Court hearing on or about April 29, 2021, and several exchanges with the Interim Administrator and his counsel;
 - e. Several email and telephone conversations with (i) the Committee, (ii) over 30 individual investors requesting update and assistance with the filing of proofs of claims, and (iii) the Interim Administrator as to the Claims Process;
 - f. Reviewing and commenting on the Plans of Distribution dated December 3, 2021, including numerous exchanges with the Interim Administrator;
 - g. Reviewing and commenting on the Amended Plans of Distribution dated December 10, 2021, including exchanges with the Interim Administrator;
17. The Committee and its counsel's primary function has been to consult with the investors, take position on the issues in the case which impact their interests, provide an efficient channel of communication at all levels including from the investors to and from the Interim Administrator and the Court;

D. THE PLANS OF DISTRIBUTION

18. On or about December 10, 2021, the Interim Administrator filed two proposed amended plans of distribution, being a *Plan de Distribution pour le Fonds Canadien Modifié* (the "**Canadian Plan**") and *Plan de Distribution pour le Fonds US Modifié* (the "**US Plan**" and together with the Canadian Plan, the "**Plans of Distribution**"), as appears from the Court record;
19. On or about December 3, 2021, the Interim Administrator filed a *Rapport de l'Administrateur Provisoire sur les Plans de Distribution* (the "**IA Report**"), as appears from the Court record;
20. Pursuant to the Plans of Distribution, and based on the information from the IA Report, the following is the Committee's understanding of the estimated distribution to the Plexcoin investors:

A- Total amount of claims filed by Plexcoin Investors in CAD\$ (capital of \$2.7M plus rate of return of 2.45%/month as per the Plan):		<u>3,360,000</u>
		Distributions to Plexcoin investors
B- Distribution of 100% of the US Fund (converted in CAD\$) under the US Plan		1,867,000
C- Balance of Plexcoin investors' claims to participate in the Canadian Plan (A – B)	1,493,000	
D- Amount available for distribution in the Canadian Plan, net of IA fees as at October 31, 2021, in CAD\$	3,900,000	
E- Total amount of claims in the Canadian Plan	34,000,000	
F- Distribution to Plexcoin investors under the Canadian Plan (D/E) x C		163,000
G- Distribution to SEC Claim (\$6M) under the Canadian Plan forfeited by SEC in favour of Plexcoin investors		646,000
H- Total distribution to Plexcoin investors (B+F+G) (in CAD\$)		<u>2,676,000</u>
I- % of distribution on Plexcoin investors' claims in capital of \$2.7M	95%	

21. Under the Direction of Payment Plex-2, the Plexcoin investors, through the Committee, have directed the Interim Administrator to remit an amount equal to 5% of the distribution to be paid to the Plexcoin investors under the Plans of Distribution to the undersigned legal counsel;
22. The Direction of Payment Plex-2 is consistent with the Court's direction at paragraph 38 of the Appointment Order cited above;
23. Based on the estimated distribution scenario detailed above, the fees to be paid to the undersigned counsel pursuant to the Direction of Payment Plex-2 would be estimated at \$133 800 (5% of \$2 676 000);
24. Under the circumstances, the amount of 5% of the distribution to Plexcoin investors is fair and reasonable, namely:
 - a. Except for a payment of USD\$8000 (to cover the costs of appealing the portion of the Appointment Order which dismissed the Committee's request for payment of its counsel's fees), counsel for the Committee has received no payment to date since it appeared in the case in 2019, in essence taking

-
- the case on some form of contingency basis conditional on a favorable outcome for the Plexcoin investors;
- b. The Committee, representing the Plexcoin investors, has specifically approved such payment of 5% as evidenced by the Direction of Payment Plex-2;
 - c. Once a distribution under the Plans of Distribution is determined and approved, the Plexcoin investors may very well decide to direct payment of a portion of their distribution amount (i.e. 5%) to pay for legal counsel who assisted and advocated for their interests throughout the case;
 - d. Counsel for the Committee has spent an estimated 200 hours in the case;
 - e. The appointment of an investors' committee and the appointment of a representative counsel, as well as the issues submitted and decided in the motion for declaratory judgment and the judgment of the Court dated October 29, 2020, are novel issues never before seen in proceedings under the *Act respecting the regulation of the financial sector*;
 - f. The Committee's submissions through its counsel provided reasoned arguments and were valuable to the Court in weighing the different and opposing interests of the stakeholders;
 - g. The interventions and representations made by counsel for the Committee throughout the case have provided significant value to the Plexcoin investors, and also to the Court and the Interim Administrator;
 - h. The Plexcoin investors who have filed a proof of claim will receive over 90% of their investment in capital which is a favorable outcome in the circumstances;
 - i. The amount to be distributed to the Plexcoin investors' proofs of claims under the Canadian Plan would be sufficient to cover the 5% payment of legal fees, such that no moneys from either the US Plan or the SEC's distribution under the Canadian Plan would be used to pay such legal fees;
 - j. The payment of the legal fees to counsel for the Plexcoin investors in accordance with the Direction of Payment Plex-2 will not impact any distribution to any other party in the case;
25. In view of all of the foregoing, the Committee asks that his Court approve the Direction of Payment Plex-2 and instruct the Interim Administrator to pay the legal fees and disbursements of the undersigned counsel as per the terms of said Direction of Payment Plex-2;

FOR THERE REASONS, MAY IT PLEASE THE COURT:

DECLARE that the Direction of Payment dated September 8, 2021, providing for the payment of the legal fees and disbursements of counsel for the Intervenant *Ad Hoc Committee of Investors of Plexcoin* is fair and reasonable;

ORDER the Interim Administrator to pay the fees and disbursements of Mtre Jean-Yves Simard, of the law firm DS Lawyers Canada LLP, counsel for the Intervenant *Ad Hoc Committee of Investors of Plexcoin*, from the distribution amount to be paid to the Plexcoin investors under the Canadian Plan of Distribution (excluding any distribution resulting from the SEC forfeiting its own distribution in favour of the Plexcoin investors), in an amount representing 5% of said distribution amount;

THE WHOLE without costs, save in the event of contestation.

MONTREAL, December 21, 2021

DS Lawyers Canada LLP

DS LAWYERS CANADA LLP

(Mtre Jean-Yves Simard)

Lawyers for Intervenant *Ad Hoc* Committee of
Investors of Plexcoin

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Phone: +1 514 360-4321

Our file: 6714-1

AFFIDAVIT

I, the undersigned, **SKIP SHAPIRO**, businessman, residing at 318 Hawthorn Street, New Bedford, MA 02740, U.S.A., make oath and declare that:

1. I am an Investor of Plexcoin and a member of the *Ad Hoc Committee of Investors of Plexcoin*.
2. All the facts contained in the *Application for the Payment of Legal Fees of Counsel for the Ad Hoc Committee of Investors of Plexcoin* are true.

AND I HAVE SIGNED



SKIP SHAPIRO

Solemnly affirmed before me in

Chatham
this 21 day of December 2021

Manon Pariseau # 210370
Commissioner of Oaths

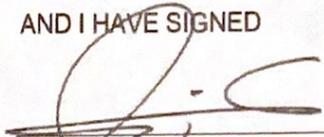


AFFIDAVIT

I, the undersigned, **JEAN-YVES SIMARD**, attorney, practicing within the law firm of DS Lawyers Canada LLP, at 1080, Beaver Hall Hill, Suite 2100, in Montréal, Québec H2Z 1S8 make oath and declare that:

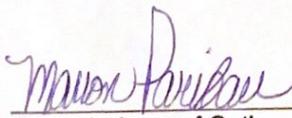
1. I am the counsel of the *Ad Hoc* Committee of Investors of Plexcoin;
2. All the facts contained in paragraphs 16 and 24 of the *Application for the Payment of Legal Fees of Counsel for the Ad Hoc Committee of Investors of Plexcoin* are true.

AND I HAVE SIGNED



JEAN-YVES SIMARD

Solemnly affirmed before me in
Charlevoix
this 21 day of December 2021

 # 210 370

Commissioner of Oaths



NOTICE OF PRESENTATION

TO:

Mtre Hugo Babos-Marchand
Mtre Gabriel Faure
McCARTHY, TÉTRAUULT
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Mtre Annie Parent
Mtre Nathalie Chouinard
GIRARD ET ASSOCIÉS
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Attorneys for the interim Administrator

Me Jacques Plante
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Attorneys for Autorité des Marchés Financiers

Mtre Guy Poitras
GOWLING WLG
3700-1, Place Ville Marie
Montreal, QC H3B 3P4,

Attorneys for Dominic Lacroix

Me Reynald Poulin
BEAUVAIS TRUCHON
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Quebec, QC G1R 5N5

Attorneys for the Securities and Exchange Commission

Me David Lacoursière
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Attorneys for 31 investors in Dominic Lacroix's companies

Me Chantal Comtois
DEPARTMENT OF JUSTICE CANADA
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Attorneys for Lemieux, Nolet, acting as trustee in the bankruptcy of Micro-Prêts inc, DL Innov inc and FinalOne

Me Éric Labbé
REVENU QUEBEC
3800 de Marly Street
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Attorneys for Department of Justice Canada

Me Gabriel Pomerleau
BEAUVAIS TRUCHON
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Quebec, QC G1R 5N5

Attorney for Revenu Quebec**Attorneys for Charles Hays Dupras and Camaron**

Take note that the *Application for the Payment of Legal Fees of Counsel for the Ad Hoc Committee of Investors of Plexcoin* will be presented before the Honourable Mr. Justice Daniel Dumais, on **January 25, 2022**, at the Quebec City Courthouse, 300 Jean-Lesage Boulevard, Québec, QC G1K 8K6, at a time and room to be determined.

MONTREAL, December 21, 2021

DS Lawyers Canada LLP

DS LAWYERS CANADA LLP

(Mtre Jean-Yves Simard)

Lawyers for Intervenant *Ad Hoc* Committee of
Investors of Plexcoin

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Phone: +1 514 360-4321

Our file: 6714-1

No. 200-11-025040-182

**SUPERIOR COURT
PROVINCE OF QUÉBEC
DISTRICT OF QUEBEC**

**IN THE MATTER OF THE ACT RESPECTING THE REGULATION
OF THE FINANCIAL SECTOR :**

AUTORITÉ DES MARCHÉS FINANCIERS,
Plaintiff
v.
DOMINIC LACROIX,
Defendant
and
RAYMOND CHABOT ADMINISTRATEUR PROVISOIRE INC.,
Interim Administrator
and
THE *AD HOC* COMMITTEE OF INVESTORS OF PLEXCOIN,
Intervenant
and
MAXIME VAILLANCOURT et als.,
and
LEMIEUX NOLET INC., *ès qualité of trustee to the estates
of DL Innov Inc., Micro-Prêts Inc. and Finaone Inc.*,
Other Intervenants

**APPLICATION FOR THE PAYMENT OF LEGAL FEES OF
COUNSEL FOR
THE *AD HOC* COMMITTEE OF INVESTORS OF PLEXCOIN**

ORIGINAL



DS LAWYERS CANADA LLP

Mtre. Jean-Yves Simard
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CODE BD 4095

N/☞: 6714-1

CANADA

PROVINCE OF QUEBEC
DISTRICT OF QUEBEC

N°: 200-11-025040-182

SUPERIOR COURT
(Commercial Division)

**IN THE MATTER OF THE ACT RESPECTING
THE REGULATION OF THE FINANCIAL
SECTOR :**

AUTORITÉ DES MARCHÉS FINANCIERS,

Plaintiff

v.

DOMINIC LACROIX,

Defendant

and

**RAYMOND CHABOT ADMINISTRATEUR
PROVISOIRE INC.,**

Interim Administrator

and

**THE AD HOC COMMITTEE OF INVESTORS
OF PLEXCOIN,**

Intervenant

and

MAXIME VAILLANCOURT et als.,

and

**LEMIEUX NOLET INC., *ès qualité of trustee
to the estates of DL Innov Inc., Micro-Prêts
Inc. and Finaone Inc.,***

Other Intervenants

LIST OF EXHIBITS

Exhibit Plex-1: Judgment representative counsel (December 6, 2019);

Exhibit Plex-2: Direction of Payment dated September 8, 2021;

MONTREAL, December 21, 2021

DS Lawyers Canada LLP

DS LAWYERS CANADA LLP

(Mtre Jean-Yves Simard)

Lawyers for Intervenant *Ad Hoc* Committee of
Investors of Plexcoin

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Our file: 6714-1

**SUPERIOR COURT
(Commercial Division)**

CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC

N° : 200-11-025040-182

DATE : December 6, 2019

IN THE PRESENCE OF : THE HONOURABLE DANIEL DUMAIS, j.s.c.

IN THE MATTER OF THE ACT RESPECTING THE REGULATION OF THE
FINANCIAL SECTOR:

AUTORITÉ DES MARCHÉS FINANCIERS
Plaintiff

v.

DOMINIC LACROIX
Defendant

and

RAYMOND CHABOT ADMINISTRATEUR PROVISoire INC.
Receiver

and

THE AD HOC COMMITTEE OF INVESTORS OF PLEXCOIN
Intervenant

JUDGMENT

(on an Application to appoint an Investors Committee and a Representative Counsel)

1.- THE CONTEXT

[1] The Defendant Lacroix created a cryptocurrency named *Plexcoin*. In search of investors or buyers, he proceeded with an initial coin offering (the «ICO»). Approximately 15 000 persons (the «ICO Investors») responded to this offer and acquired plexcoins. Some people bought or exchanged minimal quantity of plexcoins while others spent more than \$100,000 in value.

[2] Alert to this project it considered illegal, the Autorité des marchés financiers (the «AMF») instituted proceedings before the Financial Markets Administrative Tribunal (the «FMAT») and the Quebec Superior Court.

[3] This resulted, among other things, in the appointment of a receiver, Raymond Chabot Administrateur provisoire inc. («RCAP»)¹. The receiver has large powers in order to investigate and recover the assets of Defendant Lacroix.

[4] RCAP acts under the supervision of this Court and the undersigned Judge is managing the process.

[5] Proceedings related to plexcoins and Lacroix are also ongoing in the United States where a complaint has been filed by the Securities and Exchange Commission (the «SEC») before the U.S. District Court for the Eastern District of New York.

[6] With the involvement of RCAP, assets were found and seized both in Canada and USA. It mainly consists of cryptocurrencies. With this Court approval, they were converted in Canadian dollars.

[7] There is approximately \$1,000,000 (CDN) frozen in USA and \$6,000,000 recovered in Canada. These amounts do not take into account important fees incurred by RCAP, its legal team and technical experts. Such fees amount to approximately \$1,100,000.

[8] During the course of its mandate, RCAP prepared, at the beginning of November 2019, a distribution plan whereby it proposes how the net assets realized should be distributed. This involves the creation of a fund to be liquidated among ICO investors who will file a proof of claim to be adjudicated by RCAP.

[9] This plan of distribution has yet to be presented and approved by the Quebec Superior Court. Furthermore, the transfer of the American assets to the Quebec authorities requires the consent of the U.S. District Court.

[10] Some ICO Investors followed the proceedings from the very beginning. They formed chat groups. Mr. Skip Shapiro, a businessman from New Bedford, MA, led one group of investors.

¹ In virtue of section 19.1 of the Act Respecting the regulation of the financial sector, L.Q. Chapter E-6.1.

[11] At one point, his group included more than one thousand of investors spread around the world. Now, it comprises approximately 500 persons. Mr. Shapiro believes his group represents 20% of the total investments made through the ICO. In terms of the number of buyers, it reaches less than 5% of the total.

[12] On November 7, 2019, Mr. Shapiro and his group formed the *Ad Hoc* Committee of Investors of Plexcoin (the «Committee»). This Committee is composed of the following investors, each of whom purchased Plexcoin initially. These persons are:

- Skip Shapiro from the United States
- Michael Isang from Nigeria
- Rose Thomas from the United States
- Marx Hu from Malaysia
- Roehl Dumlao from the Philippines
- Steve McQueen from the United States
- Frank D'Assisi from Canada
- Calvin Tewari from the Netherlands
- Javier Puente from the United States

[13] As potential beneficiaries of the Plan of distribution, the group members have a vested interest in its content. They want to participate at Court hearings and discuss with RCAP of their concerns and issues in relation with the distribution mechanism proposed.

[14] Hence, they present an application for an order from this Court to:

- Appoint the Committee to represent the interests of and advocate for all the investors of Plexcoin;
- Appoint the law firm Lavery De Billy LLP as its representative counsel;
- Have their reasonable professional fees and disbursements paid by the receiver with the recovered assets.

[15] The AMF, the SEC and RCAP do not contest formerly the first two requests, as long as they are restricted to the approval of the Distribution Plan, and not its execution by RCAP. However, they object to the demand for legal funding. The attorney for the SEC goes further and argues its client will not accept to transfer the U.S. money in Canadian soil if it is used to reimburse or assume the legal fees of the investors².

² Unless the U.S. District Court rules otherwise.

[16] It must be added that another group («the Second group») intends to present a similar demand³. It includes more than thirty people who invested money in one of Lacroix's companies. Three such companies have been identified and they are currently bankrupt⁴. Their trustee, Lemieux Nolet inc., follows the situation. He and the second group of investors intend to intervene and dispute the announced Plan of distribution on the ground that they should be included as claimants instead of being excluded by RCAP's proposed plan.

[17] In a correspondence subsequent to the hearing, RCAP's attorneys submit that the Court should first determine who will be entitled to qualify as claimants and who should be excluded. Once it is decided, then the Distribution Plan may be modified and presented for approval by the Court.

[18] In line with this position, RCAP indicated, in a recent opposition dated November 29, that it consents to the intervention of the second group as long as it is limited to the question of their inclusion (or exclusion) as potential claimants under the plan. This issue will be debated later at a management conference scheduled on December 19, 2019.

2.- THE ANALYSIS

[19] The present judgment deals only with the request of the Committee. It does not concern the proposed plan itself.

[20] It is quite obvious that we are heading into a dispute between, at least, the ICO investors, the Second group and the trustee for Lacroix's bankrupt companies. Lacroix himself does not request an interest in the assets but intends to make submissions.

[21] Although the RCAP, AMF and SEC already took position in favor of the ICO investors in their proposed Plan of distribution, the Court considers it should allow the Committee to intervene through its representative counsel. It is expedient given the issues in dispute. The Committee's participation, legally represented, can certainly contribute usefully to the debate⁵.

³ This is the position expressed by their counsel at hearing and in a letter dated November 19, 2019.

⁴ Namely *DL Innov inc.*, *Micro-Prêts inc.* and *Finaone inc.*

⁵ See section 187 of the *Code of Civil Procedure*.

[22] The practice of appointing a representative counsel for special groups of stakeholders is acknowledged under the *Companies Creditors Arrangement Act*⁶. By analogy, it should also be permitted in the current file. The intervention will facilitate the hearing and ensure that those who have an interest are heard, if such is their desire.

[23] Hence, the Court will grant the first two conclusions, at least for the debate on who should be included in the Distribution Plan. When this question is settled, the Court will reevaluate if the Committee should be entitled to go further in the legal file.

[24] This approach will allow all potential claimants to have a say in the legal issue to be discussed, independently from the regulatory authorities and from the receiver.

[25] The Committee seeks the payment of its representative counsel's reasonable fees and disbursements from the funds recovered by the receiver. No more details are given in relation with the services rendered and those to be provided in the future. We ignore if the Committee agreed to pay its lawyers and, if so, under which conditions.

[26] The Committee bases its submissions on two judgments rendered in CCAA proceedings. The first case is *Arrangement relatif à Les Investissements Hexagone inc.*⁷ Mr. Justice Riordan granted a motion to appoint a committee of subcontractors unpaid by a major contractor facing insolvency. The Committee acted for a majority of subcontractors. Mr Justice Riordan ordered a limited and priority charge in favor of the subcontractors subject to the approval of the receiver or the Court. It qualified it as a «*mesure exceptionnelle que la jurisprudence indique devrait être limitée à ce qui est essentiel au succès d'une restructuration*»⁸.

[27] The case underlines the vulnerability of the subcontractors who are left without any guarantee and representation. They are the ones who financed the activities of *Hexagone*. They agreed to sign releases to help the monitor to obtain the payments necessary to the restructuration⁹. Without the priority charge and the collective representation, they would be deprived of their rights and of any representation¹⁰.

⁶ SARRA, Janis P., *Rescue! The Companies Creditors Arrangement Act*, 2nd Edition, 2013, Carswell, at pages 606 at 609. See also : *Arrangement relatif à Les Investissements Hexagone inc.* 2016 QCCS 6792, par. 38; *Quadriga Fintech Solutions Corp (Re)*, 2019 NSSC 65. *Urbancorp inc. (Re)*, 2016 ONSC 5426.

⁷ See note 6.

⁸ *Idem* at par. 38.

⁹ *Idem* at par. 21, 28, 29, 30, 31 and 52.

¹⁰ *Idem* at par. 26.

[28] The second decision is *Quadriga Fintech Solutions Cord (Re)*¹¹ where the Court wrote:

« It is usually done (the appointment of representatives) where the affected group of stakeholders is large and, without representation, most members would be unable to effectively participate in the CCAA proceedings. »¹²

[29] It quotes *Re Canwest Publishing inc.*¹³:

« In that regard I accept their evidence that they are (the salaried Employees and Retirees) a vulnerable group and there is no other counsel available to represent their interest. »

[30] It must be noted that the conclusions of the demand in *Quadriga Fintech* were not contested. The debate consisted of choosing which law firm should be selected as representative counsel.

[31] The present file differs from these decisions. Indeed, the ICO investors are not left alone and without a voice. The AMF initiated proceedings before the FMAT with a view to protecting these investors. Faced with a lack of cooperation from Mr. Lacroix, it presented a motion to appoint a receiver to help investigating and finding assets.

[32] The AMF and RCAP acted for the benefit of investors. Their intention is demonstrated by their recent Plan of distribution where they propose, subject to Court approval, that the proceeds be distributed to the initial buyers of *Plexcoin*. This goal has been expressed since the beginning. Considering these facts, the Court does not consider that members of the group or other ICO investors are vulnerable and that their legal costs should be paid at least at this stage.

[33] It is one thing to allow representation of the Committee but a different one to duplicate the use of the funds to satisfy its costs. If the Court allows the funding of the Committee, it opens the door to other groups or potential stakeholders. The second group already announced its desire to present a similar demand. The trustee might do the same like other creditors or secondary purchasers of *Plexcoin* or else.

[34] It would be paradoxical and counterproductive that the funds serve to fuel a debate among all the parties that dispute these funds. The end result might very well become unreasonable.

¹¹ 2019 NSSC 65.

¹² *Idem* at par. 6.

¹³ 2010 ONSC 1328.

[35] In addition, the Court can hardly run the risk that the U.S. Authorities refuse to transfer the frozen assets as potentially suggested by the SEC counsel. It must be remembered that Mr. Lacroix agreed to pay a very substantial penalty in the United States.

[36] In the case of *Quadriga*, the Court defined the main role of the committee as being one of information and ensuring that the legitimate interests are considered throughout the proceedings¹⁴. RCAP does play such a role in this case. It published information on a dedicated website.

[37] We must keep in mind what M. Justice Clément Gascon wrote in *Mecachrome International inc.*¹⁵:

[77] *Les critères déjà énumérés confirment qu'une charge prioritaire établie en vertu de la LACC se veut exceptionnelle. Le Tribunal se doit de l'accorder avec parcimonie, en la limitant seulement à ce qui est essentiel au succès d'une restructuration.*

[78] *Dans cette perspective, le Tribunal est d'avis qu'à moins de circonstances particulières bien appuyées par une preuve convaincante, une charge d'administration ne devrait pas inclure des conseillers juridiques ou financiers autres que ceux du contrôleur et des débitrices.*

[...]

[90] *Que chacun des acteurs retienne ses conseillers juridiques ou financiers est légitime. Que tous le fassent aux frais des Débitrices Canadiennes, et partant des créanciers les moins protégés, est, de l'avis du Tribunal, exagéré.*

[38] The Court shares the view of Justice Newbould in *Urbancorp*¹⁶. It does not agree that the fees be paid from the recovered assets. However, the Court is willing to allow that individual payments be made to the law firm upon express instructions from an investor and subject to the limit of his/her recovery once the plan is executed. If such authorisations are given, the Committee could come back with a new application to this end.

[39] Finally, the Court reaffirms its intention to bring this matter to an end rapidly and with efficiency. The next steps will be discussed at the next management conference on **December 19, 2019 at 9h30**.

¹⁴ See par. 16.

¹⁵ 2009 QCCS 1575.

¹⁶ See note 6.

FOR THESE REASONS, THE COURT:

[40] **ORDERS** that the *Ad Hoc* Committee of Investors of Plexcoin may appear before this Court to represent the interests of all of the investors of Plexcoin in the present proceedings, this intervention being limited to the approval of the Plan of distribution and the determination of those persons whose claim should be included in the latter;

[41] **ORDER** that the *Ad Hoc* Committee of Investors of Plexcoin be composed of the following individual investors, namely:

- Skip Shapiro from the United States
- Michael Isang from Nigeria
- Rose Thomas from the United States
- Marx Hu from Malaysia
- Roehl Dumlao from the Philippines
- Steve McQueen from the United States
- Frank D'Assisi from Canada
- Calvin Tewari from the Netherlands
- Javier Puente from the United States

[42] **AUTHORIZE** the *Ad Hoc* Committee of Investors of Plexcoin to retain the services of the law firm Lavery, de Billy LLP as representative counsel («Representative Counsel») for the investors of Plexcoin in the present proceedings;

[43] **DISMISSES** the request of payment of the Representative Counsel's fees and disbursements;

[44] **THE WHOLE** without costs.


DANIEL DUMAIS, J.C.S.

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For Raymond Chabot Administrateur Provisoire inc.

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For Dominic Lacroix

M^e Annie Parent
M^e Nathalie Chouinard
Girard & Associés
Autorité des marchés financiers
Casier 20

For Autorité des marchés financiers

M^e Jean-Yves Simard
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Montréal QC H3B 4M4

For the *Ad Hoc* Committee

M^e Guy Poitras
Gowling WGL
1, place Ville-Marie
37^e étage
Montréal QC H3B 3P4

For the Securities and Exchange Commission

Hearing date: November 22, 2019

No. 200-11-025040-182

**SUPERIOR COURT
PROVINCE OF QUÉBEC
DISTRICT OF QUEBEC**

**IN THE MATTER OF THE *ACT RESPECTING THE
REGULATION OF THE FINANCIAL SECTOR* :**

AUTORITÉ DES MARCHÉS FINANCIERS, Plaintiff

v.

DOMINIC LACROIX, Defendant

and

**RAYMOND CHABOT ADMINISTRATEUR PROVISoire
INC.,** Interim Administrator

and

**THE *AD HOC* COMMITTEE OF INVESTORS OF
PLEXCOIN,** Intervenant

and

MAXIME VAILLANCOURT et als.,
and
**LEMIEUX NOLET INC., *ès qualité of trustee to the estates
of DL Innov Inc., Micro-Prêts Inc. and Finaone Inc.,***
Other Intervenants

EXHIBIT PLEX-1

ORIGINAL



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CODE BD 4095

N/☞: 6714-1

Jean-Yves Simard

De: Jean-Yves Simard
Envoyé: 20 décembre 2021 09:39
À: Hugo Anthony 'Babos-Marchand; Faure, Gabriel; Emmanuel' 'Phaneuf
Objet: TR: Plexcoin - Legal Fees

Dear Colleagues,

See below the payment instructions from the Committee of Investors of PlexCoin for the legal fees.

Regards,

Jean-Yves Simard
Avocat | Lawyer
jysimard@dsavocats.ca
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De : Skip Shapiro <skip@shapiroe.com>
Envoyé : 8 septembre 2021 10:51
À : Jean-Yves Simard <JYSimard@dsavocats.ca>
Objet : Re: Plexcoin - Legal Fees

Yes we agree and confirm

Sent from my iPhone

On Sep 8, 2021, at 3:41 AM, Jean-Yves Simard <JYSimard@dsavocats.ca> wrote:

Mr. Shapiro,

Further to our recent conversation, I hereby confirm that the Ad Hoc Committee of Investors of Plexcoin agrees that an amount representing 5% of any dividend or distribution to be paid by the receiver Raymond Chabot Inc. to the investors of Plexcoin be paid directly to the undersigned for legal fees incurred in the representation of their interests in this matter.

Regards,

Jean-Yves Simard
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<image001.jpg>

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No. 200-11-025040-182

**SUPERIOR COURT
PROVINCE OF QUÉBEC
DISTRICT OF QUEBEC**

**IN THE MATTER OF THE *ACT RESPECTING THE
REGULATION OF THE FINANCIAL SECTOR* :**

AUTORITÉ DES MARCHÉS FINANCIERS, Plaintiff

v.

DOMINIC LACROIX, Defendant

and

**RAYMOND CHABOT ADMINISTRATEUR PROVISOIRE
INC.,** Interim Administrator

and

**THE *AD HOC* COMMITTEE OF INVESTORS OF
PLEXCOIN,** Intervenant

and

MAXIME VAILLANCOURT et als.,
and
**LEMIEUX NOLET INC., *ès qualité of trustee to the estates
of DL Innov Inc., Micro-Prêts Inc. and Finaone Inc.,***
Other Intervenants

EXHIBIT PLEX-2

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**SUPERIOR COURT
PROVINCE OF QUÉBEC
DISTRICT OF QUEBEC**

**IN THE MATTER OF THE ACT RESPECTING THE REGULATION
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AUTORITÉ DES MARCHÉS FINANCIERS,
Plaintiff
v.
DOMINIC LACROIX,
Defendant
and
RAYMOND CHABOT ADMINISTRATEUR PROVISOIRE INC.,
Interim Administrator
and
THE *AD HOC* COMMITTEE OF INVESTORS OF PLEXCOIN,
Intervenant
and
MAXIME VAILLANCOURT et als.,
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LEMIEUX NOLET INC., *ès qualité of trustee to the estates
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Other Intervenants

LIST OF EXHIBITS AND EXHIBITS PLEX-1 AND PLEX-2

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