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U.S. DISTRICT COURT E.D.N.Y.

★ DEC 23 2019 ★

BROOKLYN OFFICE

Skip Shapiro Enterprises, LLC
318 Hawthorn St
New Bedford, MA 02740
Mobile: 617-594-1429

December 6, 2019

Chamber
Judge Carol Bagley Amon
225 Cadman Plaza East
Brooklyn, NY 11201

Dear Judge,

We, the Adhoc Plexcoin Investors Committee, wish to update Your Honor on a related ruling in Canada .

We are outraged and are contemplating an appeal and other options.

Our selected proposed lawyer offered a 50,000 dollar cap for his fees whereas more than a million dollars was allowed without objection for the Receiver and his lawyer. Moreover we see no mention of enforcement or inclusion of the two million dollar fine you imposed. The SEC threatened to withhold the \$900,000.00 they seized if we were allowed our 50,000 cap lawyer's fees to be paid out of the "Fair Fund" The number of investors ,amounts invested and accounted for are inaccurate and incomplete let alone how much our Bitcoin and Ethereum used at the ICO appreciated. We desperately need Counsel Object to the proposed minimum 250 investment for qualification which eliminates approx. 10,000 investors from receiving refunds.

We ask that you review the attached documents.

Respectfully.

Skip Shapiro

The Court received the attached submission from a non party in this case - a representative of certain Plexcoin investors. The Clerk of Court is directed to docket and file it in Docket for informational purposes only. So Ordered

s/Carol Bagley Amon

12/19/19 ✓

NO.: 200-11-025040-182

SUPERIOR COURT
(Commercial Division)

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.**

Receiver

-and-

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

Intervenant

**APPLICATION TO APPOINT AN INVESTORS
COMMITTEE
AND A REPRESENTATIVE COUNSEL
(Articles 19.1 and foll. of the *Act Representing
the Regulation of the Financial Sector*, and
Articles 49 & 186 Ccp)**

TRUE COPY

Our file: 137831-00001

BL 1332

Me Jean-Yves Simard

Direct line : 514877-3039

LAVERY, DE BILLY, L.L.P.

LIMITED LIABILITY PARTNERSHIP

SUITE 4000, 1, PLACE VILLE MARIE, MONTREAL, QUEBEC H3B 4M4

TELEPHONE: 514 871-1522 FAX NUMBER: 514 871-8977

EMAIL NOTIFICATIONS: NOTIFICATIONS-MTL@LAVERY.CA

lavery.ca

CANADA

PROVINCE OF QUEBEC
DISTRICT OF QUEBEC

SUPERIOR COURT
(Commercial Division)

N°: 200-11-025040-182

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

AUTORITÉ DES MARCHÉS FINANCIERS

Plaintiff

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DOMINIC LACROIX

Defendant

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**RAYMOND CHABOT ADMINISTRATEUR
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Receiver

and

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

Intervenant

**APPLICATION TO APPOINT AN INVESTORS COMMITTEE
AND A REPRESENTATIVE COUNSEL**
*(Articles 19.1 and foll. of the Act Representing the Regulation of the Financial
Sector, and Articles 49 & 186 Ccp)*

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

INTRODUCTION

1. This Application is made by the Intervenant for an order from this Court to appoint an *ad hoc* committee of the investors of PlexCoin to represent the interests of and advocate for all of the investors of PlexCoin;
2. This Application also seeks the appointment of the law firm Lavery, de Billy LLP as representative counsel for the Intervenant (the “**Representative Counsel**”);
3. The Intervenant finally requests that the payment of the Representative Counsel’s reasonable professional fees and disbursements be paid from the funds recovered, collected and held by the Receiver for distribution to the investors of PlexCoin;

A. THE PROCEEDINGS

4. 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;
5. Since 2017, the AMF is trying to recover the defendant’s assets in order to reimburse the investors of PlexCoin;
6. Proceedings related to PlexCoin are also ongoing 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*;
7. On July 5, 2018, on application by the AMF, Raymond Chabot Administrateur Provisoire inc. has been appointed as a Receiver to the assets of defendant Lacroix;
8. Since his appointment, the Receiver has attempted and succeeded in recovering some of the assets of defendant Lacroix, including cryptocurrencies, cash and mining equipment;
9. The mandate of the Receiver is 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 beneficiaries of these proceedings and they should be properly represented before the Court;

10. Identifying investors and transactions is difficult, particularly as the transactions are anonymous and the file shows that defendant has not fully cooperated in the disclosure of information, as appears from the various reports of the Receiver and judgments of this Court issued to date in this matter;

B. THE INVESTORS AND *AD HOC* COMMITTEE

11. Thousands of people have invested in PlexCoin during its presale in August 2017 and official launch in October 2017;
12. Since 2017 and the commencement of proceedings in Quebec by the AMF and in the United States by the SEC, several investors have closely followed the various proceedings and evolution of the case;
13. In particular, Mr. Skip Shapiro, a businessman from New Bedford, MA, is an investor of PlexCoin from the Initial Coin Offering ("**ICO**") and has followed the proceedings from the very beginning;
14. Mr. Shapiro has been in constant communication with the key stakeholders of this case, including the AMF, the Receiver and the SEC;
15. Mr. Shapiro joined chat groups formed by investors of PlexCoin from the outset and has communicated with many of the investors publicly primarily updating them on legal progress and asking their opinions, as well as privately through emails and private messages. The largest group of investors consisted originally of approximately 1100 members and is now down to approximately 500 as many investors have either lost interest or simply given up. The communication with the group is coordinated by Mr. Michael Isang;
16. Mr. Michael Isang is a businessman currently residing in Nigeria. He has coordinated chat groups among the investors of PlexCoin and has been in contact with several investors;
17. Mr. Shapiro has originally invested at least CAD\$30,000 and US\$10,000 at the PlexCoin ICO in 2017, and with bonus owns approximately 412,000 PlexCoins which reside in the PlexCoin Wallet and are unaccessible. According to the PlexCoin website which used to be accessible, Mr. Shapiro was the 12th largest investor in PlexCoin;
18. Mr. Shapiro was asked more than a year ago by the group of investors to be their spokesman and he has been in constant touch with the key players in the investigation. Mr. Shapiro presides the Intervenant *Ad Hoc* Committee of Investors of PlexCoin;

19. Messrs. Shapiro and Isang believe that the group of investors that they are in contact with represents approximately 20 percent of the total investments made. PlexCoin investors mostly invested small amounts, and many were young and first-timers in the cryptocurrency investment market;
20. The identification of investors is difficult. There are no contracts, no titles, no paper nor official list of investors;
21. In particular, on July 20, 2017, the *Financial Markets Administrative Tribunal* ("FMAT") issued an *ex parte* order which, *inter alia*, ordered the defendant to shutdown the websites www.plexcorps.com and www.plexcoin.com;
22. The *ex parte* order of the FMAT was filed in the Superior Court file 200-05-020363-177, and on October 17, 2017, the Honorable Justice Marc Lesage found the defendant (and one of his related companies) guilty of contempt of Court, and on December 8, 2017, condemned defendant to two months in jail. These judgments are currently under appeal (200-09-009660-173);
23. On September 20, 2018, the FMAT re-issued orders for the shutdown of the websites;
24. As a result of the steps taken by the AMF and orders of the FMAT, these websites were eventually shutdown despite the concerns raised by Mr. Shapiro with the AMF about preservation of critical information, and despite assurances given to Mr. Shapiro that the data contained on these websites would be preserved. Such data was critical and included investor profiles, PlexCoin wallets, estimated value of investment, wallet addresses, dates and amount of transaction, investor rankings and running totals. Unfortunately, it is feared that this very important data was lost;
25. Given the number of investors, the management of investor communications will require considerable resources. An *ad hoc* committee and representative counsel will ensure that the investors' interests are communicated to the Receiver and to the Court in the most effective way;
26. 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 Lavery, De Billy LLP to represent their interests and advocate their position before this Court;
27. The *Ad Hoc* Committee of Investors of PlexCoin is 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.

28. The Intervenant's primary function will be 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 Receiver and the Court, and to work with and instruct Representative Counsel on advocacy and negotiations;
29. The appointment of an *ad hoc* committee is an efficient and appropriate way of instructing Representative Counsel and to ensure that the investors are duly represented;

C. THE PLAN OF DISTRIBUTION

30. On or about November 4, 2019, the Receiver filed a proposed plan of distribution ("**Plan of Distribution**"), as appears from the Court record;
31. The proposed Plan of Distribution provides summarily that:
 - a) The Receiver will create a fund in which will be deposited all of the proceeds from the realization of the assets of defendant and others, including cryptocurrencies, cash and mining equipment;
 - b) The investors will be called to file proofs of claim on or before a claims bar date;
 - c) The claims will be reviewed and adjudicated through a claims process;
 - d) The fund held by the Receiver will be distributed to the investors on a pro rata basis by way of one or more distributions;
 - e) Certain parties will be released from any liability once the Plan of Distribution shall have been fully executed.
32. Although the investors of PlexCoin are the beneficiaries of the Plan of Distribution, they were not consulted and did not participate in the drafting of the Plan of Distribution;

33. Since they are the beneficiaries of the Plan of Distribution, the investors have a vested interest in its content. The investors will have some issues with certain elements of the Plan of Distribution which they will bring to the Receiver and, eventually to the Court. It is important and in the best interest of all stakeholders and the Court, that the investors, through the *ad hoc* committee, have a means of advancing their concerns and advocate for their common interests;
34. The investors need to be able to attend and participate at Court hearings to advocate for their interests. Likewise, it is important for the Court to hear the investors. Appointing the *ad hoc* committee and representative counsel will serve both the interests of the investors and the interests of the Court;
35. Also, the investors intend to participate in the implementation of the Plan of Distribution, including in the implementation of a claims process and in the distribution phase of the Plan of Distribution;
36. The investors recognize that these proceedings are a first in Canada, where refunds to investors under an ICO will be provided. It is exceptional that this will be done through a Court sanctioned Plan of Distribution;
37. As is normally seen in insolvency restructuring matters, a claims process is usually set up and executed and, once the claims have been resolved and the number of claimants and dollar amount of claims are known, then a plan is proposed for distribution to these claimants;
38. Singularly, in these proceedings, the Plan of Distribution may be approved before a claims process has been executed;
39. It is thus even more important that the investors have the means and opportunity to be involved in the process. The appointment of an *ad hoc* committee and representative counsel are necessary and justified in the particular circumstances of these proceedings;

D. THE REPRESENTATIVE COUNSEL

40. A representative counsel is necessary in order to ensure that the investor's interests are properly represented;
41. The amount owing to individual investors varies from investor to investor and in most cases is a small amount. The investors are geographically dispersed throughout the world. It would be cost prohibitive and inefficient for each investor to retain separate counsel to protect their interests. As such, the investors are vulnerable in these proceedings;

-
42. The Intervenant wishes for the Court to appoint the law firm Lavery, de Billy LLP as representative counsel for the *Ad Hoc* Committee of Investors of PlexCoin;
 43. Lavery is the leading independent law firm in Québec. With 250 professionals based in Montreal, Quebec City, Sherbrooke and Trois-Rivières, the firm provides a comprehensive range of legal services to regional, national and multinational corporations, financial institutions, and government departments, agencies, and Crown corporations. Lavery has been ranked Number 1 of the Top 10 Québec Regional Law Firms by Canadian Lawyer. Its professionals are also recognized by Best Lawyers, Lexpert and Chambers Canada in their respective fields of expertise;
 44. In particular, Lavery, de Billy LLP has the means and the expertise to adequately represent the interests of the investors of PlexCoin in the present proceedings. Jean-Yves Simard, a partner at Lavery, de Billy LLP, has been a member of the Quebec Bar since 1988 and has significant experience in major cases of restructuring, realization and distribution of assets;
 45. If appointed, the Representative Counsel will work with the *Ad Hoc* Committee to fulfill the following key functions:
 - a. Managing ongoing communications with investors, including translation of the Plan of Distribution and other relevant materials, providing reports as to the status and progress of these proceedings, as well as creating an effective manner to provide responses to investors queries;
 - b. Acting as investors liaison to the Receiver, in order to communicate investors' concerns and provide strategic and tactical advice to the *Ad Hoc* Committee;
 - c. Advocating for investors interests in Court as well as in any negotiation and other discussions with the Receiver, the AMF and other key stakeholders;
 46. An "official" channel of communication must be implemented as soon as possible through the appointment of Representative Counsel and an *Ad Hoc* Committee on behalf of the investors, to enable the investors to have a vehicle to effectively voice their concerns, to participate in these proceedings and in the approval and implementation of the Plan of Distribution;

FOR THERE REASONS, MAY IT PLEASE THE COURT:

DECLARE that the Intervenant has given sufficient notice of the presentation of the present Application to the interested parties;

ORDER 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;

ORDER that the *Ad Hoc* Committee of Investors of PlexCoin be composed of the following individual investors, namely:

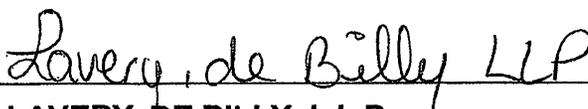
- Skip Shapiro from the United States;
- Michael Isang from Nigeria;
- Rose Thomas from the United States;
- Marx Hu from Malaysia;
- Roehl Dumlao from the Philippines;
- Steve McQueen from the United States;
- Frank D'Assisi from Canada;
- Calvin Tewari from the Netherlands;
- Javier Puente from the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

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;

ORDER the Receiver, subject to the approval of the Court, to pay the reasonable fees and disbursement of the Representative Counsel in these proceedings, from the funds held by the Receiver from the realization of the assets in these proceedings, and that such fees and disbursements be paid in priority to any distribution to investors under the Plan of Distribution;

THE WHOLE without costs save in the event of contestation.

MONTREAL, November 14, 2019



LAVERY, DE BILLY, L.L.P.

(Mtre Jean-Yves Simard)

Lawyers for Intervenant

Our file: 137831-00001

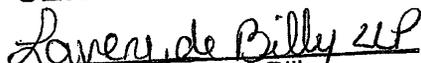
1 Place Ville Marie, Suite 4000

Montreal, QC H3B 4M4

Email : jysimard@lavery.ca

Notification: notifications-mtl@lavery.ca

CERTIFIED TRUE COPY


Lavery, de Billy
L.L.P.

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 of the facts contained in the *Application to appoint an investors committee and a representative counsel* are true.

AND I HAVE SIGNED

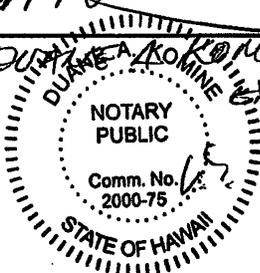


SKIP SHAPIRO

SOLEMNLY AFFIRMED BEFORE ME IN
STATE OF HAWAII - HONOLULU
 THIS 15 DAY OF NOVEMBER 2019



 Notary Public **DUANE KOKIMINE** *EXP 2.13.2020*



NOTICE OF PRESENTATION

TO:

Mtre Hugo Babos-Marchand
Mtre Marie Rondeau
BLG
1000, rue De La Gauchetière West
Suite 900
Montreal, QC H3B 5H4

Mtre Annie Parent
Mtre Nathalie Chouinard
Girard & Associés
2640 Laurier Boulevard
Suite 400
Quebec, QC G1V 5C1

Attorneys for the Receiver

**Attorneys for Autorité des Marchés
Financiers**

Mtre Sarah Desabrais
240, St-Jacques Street West
Suite 800
Montreal, QC H2Y 1L9

Mtre Guy Poitras
Gowlings WLG
1, Place Ville Marie
Suite 3700
Montreal, QC H3B 3P4,

Attorney for Dominic Lacroix

**Attorneys for the Securities and
Exchange Commission**

Take note that the *Application to appoint an investors committee and a representative counsel* will be presented before the Honourable Mr. Justice Daniel Dumais, on **November 22, 2019**, at the Quebec City Courthouse, 300 Jean-Lesage Boulevard, Québec, QC G1K 8K6, at **10h30** am in room **4.01**.

MONTREAL, November 14, 2019

CERTIFIED TRUE COPY

Lavery, de Billy LLP
Lavery, de Billy
L.L.P.

Lavery, de Billy LLP

LAVERY, DE BILLY, L.L.P.
(Mtre Jean-Yves Simard)
Lawyers for Intervenant

Our file: 137831-00001
1 Place Ville Marie, Suite 4000
Montreal, QC H3B 4M4
Email : jysimard@lavery.ca
Notification: notifications-mtl@lavery.ca

**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.

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[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.

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[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.

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[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*.

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[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.

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

« 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.

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[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.

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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;

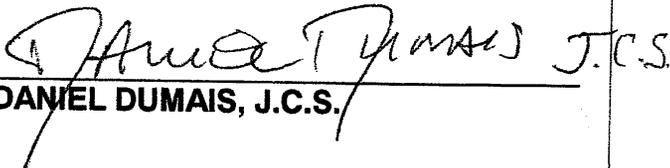
[41] **ORDER** that the *Ad Hoc* Committee of Investors of Plexcoin be composed of the following individual investors, namely:

- 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.

M^e Hugo Babos Marchand
M^e Marie Rondeau
Borden Ladner Gervais
1000, rue de la Gauchetière Ouest
Bureau 900
Montréal (Québec) H3B 5H4

For Raymond Chabot Administrateur Provisoire inc.

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M^e Sarah Desabrais
240, rue Saint-Jacques Ouest
Bureau 800
Montréal (Québec) H2Y 1L9

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
Lavery
1, place Ville-Marie
Bureau 4000
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