

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N°: 500-11-057549-194

DATE: May 21, 2020

PRESIDING: THE HONOURABLE PETER KALICHMAN, J.S.C.

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

9227-1584 QUÉBEC INC.

9336-9262 QUÉBEC INC.

Debtors

-and-

KPMG INC.

Petitioner / Monitor

-and-

110302 CANADA INC.

9325-7277 QUÉBEC INC.

Mises en cause

JK0261

CLAIMS PROCEDURE ORDER

HAVING READ the *Motion for the issuance of a Claims Procedure Order* (the "**Motion**") brought by the Monitor, the affidavit and the exhibits in support thereof;

GIVEN the submissions of counsel and the testimony of witnesses heard;

GIVEN the provisions of the CCAA;

THE COURT:

[1] **GRANTS** the Motion;

Service

[2] **DECLARES** that the Monitor has given sufficient prior notice of the presentation of this Motion to interested parties;

Definitions

[3] **DECLARES** that the following terms in this Order shall, unless otherwise indicated, have the following meanings ascribed thereto:

[3.1] “**Appeal Application**” means a written application referred to in paragraph [8] hereof, setting out in detail the ground of appeal from a Notice of Revision or Disallowance;

[3.2] “**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;

[3.3] “**Business Day**” means a day, other than a Saturday, or a holiday as such latter term is defined in article 61 of the *Interpretation Act*, CQLR, c. I-16;

[3.4] “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

[3.5] “**CCAA Proceedings**” means the proceedings in respect of the Debtors before the Court commenced pursuant to the CCAA;

[3.6] “**Claim**” means any right of any Person against either of the Debtors in connection with any indebtedness or obligation of any kind of the Debtors, present, future, due or accruing due to such Person and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, contingent, matured, unmatured, disputed, undisputed, secured, unsecured, known or unknown, including, *inter alia*, any executory or non-executory guarantee or surety and i) the right or ability of any Person to advance a claim for contribution, indemnity or otherwise with respect to any matter, action or cause, which indebtedness, liability or obligation is based in whole or in part on facts existing as at the Determination Date, ii) any Equity Claim, and iii) any claim which would constitute a claim under the CCAA as at the Determination Date. A Claim shall include, without

limitation, a) any Unaffected Claim, b) any Claim against the Directors and Officers, or c) any Restructuring Claim, provided however, that in no case shall a Claim include an Excluded Claim;

- [3.7] “**Claim against the Directors and Officers**” means a claim as defined in paragraph 11.03(1) of the CCAA as well as any claim by any Person against any of the Directors and Officers of any nature whatsoever in connection with any indebtedness or obligation of any kind of the Directors and Officers, present, future, due or accruing due to such Person, including any interest accrued thereon or costs payable in respect thereof, the whole whether liquidated, unliquidated, contingent, matured, unmatured, disputed, undisputed, secured unsecured, known or unknown, including, *inter alia*, an executory or non-executory guarantee or surety, and i) the right or ability of any Person to advance a claim for contribution, indemnity or otherwise with respect to any matter, action or cause, which indebtedness, liability or obligation is based in whole or in part on facts existing as at the Determination Date, ii) any Equity Claim, iii) any Restructuring Claim, and iv) any claim which would constitute a claim under the CCAA as at the Determination Date. Notwithstanding anything herein, Claim against the Directors and Officers shall not include any claim that any Directors and Officers shall have against any other Directors and Officers;
- [3.8] “**Claims Bar Date**” means 5:00 p.m. (Montréal time) on June 18, 2020 or, for a Creditor with a Restructuring Claim, the latest of (a) 5:00 pm (Montréal time) on June 18, 2020 and (b) fifteen (15) days after the date of receipt by the Creditor of a notice from KPMG giving rise to the Restructuring Claim, it being understood that at no time shall such a notice from KPMG be sent to the Creditor less than thirty (30) days before the date of the first Creditors’ Meeting;
- [3.9] “**Court**” means the Québec Superior Court (Commercial Division) sitting in the district of Montréal;
- [3.10] “**Creditor**” means any Person having a Claim and may, where the context requires, include the assignee of a Claim or a trustee, interim receiver, receiver, receiver and manager, or other Person acting on behalf of such Person and includes a Known Creditor. A Creditor shall not, however, include an Excluded Creditor in respect of that Person’s claim resulting from an Excluded Claim;
- [3.11] “**Creditors’ Instructions**” means the instructions for Creditors, including a Proof of Claim, an Instruction Letter explaining how to complete same, and a copy of this Order;
- [3.12] “**Creditors’ List**” means a list of all Known Creditors;

- [3.13] “**Creditors’ Meeting**” means any meeting of the Debtors’ Creditors to be convened, with leave of the Court, for the purposes of voting on the Plan, and any adjournment or suspension thereof;
- [3.14] “**Designated Newspapers**” means *LaPresse+* and the *Globe and Mail*;
- [3.15] “**Determination Date**” means November 22, 2019;
- [3.16] “**Directors and Officers**” means any of the present or former, *de jure* or *de facto*, directors or officers of either of the Debtors as well as any other persons legally entitled to administer or who in fact administer or administered the affairs of the Debtors and any director or officer thereof;
- [3.17] “**Equity Claim**” has the meaning ascribed thereto in the definition contained in the BIA and the CCAA;
- [3.18] “**Excluded Claim**” means any right of any Person against the Debtors in connection with any indebtedness or obligation of any kind which came into existence after the Determination Date and any interest thereon, including any obligation of the Debtors toward creditors who have supplied or shall supply services, utilities, goods or materials or who have or shall have advanced funds to the Debtors after the Determination Date, but only to the extent of their claims in respect of the supply of such services, utilities, goods, materials or funds after the Determination Date and to the extent that such claims are not otherwise affected by the Plan;
- [3.19] “**Excluded Creditor**” means a Person having a Claim in respect of an Excluded Claim but only in respect of such Excluded Claim and to the extent that the Plan does not otherwise affect such Claim;
- [3.20] “**Initial Order**” means the order of this Court made on November 22, 2019 under the CCAA, as rectified on November 25, 2019, amended and restated on December 2, 2019 and January 30, 2020, corrected on March 20, 2020 and further amended on April 24, 2020;
- [3.21] “**Instruction Letter**” means the instruction letter sent to Creditors in a document substantially in the form of **Schedule “C”** hereto;
- [3.22] “**Known Creditor**” means a Creditor whose Claim is included in the Debtors’ books and records;
- [3.23] “**Monitor**” means the Petitioner / Monitor, KPMG Inc., acting in its capacity as monitor of the Debtors pursuant to the Initial Order;
- [3.24] “**Newspaper Notice**” means the notice of this Order to be published in the Designated Newspapers on the Publication Date in accordance with

paragraph [4], which shall set out the Claims Bar Date and the Creditors' Instructions, being substantially in the form of **Schedule "A"** hereto;

- [3.25] "**Notice of Revision or Disallowance**" means the notice referred to in subparagraph [8] hereof, advising a Creditor that the Monitor has revised or rejected all or part of such Creditor's Claim set out in its Proof of Claim and setting out the reasons for such revision or disallowance, and being substantially in the form of **Schedule "D"** hereto;
- [3.26] "**Person**" means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization without legal personality, joint venture, governmental body or agency, or any other entity;
- [3.27] "**Plan**" means a plan of compromise or arrangement filed or to be filed by the Debtors pursuant to the CCAA, as such plan may be amended or supplemented from time to time;
- [3.28] "**Proof of Claim**" means the form of Proof of Claim for Creditors referred to in paragraphs [7] and [8] hereof, in the form of **Schedule "B"** hereto;
- [3.29] "**Proven Claim**" means the amount of any Claim of any Creditor as of the Determination Date, determined in accordance with the provisions of the CCAA and this Order, and proven by delivering a Proof of Claim to the Monitor;
- [3.30] "**Publication Date**" means the date on which the publication of the Newspaper Notice in all of the Designated Newspapers has been completed;
- [3.31] "**Restructuring Claim**" means any right of any Person against either of the Debtors in connection with any indebtedness or obligation of any kind owed to such Person arising out of the restructuring, repudiation, disclaimer, resiliation or termination of any contract, lease, employment agreement, collective agreement or other agreement, whether written or oral, after the Determination Date, including any right of any Person who receives a notice of disclaimer, resiliation, repudiation or termination from the Monitor; provided however, that a Restructuring Claim may not include an Excluded Claim;
- [3.32] "**Service List**" means the service list maintained by the Monitor in respect of the CCAA Proceedings;
- [3.33] "**Unaffected Claim**" shall have the meaning ascribed to such term in the Plan;

[3.34] "**Voting Claim**" of a Creditor means the Proven Claim of the Creditor unless the Proven Claim of the Creditor (i) is not finally determined at the time of the Creditors' Meeting or (ii) forms part of a category of Creditors not entitled to vote under the Plan, in which case it means the Claim of the Creditor which is accepted for voting purposes in accordance with the provisions of this Order, the Plan and the CCAA;

Notification Procedure

[4] **ORDERS** that the form of Newspaper Notice shall be published by the Monitor in the Designated Newspapers as soon as possible following the issuance of this Order, but in any event no later than May 28, 2020;

[5] **ORDERS** that the Monitor shall publish on its website at:

<https://home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/quebec-inc-9227-1584-and-9336-9262.html>

on or before 5:00 p.m. (Montréal time) on May 28, 2020, a copy of the Creditors' List, of the Creditors' Instructions and of the present Order;

[6] **ORDERS** that, in addition to the publication referred to in paragraphs [4] and [5], the Monitor shall send, by regular mail, a copy of the Creditors' Instructions to each Known Creditor no later than 5:00 p.m. (Montréal time) on May 28, 2020;

Claims Bar Date

[7] **ORDERS** that, unless otherwise authorized by this Court, a Creditor who does not file a Proof of Claim by the Claims Bar Date i) shall not be entitled to any further notice, ii) shall be forever barred from pursuing a Claim against the Debtors or the Directors and Officers, iii) shall not be entitled to participate as a Creditor in these proceedings, iv) shall not be entitled to vote on any matter in these Proceedings, including the Plan, v) shall not be entitled to file a Claim against the Debtors or the Directors and Officers, and vi) shall not be entitled to receive a distribution under the Plan;

Claims Procedure

- [8] **ORDERS** that the following procedure shall apply where a Creditor files a Proof of Claim before the Claims Bar Date:
- [8.1] the Monitor shall review the Proof of Claim to value the amounts and terms set out therein for voting and distribution purposes. Where applicable, the Monitor shall send the Creditor a Notice of Revision or Disallowance by mail, telecopier, courier or other means of electronic communication;
- [8.2] the Creditor who receives a Notice of Revision or Disallowance, personally or through its legal counsel, and wishes to dispute it shall, within fifteen (15) days from receipt of the Notice of Revision or Disallowance, file an Appeal Application with the Court and serve a copy of such appeal motion to the Monitor. The delay provided above shall be suspended for the period of the construction industry holidays, from July 18th to August 2nd, 2020, inclusively;
- [8.3] unless otherwise authorized by this Court, if the Creditor does not file an Appeal Application within the delay provided for above, such Creditor shall be deemed to have accepted the value of its Claim as set out in the Notice of Revision or Disallowance;
- [8.4] where the Creditor appeals from the Notice of Revision or Disallowance or its Claim has not been finally determined prior to the date of any Creditor's Meeting, the Monitor shall deal with the creditor's Proof of Claim in accordance with the provisions of section 108 of the *Bankruptcy and Insolvency Act*;

Notices and Communications

- [9] **ORDERS** that any notice or other communication to be given under this Order by a Creditor to the Monitor or the Debtors shall be in writing in substantially the form provided for in this Order, where applicable, and will be sufficiently given only if given by mail, telecopier, courier or other means of electronic communication addressed to all of the following:

Monitor:**KPMG Inc.**

To the attention of:
Dev Coossa
Charles Grenier

	<i>E-mail:</i> dcoossa@kpmg.ca cgrenier@kpmg.ca
With a Copy to:	Blake, Cassels & Graydon LLP
	<i>To the attention of:</i> Bernard Boucher Sébastien Guy Adam T. Spiro
	<i>E-mail:</i> bernard.boucher@blakes.com sebastien.guy@blakes.com adam.spiro@blakes.com

9325-7277 Québec Inc.:	Norton Rose Fulbright Canada LLP
(Mise en cause)	<i>To the attention of:</i> Guillaume Michaud
	<i>E-mail:</i> guillaume.michaud@nortonrosefulbright.com

110302 Canada Inc.:	Dentons Canada LLP
(Mise en cause)	<i>To the attention of:</i> Ari Sorek Charlotte Dion
	<i>E-mail:</i> ari.sorek@dentons.com charlotte.dion@dentons.com

- [10] **ORDERS** that any document sent by the Monitor pursuant to this Order may be sent by e-mail, ordinary mail, registered mail, courier or facsimile transmission. A Creditor shall be deemed to have received any document sent pursuant to this Order two (2) Business Days after the document is sent by mail and one (1) Business Day after the document is sent by courier, e-mail or facsimile transmission. Documents shall not be sent by ordinary or registered mail during a postal strike or work stoppage of general application. Notwithstanding the

foregoing, any document sent by the Monitor pursuant to this Order to a Person represented by an attorney in these CCAA Proceedings shall also be communicated to that Person's attorney by email;

Aid and Assistance of Other Courts

- [11] **REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or any court or any judicial, regulatory or administrative body of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order;

General Provisions

- [12] **ORDERS** that for the purposes of this Order, all Claims that are denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging currency to Canadian dollars on the Determination Date;
- [13] **ORDERS** that the Monitor shall use reasonable discretion as to the adequacy of completion and execution of any document completed and executed pursuant to this Order and, where the Monitor is satisfied that any matter to be proven under this Order has been adequately proven, the Monitor may waive strict compliance with the requirements of this Order as to the completion and execution of documents;
- [14] **DECLARES** that the Monitor may apply to this Court for advice and direction in connection with the discharge or variation of its powers and duties under this Order;
- [15] **ORDERS** the provisional execution of this Order notwithstanding appeal, and without requirement to provide any security or provision for costs whatsoever;
- [16] **THE WHOLE** without costs.



The Honourable Peter Kalichman, J.S.C.

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