

**CREDITOR LETTER - STECKLER APPLICANTS**

May 3, 2021

TO: Creditors of 9227-1584 Québec inc. ("**9227**" or "**we**", or the "**Company**")

Dear Sir/Madam:

**Proposed Plan of Compromise and Arrangement**

On November 22, 2019, the Superior Court of Québec (the "**CCAA Court**") issued an Initial Order pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**"), appointing KPMG Inc. (the "**Monitor**") to act as Monitor with regard to the entirety of the property, assets, rights, and obligations of 9227.

Since the beginning of these insolvency proceedings, the Company has endeavoured to restructure its affairs for the benefit of all stakeholders, including through negotiations with its key partners and by stabilizing the financial situation and operations of the Square Candiac Project.<sup>1</sup>

Two of the principal obstacles to the final restructuring of the Company consist of: (i) the ongoing litigation, on multiple fronts, with the Pessoa Group, the outcome of which will have a direct impact on the manner and condition in which the Company could emerge from this process; and (ii) the ongoing dispute between the Shareholders: despite 110302 Canada inc. having requested a partition close to two years ago, the Nadon Group has refused to proceed to accept a partition in accordance with the law and the contracts in force. The Nadon Group and Pessoa Group are partners with each other in numerous ventures, including some transactions involving 9227 and its assets.

As reported by the Monitor on multiple occasions in its Reports to the Court, the ability for the Company to settle the Outstanding Litigation and the 9227 Retained Claims<sup>2</sup>, which are among the root causes of the Company's difficulties, is integral to the restructuring process. The Nadon Group and the Pessoa Group, working in concert, have attempted to defer the adjudication of the Outstanding Litigation and the 9227 Retained Claims. Recently, the CCAA Court rendered a judgement, wherein it refused demands by the Pessoa-Nadon Group to stall the 9227 Retained Claims any longer and acknowledged the need to resolve these as part of this restructuring process.<sup>3</sup>

With the assistance and support of the Monitor, 110302 Canada Inc. and Mr. Arthur Steckler (the "**Sponsors**") propose the enclosed Amended Plan of Compromise and Arrangement (the "**Steckler Plan**"). If approved by the creditors and sanctioned by the Court, the Plan will:

- provide for the settlement and prompt payment of all of the Affected Claims as finally determined by the Monitor for voting and distribution purposes. Under the Steckler Plan, all creditors will be paid 100% of their Provable Claims, plus 100% of Eligible Interest, i.e.: interest at the legal rate of

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<sup>1</sup> This note is meant to summarize the salient aspects of the Steckler Plan and should not be used as a substitute for the formal terms of the Steckler Plan, to which the reader is referred. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Steckler Plan.

<sup>2</sup> As defined in the Plan, these claims, referred to as the "9227 Retained Claims", pertain to unpaid rent, unpaid interest and a profit-sharing agreement. The total of these claims alone is in excess of \$4,270,000. There is also litigation (the Disclaimer Contestation) wherein the Company is seeking to cancel offers to purchase concluded between Mr. Nadon (while representing 9227) and Mr. Pessoa, which the Monitor considers to be at undervalue.

<sup>3</sup> See Appendix 1 for extracts of the decision rendered.

5% per year accrued on the Affected Claims after the Determination Date. The Steckler Group will not receive any distribution;

- ensure an efficient, fair and reasonable resolution to the Partition Process and the 9227 Retained Claims and enable 9227 to proceed with the development of the Square Candiac Project, after having paid off all Affected Creditors, while ensuring that 9227 can emerge rapidly and efficiently from the CCAA Proceedings;
- under the Amended Plan, the Steckler Plan endeavours to expedite the restructuring even further by providing an equitable settlement option to the Pessoa Group and the Nadon Group, which, if acceptable to the relevant parties and the Monitor, would end all litigation involving them within days of the Sanction Hearing, in a manner that is not only fair, but in large part consistent with positions already taken by the Pessoa-Nadon Group;
- resolve the CCAA proceedings with certainty and finality, and in a manner that fairly addresses and balances the varying interests of all stakeholders.

Shortly after the Steckler Plan was filed, the Pessoa-Nadon Group rushed to join forces to file a competing Plan. We believe that the Nadon Plan is contrary to the letter and spirit of insolvency law, has no chance of being sanctioned, is self-serving and is detrimental to the interests of 9227 .

#### **Why we think you should support the Steckler Plan**

- ✓ No creditor has expressed any determining reservation with respect to its fundamentals and features;
- ✓ It is the quickest, most efficient, most measured, approach to getting all the creditors paid 100% of their Provable Claim, plus Eligible Interest. Under the Steckler Plan, we expect to be able to pay off all the Affected Creditors by the end of the summer 2021;
- ✓ It is both the quickest and most likely to be accepted path to pay creditors in full, while also resolving all of the litigation and deadlocks that have led to the Company having to resort to CCAA protection in the first place—it eliminates the root causes of the insolvency, provides a realistic and efficient avenue for full, final and complete resolution of all outstanding issues;
- ✓ It traces a clear path towards emergence from the CCAA process while paying everyone their fair share;
- ✓ The Steckler Group's financing has already been fully approved and thus the Steckler Group has the financing in place to implement the Plan immediately once the conditions have been met or waived;
- ✓ With respect to the Partition Process, it offers the Nadon Group a settlement amount consistent with the Nadon Group's demands, so long as the Pessoa-Nadon Group agree to settle the litigation with the Pessoa Litigation in an amount representing less than 50% of the Company's claim against the Pessoa Group. Ultimately, the Steckler Group is the principal facilitator of this Plan, as it owns more than 75% of the equity in the assets of 9227.

### **Why we think you should vote against the Nadon Plan**

- ✘ It is predicated on, and depends upon the conclusion of, a settlement offer that the Company/the Monitor has already rejected, and therefore is based on an unrealizable condition;
- ✘ It is predicated on, and depends upon the conclusion of, an offer to purchase (for Phase B), from the Nadon Group itself which:
  - Company/the Monitor has already rejected;
  - attempts to force 9227 to sell its assets without properly marketing the lots in question, outside the normal course of business, and contrary to various legal provisions and precedent;
  - like the rest of the Nadon Plan, is dependent on financing regarding which the Monitor has expressed serious reservations: there is reason for us to believe that the Nadon Group does not, in fact, have the financing to proceed with such a transaction, even if the company were willing and ready to sell its assets at this stage, and even if it were willing and able to entertain the said offer to purchase. It is therefore based on a second unrealizable condition;
- ✘ It is predicated on, and depends upon the conclusion of, an unsolicited offer to purchase (for Sector 5), from a third party, and which is currently in abeyance and is replete with conditions and timelines that both (i) causes uncertainty as to its feasibility, especially at the current financial terms and (ii) will necessarily require the CCAA proceedings to drag on for at least several months and (iii) would in our view constitute a sale out of the ordinary course and outside a formal Court-supervised process.
- ✘ It purports to force the settlement of the Partition Motion on terms that are contrary to the law and the contracts in place; it purports to settle the 9227 Retained Claims on terms that are unreasonably and and unfairly favourable to the Pessoa Group and prejudicial to 9227; it attempts to leverage the Steckler Group's share of its assets in 9227 for the purpose of making distributions (including payment of legal fees)—we consider it is therefore illegal, unfair and unreasonable. It is clear to us that reason why the Nadon Plan would propose a plan that is detrimental to 9227 is because the Nadon Group has favoured its interests as partner in the Pessoa Group to the minority interests it has in 9227.
- ✘ It is not supported by the Steckler Group, a principal creditor with decisive vote on the outcome of the Nadon Plan; the Monitor, in Court, has expressed serious reservations as to its susceptibility of being sanctioned even if approved—it guarantees that the parties will be involved in expensive and lengthy litigation on threshold issues alone and even before addressing the substance of the offers and payments contained therein.

### **Why we think you should not vote against both plans**

- Voting against both plans would force the Company to return to the previous *status quo* and will thus necessarily further delay repayment to creditors.

- If you are a Construction Claim Creditor, we believe this option would lead to further additional extensive delays:<sup>4</sup>
  - The Monitor has contested the value of various proof of claims. These contestations are at the core of how to determine the “plus-value” contributed by the construction lien creditors, which will, in turn, determine the quantum of each construction claim.
  - After the determination by the Monitor of the various construction claims, serious problems were denounced by a sophisticated prospective purchaser (in the context of thorough and lengthy due diligence) and an independent engineering firm with respect to the quality and fitness of the construction works at the source of the Construction Claims. This led to the demise of the said offer to purchase in respect of Lots A, B, C, and D. We believe that these defects and problems will have to be litigated as part of the Claims Process prior to being paid and finally determined;
  - Even if the Court were to allow the stay of proceedings to be lifted and allow the Constructions Claims Creditors to exercise their hypothecary rights, we consider that the delays and costs inherent to the adjudication of the construction claims and to the eventual sale by judicial authority will render such a process illusory as compared to the terms of the Steckler Plan, which proposes to pay the Provable Claims un full as per final determination by the Monitor. The Company will also be in a position to exercise other rights in respect of such hypothecary recourses, and a formal sales process would likely still have to ensue.
  - We believe that the provisions of the Civil Code of Quebec preclude a secured creditor in these circumstances from realizing on its security while the Property is still the subject of indivision and the value of the assets could be sufficient to acquit said secured claims.
  - The Steckler Group considers that the predicates of the CCAA Process, as currently established, are inconsistent with a lifting of the Stay of Proceedings; the Steckler Group would insist that the Outstanding Litigation be adjudicated prior to allowing a liquidation or judicial sale of the assets of the Company.
- If you are an unsecured creditor:
  - The payment of your claim, if possible, would not be made prior to the Company and the Monitor ensuring that all Secured Claims are first paid in full. See above. This scenario is sure to cause more delays that the scenario of the approval and sanction of the Steckler Plan.

**ARTICLE 8 OF THE PLAN CONTAINS CERTAIN RELEASE AND INJUNCTION PROVISIONS THAT MAY MATERIALLY AFFECT YOUR RIGHTS. PLEASE REVIEW THEM CAREFULLY.**

Additional information is available on the website that is maintained by the Monitor in respect of these CCAA proceedings at <https://home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/quebec-inc-9227-1584-and-9336-9262.html>.

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<sup>4</sup> The Nadon Plan’s attempt to appear to offer a faster resolution is misleading and replete with problems and obstacles. We believe it has no chance of being approved and/or sanctioned.

We thank you for your continued support, cooperation and confidence through our restructuring process. We hope that you will vote for the Steckler Plan.

Yours very truly,

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**The Sponsors**

**Mr. Arthur H. Steckler and 110302 Canada Inc.**

Per: Arthur H. Steckler

**Appendix to Letter to Creditors**

Extract of judgement by Justice Peter Kalichman, JCS, in

Arrangement relatif à 9227-1584 Québec inc., 2021 QCCS 1342 (CanLII), <https://canlii.ca/t/jfb7w>

[30] Le Contrôleur s'est opposé à cette demande [to suspend the Outstanding Litigation and the 9227 Retained Claims]. Il a notamment fait valoir (1) que la vente des lots A, B, C et D n'était pas certaine, et (2) que même si elle avait lieu et que les Débitrices n'étaient plus insolvables, il serait toujours approprié de poursuivre les Trois Demandes dans le cadre de la LACC car cela permettrait de résoudre les questions sous-jacentes qui sont essentielles pour garantir que les affaires des Débitrices puissent être restructurées.

[35] Ainsi, à ce stade, il est inutile de suspendre davantage les Trois Demandes.

[46] Toutefois, l'objectif principal de la Requête pour Jugement déclaratoire est de récupérer un bien qui pourrait appartenir aux Débitrices, lequel aurait, selon le Contrôleur, une valeur considérable. À cette fin, le Contrôleur demande une déclaration confirmant l'intérêt de 9227, l'annulation du transfert de Pür Urbain NadonCo à Trudeau inc. et des renseignements permettant de déterminer la valeur de l'intérêt potentiel de 9227. Ces objectifs relèvent des pouvoirs du Contrôleur et, en particulier, des paragraphes 47 (h) et 47 (j) de l'ARIO.

[53] Le Tribunal estime qu'en introduisant la Requête pour Jugement déclaratoire, le Contrôleur cherche à obtenir un résultat conforme aux objectifs de la LACC. Plus précisément, le Contrôleur tente de récupérer un actif, dont il a des raisons de croire peut avoir une grande valeur pour les Débitrices.

[60] Tel qu'indiqué ci-dessus, le Contrôleur a le pouvoir de mener l'Enquête et les objectifs qu'il cherche à atteindre se situent dans les limites des ordonnances de ce Tribunal. L'Enquête est en cours et le Tribunal n'est pas disposé à mettre un terme à celle-ci sur la base des préoccupations soulevées par les Intimés.