

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTRÉAL**

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended)

N^o: 500-11-057549-194

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

9227-1584 QUÉBEC INC.

-and-

9336-9262 QUÉBEC INC.

Debtors

-and-

KPMG INC.

Petitioner / Monitor

-and-

110302 CANADA INC.

-and-

9325-7277 QUÉBEC INC.

Mises en cause

MOTION FOR THE EXTENSION OF THE STAY OF PROCEEDINGS
(Sections 4, 5, 11 and *ff.* of the *Companies' Creditors Arrangement Act* ("CCAA"))

TO THE HONOURABLE JUSTICE PETER KALICHMAN, J.S.C. OR ANOTHER ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, PETITIONER / MONITOR, KPMG INC., SUBMITS AS FOLLOWS:

1. INTRODUCTION AND REQUESTED RELIEF

1. On October 8, 2019, the Petitioner / Monitor herein, KPMG Inc. ("**KPMG**"), was appointed as administrative agent and manager over the assets and property of the Debtors 9227-1584 Québec Inc. ("**9227**") and 9336-9262 Québec Inc. ("**9336**"; collectively with 9227, the "**Debtors**") with powers tantamount to those of a receiver pursuant to the

applicable provisions of the *Business Corporations Act*¹ (“**QBCA**”), pursuant to an *Order Appointing an Administrative Agent and Manager and Issuing Other Orders for Redress*, as rectified on October 9, 2019 (the “**QBCA Order**”) in Superior Court file number 500-11-057283-190, the whole as appears from the Court record.

2. On November 20, 2019, KPMG, in its capacity as administrative agent and manager of the Debtors pursuant to the QBCA Order, filed a Motion for the Issuance of an Initial Order (the “**Motion for an Initial Order**”) pursuant to the CCAA, as appears from the Court record.
3. On November 22, 2019, the Honourable Peter Kalichman, J.S.C. issued an Initial Order herein (as rectified on November 25, 2019 and amended and restated on December 2, 2019, the “**Amended and Restated Initial Order**”), as appears from the Court record.
4. On January 30, 2020, this Honourable Court issued a Second Amended and Restated Initial Order (the “**Restated Initial Order**”) pursuant to the CCAA to the Debtors and the Mises en cause whereby, amongst other things, the Stay Period was extended to April 30, 2020, as appears from the Restated Initial Order communicated herewith as Exhibit **R-1**.
5. On March 20, 2020, the Restated Initial Order was corrected (the “**Corrected Restated Initial Order**”) due to the refusal by the Quebec Land Registry to proceed with the registration of the Interim Lender Charge in accordance with the Restated Initial Order given the absence of instructions to the registrar to register the Interim Lender Charge, as appears from the Corrected Restated Initial Order communicated herewith as Exhibit **R-2**.
6. KPMG hereby seeks the extension of the Stay Period to **June 30, 2020** pursuant to sections 11.02 and 11.03 of the CCAA and the issuance of a draft order substantially in the form of the draft order communicated herewith as Exhibit **R-3** (the “**Draft Order**”).

2. CASH FLOW FORECAST

7. KPMG has prepared the Cash Flow Forecast for the period ending July 4, 2020. A copy of the Cash Flow Forecast is communicated herewith and produced under seal of confidentiality as Exhibit **R-4**.
8. Based on the financial position of the Debtors and based on the assumptions set out in the Cash Flow Forecast, KPMG believes that the Cash Flow Forecast is fair and reasonable.
9. Based on the Cash Flow Forecast, the Debtors should be able to meet their post-filing obligations in the ordinary course until June 30, 2020.

¹ CQLR c. S-31.1, ss. 450 and 451.

² All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Restated Initial Order (as defined herein)

3. EXTENSION OF THE STAY PERIOD

10. Since the issuance of the Initial Order, KPMG has acted and continues to act in good faith and with due diligence.
11. Among other things, since the issuance of the Restated Initial Order, KPMG has:
 - a) continued to manage and ensure the stability of the Debtors' business, as it has done since the issuance of the QBCA Order;
 - b) secured an offer for much-needed interim financing, which is subject mainly to this Court's approval;
 - c) implemented procedures for the monitoring of the Debtors' business, operations and financial circumstances;
 - d) held meetings and discussions with the Debtors' principals, creditors, suppliers and other stakeholders—including many discussions and meetings with the principals of the Debtors' two undivided co-owners and with secured creditors, mainly for the purpose of gauging their respective visions and expectations for the restructuring, and to examine ways in which resolving the deadlock between the undivided co-owners can be accomplished;
 - e) continued its analysis of the nature and status of the Debtors' operations, being the development of the Square Candiac project;
 - f) prepared all necessary financial projections (including Revised Cash Flow Projections);
 - g) provided a weekly report to Caisse Desjardins de Terrebonne and its financial advisor Raymond Chabot Grant Thornton detailing the following:
 - i) changes in cash compared to Provisional Cash Flow; and
 - ii) updates on the following points: (i) sales of land in the ordinary course of business; and (ii) indivision processes;
 - h) coordinated and ensured the completion of infrastructure works including the creation of a joint ditch;
 - i) supervised and assisted the settlement process aimed at an acceptable split among the undivided co-owners of property owned by the Debtors; and
 - j) pursued its efforts to sell land with the objective of concluding transactions in the ordinary course of business.

The whole as further detailed in KPMG's Third Report dated April 3, 2020 and filed at the request of this Court in the Court record. For ease of reference, a copy of the Third Report is communicated herewith as Exhibit **R-5**.

12. In light of the current COVID-19 pandemic, it is respectfully submitted that the extension of the Stay Period to June 30, 2020 is required to provide the KPMG and the Debtors with sufficient time to, *inter alia*:
- a) continue to manage and ensure the stability of the Debtors' business;
 - b) continue its analysis of the nature and status of the Debtors' operations;
 - c) interface with various stakeholders, including, *inter alia*, the City of Candiatic, the Mises en cause and their principals, as well as secured creditors, prospective purchasers, and counterparties to various contracts (including deeds of sale and offers to purchase), in order to, *inter alia*, better understand and circumscribe their respective positions and potential claims;
 - d) analyze the existence, validity and quantum of various secured and unsecured claims against 9227 or involving the property of the Debtors, and pursue the payment of any sums due to the Debtors;
 - e) generally oversee and, if it considers advisable, provide assistance in relation to Debtors' involvement in the proceedings for a partition of the respective beneficial interests of the undivided co-owners in the property of 9227;
 - f) pursue opportunities for selling certain property of the Debtors; and
 - g) such other matters that may arise throughout the process.
13. KPMG has prepared a Fourth Report supporting the requested extension of the Stay Period. A copy of the Fourth Report is communicated herewith as Exhibit **R-6**.

4. PROCEDURAL MATTERS

4.1 Confidentiality

14. KPMG submits that, regardless of the outcome of the present Motion, the Cash Flow Forecasts, produced and/or communicated in the context of the present proceedings, respectively, as Exhibit R-4, should be kept strictly confidential and shall be filed under seal, pending the issuance of an order approving the extension of the Stay Period.
15. Such information will be made available to creditors of the Debtors who execute a confidentiality agreement.
16. It is submitted that public disclosure of such sensitive financial information and documentation would be very prejudicial to the Petitioners, notably due to the potential use of this information by potential purchasers or competitors.
17. At the same time, the proposed measure would cause no prejudice to creditors, as the information would nevertheless be filed with this Honourable Court and could be made available to certain creditors upon signature of a confidentiality agreement.

4.2 Execution Notwithstanding Appeal

18. In view of the urgency and severity of the circumstances confronting the Debtors, it is essential that execution of the order requested be granted notwithstanding appeal.

4.3 Service

19. The Petitioners submit that the notices given of the presentation of the present Motion are proper and sufficient.
20. Pursuant to paragraph 59a) of the Corrected Restated Initial Order (Exhibit R-2), all motions in these CCAA Proceedings are to be brought on not less than five (5) calendar days' notice to all Persons on the service list. Each Motion must specify a date (the "**Initial Return Date**") and time for the hearing.
21. The service of the present Motion serves as notice pursuant paragraph 59a) of the Initial Order.
22. Paragraph 59b) of the Corrected Restated Initial Order requires that an Person wishing to object to the relief sought on a motion in the CCAA Proceedings must serve responding motion materials or a notice stating the objection to the motion and ground for such objections (a "**Notice of Objection**") in writing to the moving party and the Monitor, with a copy to all persons on the service list, by no later than 5 p.m. Montréal time on the date that is three (3) calendar days prior to the Initial Return Date (the "**Objection Deadline**"). Accordingly, any parties wishing to object to the relief sought on this Motion must serve responding motion materials or a Notice of Objection by no later than 5 p.m. Montréal Time on April 20, 2020.
23. Paragraph 59c) of the Corrected Restated Initial Order further provides that if no Notice of Objection is served by the Objection Deadline, the Judge having carriage of the motion may determine whether a hearing is necessary, whether such hearing will be in person, by telephone or in writing and the parties from whom submissions are required (collectively, the "**Hearing Details**").
24. Paragraph 59d) of the Corrected Restated Initial Order provides that KPMG shall communicate with the Judge and the service list with respect to the Hearing Details.
25. In light of the COVID-19 pandemic, KPMG hereby seeks to amend the Initial Order in order to allow the possibility of holdings hearings via videoconference when the Court deems it appropriate.

5. CONCLUSIONS

26. Given the present circumstances where the COVID-19 pandemic has caused a general stay on ongoing sales of land as well as of the sale processes, and for the reasons set forth above, KPMG believes that it is both appropriate and necessary that the relief being sought herein be granted for the purposes of maximizing the restructuring and realization efforts of the Debtors for the benefit of their stakeholders, and that the requested extension of the Stay Period be granted.

27. KPMG respectfully submits that the notices given of the present motion are proper and sufficient and that this motion should be granted in accordance with its conclusions.
28. The present motion is well-founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Motion for the Extension of the Stay of Proceedings*;

ISSUE an Order in the form of the Draft Order communicated in support hereof as Exhibit R-3;

THE WHOLE WITHOUT COSTS, save and except in case of contestation.

Montréal, April 16, 2020

Blake, Cassels & Graydon LLP

BLAKE, CASSELS & GRAYDON LLP

Attorneys for the Petitioner / Monitor

(Court Code: BB-8098)

1 Place Ville-Marie, Suite 3000

Montréal, Québec H3B 4N8

M^{re} Bernard Boucher

bernard.boucher@blakes.com

Telephone: 514-982-4006

M^{re} Sébastien Guy

sebastien.guy@blakes.com

Telephone: 514-982-4020

M^{re} Adam T. Spiro

adam.spiro@blakes.com

Telephone: 514-982-5074

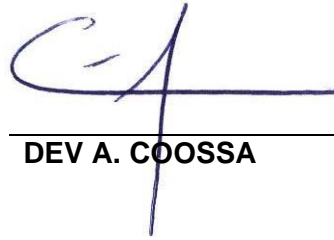
Fax: 514-982-4099

Our reference: 72396-22

AFFIDAVIT

I, the undersigned, **Dev A. Coossa**, LIT, CIRP, practicing my profession at KPMG Inc., having a place of business at 1500-600 De Maisonneuve Blvd. West, in the city of Montréal, Québec, solemnly affirm that all the facts alleged in the present *Motion for the Extension of the Stay of Proceedings* are true.

AND I HAVE SIGNED:



DEV A. COOSSA

SOLEMNLY DECLARED before me
at Montréal, Québec
this 16th day of April, 2020





Commissioner of Oaths for the Province of
Québec

NOTICE OF PRESENTATION

To: SERVICE LIST

TAKE NOTICE that the present *Motion for the Extension of the Stay of Proceedings* will be presented for adjudication before the Honourable Peter Kalichman, J.S.C., or another Justice of the Superior Court of Québec, sitting in the commercial division for the district of Montréal on **Friday, April 24, 2020** or so soon thereafter as counsel may be heard, at a time and in a forum to be further announced to the Service List.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, April 16, 2020

Blake, Cassels & Graydon LLP

BLAKE, CASSELS & GRAYDON LLP

Attorneys for the Petitioner / Monitor

(Court Code: BB-8098)

1 Place Ville-Marie, Suite 3000

Montréal, Québec H3B 4N8

M^{re} Bernard Boucher

bernard.boucher@blakes.com

Telephone: 514-982-4006

M^{re} Sébastien Guy

sebastien.guy@blakes.com

Telephone: 514-982-4020

M^{re} Adam T. Spiro

adam.spiro@blakes.com

Telephone: 514-982-5074

Fax: 514-982-4099

Our reference: 72396-22

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTREAL**

SUPERIOR COURT
Commercial Division
(Sitting as a court designated pursuant to the CCAA)

N°: **500-11-057549-194**

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

**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

LIST OF EXHIBITS

(in support of the *Motion for the Extension of the Stay of Proceedings*)

-
- | | |
|------------|--|
| R-1 | Second Amended and Restated Initial Order |
| R-2 | Corrected Restated Initial Order |
| R-3 | Draft Stay Extension Order |
| R-4 | UNDER SEAL: Cashflow Forecast |
| R-5 | Monitor's Third Report dated April 3, 2020 |
| R-6 | Monitor's Fourth Report |

The exhibits, except for the exhibit under seal, can be downloaded at the following link:

<https://blakes.sharefile.com/d-s9d1bde6cede42a9b>

Montréal, April 16, 2020

Blake, Cassels & Graydon LLP

BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Petitioner / Monitor

N°: 500-11-057549-194

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

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

**MOTION FOR THE EXTENSION OF THE STAY
OF PROCEEDINGS**

ORIGINAL

The logo for the law firm Blakes, featuring the word "Blakes" in a stylized, cursive script.

M^{re}. Bernard Boucher
BLAKE, CASSELS & GRAYDON LLP
Barristers & Solicitors
1 Place Ville Marie
Suite 3000
Montréal, Québec H3B 4N8
Telephone: 514 982-4006
Fax: 514 982-4099
Email: bernard.boucher@blakes.com

BB-8098

Our File: 72396-22