

CANADA

**PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL**

SUPERIOR COURT
(Commercial Division)
Companies' Creditors Arrangement

No: 500-11-063165-233

**IN THE MATTER OF THE COMPANIES
CREDITORS ARRANGEMENT ACT OF:**

KPMG INC.

Monitor

- and -

15695651 CANADA INC.

-and-

15695724 CANADA INC.

Debtors

APPLICATION FOR AN EXTENSION OF THE STAY PERIOD AND OTHER RELIEF¹

TO THE HONOURABLE JUSTICE LOUIS J. GOUIN OF THE SUPERIOR COURT,
SITTING IN COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, THE
MONITOR RESPECTFULLY SUBMITS AS FOLLOWS:

1. By the present Application (the “**Application**”), KPMG Inc. (the “**Monitor**”), in its capacity as Monitor of the Debtors, 15695724 Canada Inc. (“**ResidualCo 1**”) and 15695651 Canada Inc. (“**ResidualCo 2**”, and together with ResidualCo 1, the “**Current Debtors**”), seeks the issuance of an order:
 - a) extending the Stay Period to June 15, 2025; and
 - b) authorizing the Monitor to pay professional fees;substantially in the form of the draft order communicated herewith as **Exhibit R-1**.

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Amended and Restated Initial Order dated December 28, 2023.

I. PROCEDURAL BACKGROUND AND STATUS

2. On November 20, 2023, Highcrest Lending Corporation (“**HLC**”) filed an *Application for the Issuance of a First Day Initial Order and an Amended and Restated Initial Order* (the “**Initial Application**”) in the present proceedings (the “**CCAA Proceedings**”) in respect of 13517985 Canada Inc. (doing business as Wholesale Express, the “**Former Debtor**”).
3. As outlined more fully in previous applications and reports of the Monitor, the Court granted the Initial Application and issued a first day initial order (the “**First Day Order**”) on December 20, 2023.
4. On December 28, 2023, the Court issued an Amended and Restated Order extending the Stay Period until February 28, 2024 (the “**ARIO**”).

The Stay Period

5. The Stay Period was further extended on two additional occasions; once to September 20, 2024, and then to January 31, 2025.

The Transaction

6. On January 12, 2024, the Court issued an *Approval and Reverse Vesting Order* (the “**RVO**”) *inter alia*:
 - a) authorizing a series of transactions whereby a new investor, 15449189 Canada Inc. (the “**Investor**”), would become the sole shareholder of the Former Debtor, thereby preserving its business as a going concern; and
 - b) declaring that, upon closing, the Former Debtor would cease to be a debtor in these CCAA Proceedings, and would be replaced by the Current Debtors.
7. The transactions described more fully in the RVO (collectively the “**Transactions**”) closed on January 23, 2024, as appears from a copy of the Monitor’s certificate filed in the Court record.
8. As a result of the Transactions:
 - a) the balance of the cash purchase price, net of the distributions authorized in the RVO and in subsequent Court orders, is currently held by the Monitor for and on behalf of ResidualCo 2;
 - b) any eventual recoveries and other funds that may become available for distribution to creditors is held by the Monitor for and on behalf of ResidualCo 2; and
 - c) all of the Former Debtor’s liabilities were transferred to ResidualCo 2.

Claims Process

9. On February 23, 2024, the Court issued a Claims Process Order pursuant to which creditors of the Former Debtor were required to file proofs of claim by March 25, 2024 and providing for a process for the review and treatment of those claims (the “**Claims Process**”).
10. The claims received as part of the Claims Process and their status have been extensively reported on by the Monitor in its Third, Fourth and Sixth reports to the Court, dated April 23, 2024, June 7, 2024 and September 11, 2024, respectively.
11. On December 10, 2024, Post Road Group was authorized by the Court to file a Proof of Claim after the Claims Bar Date. That claim is currently under review by the Monitor.
12. Two creditors have appealed the Monitor’s disallowance or revision of their Proofs of Claim, namely Dentons Canada LLP and the Van Essen companies (1309767 Ontario Ltd. and 2601658 Ontario Ltd.). If those appeals cannot be resolved, the parties will seek to schedule hearing dates in the weeks or months to come.

Groupe Gregor

13. On February 23, 2024, the Monitor filed an *Application for (i) advice and directions and (ii) to void a transfer at undervalue* wherein it sought an order to have an Assignment of Credit made as of October 24, 2023 by the Former Debtor in favour of TradeX Group of Companies declared null and void and not opposable to the Monitor (the “**Gregor Application**”).
14. On December 10, 2024, the Court approved a settlement agreement between the Monitor and FTI Consulting Canada Inc., in its capacity as court-appointed receiver to the assets and undertakings of TradeX Group of Companies (the “**TradeX Receiver**”) with respect to the Gregor Application, and issued an order entitled Consent Order re: Application to void a transfer at undervalue.
15. On January 16, 2025, the Ontario Superior Court approved the settlement agreement between the Monitor and the TradeX Receiver as well.
16. The Monitor has thus engaged with Groupe Gregor Inc., through counsel, to advance the claim now held by ResidualCo 2 against Groupe Gregor Inc. (the “**Gregor Litigation**”).
17. It is the Monitor’s intention to proceed essentially as follows regarding the Gregor Litigation:
 - a) Complete a full forensic analysis in order to quantify the claim against Groupe Gregor Inc.;

- b) Assess Groupe Gregor Inc.'s willingness to pay the amount owed to ResidualCo 2 or otherwise settle the Gregor Litigation;
 - c) Consult with key stakeholders regarding the path forward.
18. The Monitor shall seek the assistance of the Court, if needed, to address case management issues stemming from the Gregor Litigation. No such issues currently exist.

II. The Stay Period must be Extended

19. The Monitor seeks an order extending the Stay Period until June 15, 2025, as reflected in the draft order communicated herewith as Exhibit R-1.
20. Since the issuance of the most recent stay extension order, the Monitor has:
- a) pursued the Gregor Application throughout the Fall of 2024, engaged in settlement discussions and, ultimately, reached the settlement which was approved by this Court;
 - b) pursued the Gregor Litigation, as outlined above;
 - c) engaged with various creditors and stakeholders; and
 - d) engaged with the Investor.
21. The Monitor seeks an extension of the Stay Period namely to :
- a) continue to pursue the Gregor Litigation;
 - b) resolve any outstanding claims and appeals (namely Post Road Group, Dentons Canada LLP and Van Essen);
 - c) continue to engage with the Investor until the balance of the purchase price (promissory note payable in 2027) has been paid;
 - d) continue to engage with stakeholders, including with respect to the Gregor Litigation; and
 - e) consider if, how and when to proceed with an interim distribution to creditors.
22. The Monitor is of the view that the requested extension of the Stay Period is necessary and reasonable in the circumstances.
23. In the Monitor's opinion, no parties will suffer any material prejudice from the extension of the Stay Period and the extension sought is appropriate under these circumstances.

24. In light of the fact that the Monitor is swearing an affidavit in support of this application, no Monitor's report will be prepared in support of this application.

III. Authorization to pay Professional fees

25. Pursuant to the terms of the RVO, the proceeds of sale from the closing of the Transactions are currently held by the Monitor in trust until further Order of this Court.
26. Pursuant to the terms of the ARIO, the Debtors are obliged to pay the reasonable fees and disbursements of the Monitor and its legal counsel relating to the CCAA Proceedings.
27. However, nothing in either the ARIO nor the RVO authorizes the Monitor to pay professional fees from the sale proceeds held in trust. As such, the Monitor therefore seeks an order authorizing it to pay its outstanding professional fees and those of its counsel.
28. The Monitor's professional fees for services rendered from September 1, 2024 to January 16, 2025 amount to \$35,693 excluding applicable sales tax.
29. The Monitor's counsel's professional fees and disbursements for services rendered from September 1, 2024 to December 31, 2024 amount to \$50,055.75 excluding applicable sales tax.
30. The Monitor seeks an order allowing it to pay professional fees incurred, directly from its in-trust account, which currently holds \$1,818,983. Once those fees have been paid, the Monitor would continue to hold proceeds in the amount of \$1,720,395.

IV. Conclusion

31. In light of the foregoing, the Monitor submits it is both appropriate and necessary that the relief being sought be granted and that an order extending the Stay Period, substantially in the form of Exhibit R-1 be issued.
32. The present Application is well-founded both in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THIS COURT TO:

GRANT the present Application;

ISSUE an order extending the Stay Period and providing other relief, substantially in the form of the draft order communicated herewith as Exhibit R-1; and

THE WHOLE without legal costs.

Montreal, this January 24, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP

Attorneys for the Monitor

Stock Exchange Tower

800 Victoria Square, Suite 3500

Montréal, Quebec H4Z 1E9

Mtre Alexander Bayus

Phone number: +1 514 397 7543

Email: abayus@fasken.com

Mtre Éliane Dupéré-Tremblay

Phone number: +1 514 397 7412

Email: edtremlay@fasken.com

SWORN STATEMENT

I, the undersigned, David Malin, having my principal place of business at 600, boul. De Maisonneuve West, Suite 1500, in the city and district of Montreal, Province of Québec, H3C 0B4, solemnly declare the following:

1. I am a partner at KPMG Inc.; and
2. All the facts alleged in the *Application for an extension of the stay period and other relief* are, to the best of my knowledge, true.

AND I HAVE SIGNED :

Signed by:

David Malin

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David Malin

DS

Declared under oath before me, by technological means (Microsoft TEAMS), in Montreal, January 24, 2024

DocuSigned by:

Karla Lara

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Commissioner for Oaths for Québec



**NOTICE OF PRESENTATION
COMMERCIAL PRACTICE**

1. PRESENTATION OF THE PROCEEDING

TAKE NOTE that the *Application for an Extension of the Stay Period and Other Relief* will be presented in the Commercial Division of the Superior Court, in a room to be determined of the Montreal Courthouse on January 31, 2025, at **9:00 a.m.**, or as soon as counsel may be heard.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Montreal, this January 24, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP

Attorneys for the Monitor
Stock Exchange Tower
800 Victoria Square, Suite 3500
Montréal, Quebec H4Z 1E9

Mtre Alexander Bayus

Phone number: +1 514 397 7543

Email: abayus@fasken.com

Mtre Éliane Dupéré-Tremblay

Phone number: +1 514 397 7412

Email: edtremblay@fasken.com

C A N A D A

**PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL**

**SUPERIOR COURT
(Commercial Division)
*Companies' Creditors Arrangement***

No: 500-11-063165-233

**IN THE MATTER OF THE COMPANIES
CREDITORS ARRANGEMENT ACT OF:**

KPMG INC.

Monitor

- and -

15695651 CANADA INC.

-and-

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Debtors

LIST OF EXHIBITS

EXHIBIT R-1: Draft order.

Montreal, this January 24, 2025

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Attorneys for the Monitor
Stock Exchange Tower
800 Victoria Square, Suite 3500
Montréal, Quebec H4Z 1E9
Mtre Alexander Bayus
Phone number: +1 514 397 7543
Email: abayus@fasken.com
Mtre Éliane Dupéré-Tremblay
Phone number: +1 514 397 7412
Email: edtremblay@fasken.com

SUPERIOR COURT
(Commercial Division)

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No.: 500-11-063165-233

DATE : January 31, 2025

IN THE PRESENCE OF THE HONOURABLE LOUIS J. GOUIN, S.C.J.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT OF:
KPMG INC.**

Monitor

- and -

15695651 CANADA INC.

-and-

15695724 CANADA INC.

Collectively the "Debtor"

STAY PERIOD EXTENSION ORDER

- [1] **ON READING** the Monitor's *Application for an Extension of the Stay Period and Other Relief* (the "**Application**"), the sworn statement and the exhibits in support thereof;
- [2] **CONSIDERING** the notification of the Application;
- [3] **CONSIDERING** the submissions of the Monitor's attorneys;

FOR THESE REASONS, the Court:

[4] **GRANTS** the Application;

NOTIFICATION

[5] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.

[6] **DECLARES** that capitalized terms in this order shall have the meaning ascribed to them in the Amended and Restated Initial Order dated December 20, 2023 (the “ARIO”);

STAY OF PROCEEDINGS

[7] **EXTENDS** the Stay of Proceedings to June 15, 2025;

[8] **ORDERS** that paragraph 7 of the ARIO read as follows:

7. **ORDERS** that, until and including June 15, 2025 or such later date as the Court may order (the “Stay Period”), no proceeding or enforcement process in any court or tribunal (each, a “Proceeding”) shall be commenced or continued against or in respect of the Debtor, or affecting the Debtor’s business operations and activities (the “Business”) or the Property (as defined below), including as provided in paragraph 10 below except with leave of this Court. Any and all Proceedings currently under way against or in respect of the Debtor or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.

[9] **ORDERS AND DECLARES** that the Monitor is hereby authorized to pay its professional fees and disbursements as of January 16, 2025, as well as those of its counsel as of December 31, 2024, in the aggregate amount of \$85,748.75, plus applicable taxes, from the funds currently held in trust by the Monitor for the Debtor;

[10] **ORDERS** the provisional execution of this Order notwithstanding appeal;

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

The Honourable Louis J. Guoin S.C.J.

Date(s) of hearing: January 31, 2025

N° : 500-11-063165-233

PROVINCE OF QUEBEC
SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL

IN THE MATTER OF THE COMPANIES
CREDITORS ARRANGEMENT ACT OF:

KPMG INC.

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-and-

15695651 CANADA INC.

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Debtors

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**APPLICATION FOR AN EXTENSION OF
THE STAY PERIOD AND OTHER RELIEF
AND EXHIBIT R-1**

ORIGINAL

Fasken Martineau DuMoulin LLP
800 Victoria Square, Suite 3500
Montréal, Quebec H3C 0B4

Me Alexander Bayus
abayus@fasken.com

Tél. +1 514 397 7543
Fax. +1 514 397 7600