

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO.: 500-11-053292-179
ESTATE NO.: 41- 2297864

26 oct 2017
16.10
3h45

SUPERIOR COURT
(Commercial Division)

(*Bankruptcy and Insolvency Act*, R.S.C.
1985, c. B-3)

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF:

Requête accordée
Délai prorogé au
11 décembre 2017.
du 26-10-17

175413 CANADA INC. (operating under the
trade name M0851);

Debtor/Petitioner

-and-

CAU
registres

KPMG INC.;

COPIE CERTIFIÉE CONFORME
AU DOCUMENT DÉTENU PAR LA COUR

Arrenis Dvane
Personne désignée par le greffier

Trustee

MOTION TO EXTEND THE DELAY TO MAKE A PROPOSAL
(Section 50.4(9) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3)

TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING
IN THE COMMERCIAL DIVISION IN AND FOR THE DISTRICT OF MONTREAL, OR
TO ONE OF ITS REGISTRARS, PETITIONER RESPECTFULLY SUBMITS:

INTRODUCTION

1. On September 27, 2017, 175413 Canada Inc. (operating under the trade name M0851) (the "Debtor"), filed a Notice of Intention to Make a Proposal (the "NOI") under the relevant provisions of the *Bankruptcy and Insolvency Act*, Canada (the "BIA") and named KPMG Inc. (the "Trustee") as trustee thereto, the whole as appears of record herein.

2. On October 6, 2017, the Debtor sought, and this Honourable Court issued, an order (the "**Charge Order**"):
 - (i) authorizing and ratifying a commitment letter whereby Continental Capital Investments Inc. ("**Continental**") agreed to provide interim financing to the Debtor pursuant to the terms and conditions set out therein (the "**Interim Financing**");
 - (ii) creating a senior raking interim financing charge in favour of Continental, subject to the trustee's filing of a certificate with the Court (the "**Trustee's Certificate**"); and
 - (iii) creating a senior ranking administrative charge in favour of the Trustee and the Debtor's legal counsel, subject to the filing of the Trustee's Certificate,

the whole as appears of record herein.

3. On October 12, 2017, the Trustee's Certificate was filed into the Court record thereby rendering the above described charges effective.
4. The Debtor operates a vertically integrated Montreal based business which designs and manufactures high-quality and functional leather and fabric goods including outerwear, bags and accessories and sells the products at a wholesale level, to franchised stores internationally, at its own retail stores in Canada and through its e-commerce site (the "**Business**").
5. The design, manufacturing, wholesale, warehousing and administrative divisions of the Business operate from the Debtor's leased head office premises in Montréal at 5555 avenue Casgrain, Suite 201.
6. The Debtor operates seven (7) retail outlets in Canada with four (4) in the province of Québec and three (3) in Ontario. Each such store is the object of a lease between the Debtor and the respective landlord.
7. In order to operate the Business, the Debtor has a workforce of 94 employees who work in various divisions of the Business.
8. The distressed North American retail market and the fierce competition in the niche market of exclusive leather and lifestyle goods caused the Debtor to experience a great degree of difficulty.
9. As a result of the above, the Business was negatively impacted and its performance decreased to the point of insolvency.

10. Consequently, on September 12, 2017, the Debtor's then operating lender, The Toronto-Dominion Bank ("**TD Bank**") issued a notice pursuant to Section 244 *BIA* of its intention to enforce its security on all or substantially all of the Debtor's property. Given its defaults under the TD Bank credit facilities and its insolvency, it was determined that it was in the best interests of the Debtor to file the NOI and enter into a restructuring process.
11. Since this Honourable Court's issuance of the Charge Order, the Debtor has implemented and continues to pursue its restructuring diligently and in good faith as hereafter set forth.
12. The current expiry under the NOI of the Debtor's delay to make a proposal is October 27, 2017 (the "**NOI Delay**"). This Motion seeks the extension of the Debtor's delay to make a proposal until December 11, 2017.

RESTRUCTURING EFFORTS AND EXTENSION SOUGHT

13. Since this Honourable Court's issuance of the Charge Order, the Interim Financing has been utilized to fund the Debtor's on-going operations and to obtain certain releases from its then operating lender, TD Bank.
14. Additionally, the Debtor has been working to maximize its sales from the current fall selling season, which is the most crucial selling season for leather and outerwear products. In particular, the coming weeks leading into the holiday season will be the most significant sales period for the Debtor and will be critical to the Debtor's restructuring efforts.
15. The Debtor has sent notices of disclaimer of leases to landlords in respect of two of its retail locations. Such notices have resulted in negotiations between the Debtor and such landlords for more favourable leasing terms. Likewise, the Debtor has begun negotiations with other landlords in order to ameliorate the terms of such leases for its retail locations.
16. As part of its restructuring, the Debtor has mandated the Trustee to assist with initiating and pursuing a sale and solicitation process in order to market and solicit offers for the Business and assets relating thereto (the "**Solicitation Process**").
17. The Solicitation Process is in its early stages and the most crucial steps have yet to be completed. An extension of the NOI Delay would allow the Debtor and the Trustee to properly conduct the Solicitation Process in a fulsome manner.
18. The restructuring efforts of the Debtor are currently focused on: maintaining the Business; maximizing its sales from the current selling season; securing more favorable leasing terms for its retail outlets; and pursuing the Solicitation Process.

Accordingly, once such efforts have been completed, the Debtor will be in a better position to determine what kind of proposal, if any, could be made to its creditors.

19. No prejudice would be caused to the Debtor's creditors generally by the extension of the NOI Delay sought herein. On the contrary, not extending the NOI Delay would result in:
 - (i) the Debtor's immediate bankruptcy;
 - (ii) a complete loss of the going concern value of the Debtor's assets and a loss of the goodwill of the Business;
 - (iii) a disruption to the momentum of the sales efforts from the current critical selling season;
 - (iv) a diminished ability to market and solicit offers for the Business via the Solicitation Process; and
 - (v) the immediate loss of over 90 jobs.
20. The Debtor has acted, is acting and will continue to act in good faith and with due diligence.
21. The Trustee's report on the state of the Debtor's business and financial affairs will be produced in support of the present Motion.
22. The present motion has been served/notified on all parties who have requested service/notification thereof.
23. Given all of the foregoing, the Debtor is entitled to seek the extension of the delay to make a proposal until December 11, 2017.
24. The present Motion is well founded in fact and in law.

WHEREFORE, PETITIONER PRAYS FOR JUDGMENT OF THIS HONOURABLE COURT:

- (A) SHORTENING** the delays to notify/serve and present the present Motion;
- (B) GRANTING** the present Motion;
- (C) EXTENDING** the delay for the Debtor/Petitioner, 175413 Canada Inc., to make a proposal until December 11, 2017;
- (D) ISSUING** any other order(s) the Court deems appropriate;

THE WHOLE without costs, save in the event of contestation.

MONTREAL, October 24, 2017

(SGD.) Kugler Kandestin LLP

KUGLER KANDESTIN LLP
Attorneys for Debtor/Petitioner

Me Gerald F. Kandestin / Me Jeremy Cuttler
1 Place Ville Marie, Suite 1170
Montreal, Quebec, H3B 2A7
Tel.: 514 878-2861
Fax: 514 875-8424
gkandestin@kklex.com
jcuttler@kklex.com

TRUE COPY

Kugler Kandestin LLP.

KUGLER KANDESTIN LLP

AFFIDAVIT

I, the undersigned Daniel Becker, domiciled for the purposes hereof at 5555 avenue Casgrain, Suite 201, Montréal, Québec H2T 1Y1, solemnly affirm the following:

1. I am the VP of Finance of the Debtor, 175413 Canada Inc.;
2. I have knowledge of all the facts alleged in the annexed "Motion to Extend the Delay to Make a Proposal" and all the facts alleged therein are true.

And I have signed, in Montréal, Québec

(SGD.) Daniel Becker

Daniel Becker

Solemnly affirmed before me, in Montréal, Québec
this 24th day of October, 2017.

(SGD.) Leslie Schiller # 129 687

Commissioner for Oaths for Québec

TRUE COPY

Kugler Kandestin LLP.

KUGLER KANDESTIN LLP

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
NO.: 500-11-053292-179
ESTATE NO.: 41- 2297864

SUPERIOR COURT
(Commercial Division)

(*Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3)

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF:

175413 CANADA INC. (operating under the
trade name M0851);

Debtor/Petitioner

-and-

KPMG INC.;

Trustee

NOTICE OF PRESENTATION

TO:

KPMG INC.
Trustee
Attention : Stéphane De Broux
600 Boulevard de Maisonneuve O.
Suite 1500
Montréal, QC

KAUFMAN LLP
Attorneys for The Toronto Dominion Bank
Attention: Me Steven Shein
E-mail: sshein@klcanada.com

THE SUPERINTENDENT OF BANKRUPTCY
Sun Life Building
1155 Metcalfe Street
Suite 950
Montréal, QC
F: 514-283-9795

SOCIÉTÉ D'AVOCATS DEXAR INC.
Attorneys for: Business Development Bank of
Canada - and - BDC Capital Inc.
Attention: Me Bernard Gravel
Me Guillaume Hébert
E-mail: bgravel@dexar.ca
ghebert@dexar.ca

TAKE NOTICE that the "Motion to Extend the Delay to Make a Proposal" will be presented for adjudication to a Judge of the Superior Court, of the Province of Québec, of the District of Montréal, or to the Registrar thereof, on October 26, 2017 at 8:45 a.m. in room 16.10 of the Montréal Court House, 1 Notre Dame East, Montréal, Québec or so soon thereafter as counsel may be heard.

Montréal, October 24, 2017
(SGD.) Kugler Kandestin LLP
KUGLER KANDESTIN LLP
Attorneys for Debtor/Petitioner

TRUE COPY

Kugler Kandestin LLP.
KUGLER KANDESTIN LLP

NO.: 500-11-053292-179
ESTATE NO.: 41-2297864

SUPERIOR COURT
(Commercial Division)
(Bankruptcy and Insolvency Act, Canada, RSC
1985, c. B-3)

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF:**

175413 CANADA INC. (operating under the trade
name M0851);

Debtor/Petitioner

-and-

KPMG INC.,

Trustee

**MOTION TO EXTEND THE DELAY TO MAKE A
PROPOSAL**
**(Section 50.4(9) of the *Bankruptcy and Insolvency*
Act, R.S.C. 1985, c. B-3)**

COPY

Me Gerald F. Kandestin
Me Jeremy Cuttler

KuglerKandestin

1 Place Ville Marie, Suite 1170
Montréal (Québec) Canada H3B 2A7
T: 514 878-2861
F: 514 875-8424
gkandestin@kklex.com
jcuttler@kklex.com