

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

**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; 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 filed its certificate into the Court record thereby rendering the above described charges effective.
4. On October 26, 2017, this Honourable Court rendered a judgment extending the delay under the NOI until December 11, 2017.
5. On December 6, 2017, this Honourable Court issued an "Approval and Vesting Order" (the "**Vesting Order**") whereby the Debtor was authorized to sell the "Purchased Assets" described therein (the "**Purchased Assets**") to 10498700 Canada Inc. (the "**Purchaser**") upon the terms and conditions approved by the Court (the "**Transaction**"), the whole as appears of record herein.
6. All of the conditions to the Transaction but one has yet to occur and accordingly, the Trustee is not yet in a position to issue the Trustee's certificate contemplated by the Vesting Order (the "**Trustee's Certificate**"), the whole as is more fully described herein.
7. On December 6, 2017, this Honourable Court rendered a judgment (the "**Extension Judgment**") extending the delay under the NOI until January 25, 2018 (the "**NOI Delay**"). This Motion seeks the extension of the NOI Delay until March 12, 2018 for the reasons more fully set forth herein.
8. The Debtor operates a vertically integrated Montreal based business which designs and manufactures high-quality and functional unique leather and fabric goods under the brand name "m0851" 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**").
9. 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.
10. The Business utilizes a workforce of over 90 employees as well as several local independent contractors who rely on the Business as their source of work.

11. The conclusion of the Transaction will provide for the continuation of the Business by the Purchaser including the employment of the Debtor's employees and the occupation of leased office and store premises, the whole to the general benefit of many of the Debtor's stakeholders.

## **REASONS FOR EXTENSION SOUGHT**

12. In order to conclude and effect the Transaction and vest the Purchased Assets in and with the Purchaser, the Trustee must issue the Trustee's Certificate. The Trustee's Certificate can be issued only once the conditions provided thereunder have been fulfilled. Presently, only one condition remains to be fulfilled to enable the issuance of the Trustee's Certificate, being the repayment of the indebtedness owing to Continental under the Interim Financing (the "**Interim Financing Indebtedness**").
13. Since the issuance of the Vesting Order, the Purchaser has obtained the working capital necessary in order to obtain financing and has since secured a commitment from a well-known Canadian lender. Such lender and the Purchaser are currently in the process of documenting the credit facilities. Given the foregoing, such financing transaction, including the repayment of the Interim Financing Indebtedness, is scheduled to occur imminently (the "**Interim Financing Payout**").
14. Accordingly, the Debtor requires an additional delay in order for the Purchaser to obtain the financing required in order to repay the Interim Financing Indebtedness and consequently, cause the Trustee to be in a position to issue the Trustee's Certificate and complete the Transaction.
15. Accordingly, given that the Purchased Assets will not vest and transfer in and with the Purchaser until the issuance of the Trustee's Certificate, the bankruptcy of the Debtor intervening prior to the Interim Financing Payout will result in the Transaction being compromised. The extension sought herein until March 12, 2018 will provide for the time required in order to finalize the Purchaser's financing transaction and as such, for the Interim Financing Payout to occur.
16. In addition to the issuance of the Vesting Order and the efforts realized with respect to the Transaction, since this Honourable Court's issuance of the Extension Judgment, the Debtor has continued its operations and has accomplished the following:
  - (a) following negotiations, Continental has agreed to extend the maturity date under the Interim Financing from January 6, 2018 to January 30, 2018, thereby allowing the Debtor to continue operating; and

- (b) given the Interim Financing and its extension, the Debtor has continued to operate the Business as a going concern including the sale of its merchandise throughout the crucial holiday selling season, the continued receipt of inventory from its suppliers and the design, manufacturing and bookings for new merchandise.
17. Additionally, given the focus of the Debtor, the Debtor's management and the Trustee on the Transaction, the Purchaser's financing transaction and the efforts required in order to ensure the continuation of the Business operations, the Debtor has not yet had the opportunity to assess the prospects of a proposal to be made to its creditors. There is a possibility that the Debtor has accumulated tax losses which can be the subject of a proposal however, only an additional period of time will allow for such assessments to be made.
  18. No prejudice would be caused to the Debtor's creditors generally by the extension of the NOI Delay sought herein. On the contrary, no extension of the NOI Delay would result in:
    - (i) the Debtor's immediate bankruptcy and liquidation of the Debtor's assets when a sale transaction and financing transaction are imminent;
    - (ii) the loss of over 90 jobs;
    - (iii) compromising the Transaction; and
    - (iv) a loss of opportunity for the Debtor to assess the prospects of making a proposal.
  19. The Debtor has acted, is acting and will continue to act in good faith and with due diligence.
  20. The Trustee's report on the state of the Debtor's business and financial affairs will be produced in support of the present Motion.
  21. The present Motion will be served/notified on all parties who have requested service/notification thereof.
  22. Given all of the foregoing, the Debtor is entitled to seek the extension of the delay to make a proposal until March 12, 2018.
  23. 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 March 12, 2018;
  - (D) **ISSUING** any other order(s) the Court deems appropriate;
- THE WHOLE** without costs, save in the event of contestation.

**MONTREAL**, January 22, 2018

(SGD.) Kugler Kandestin LLP

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**KUGLER KANDESTIN LLP**  
Attorneys for Debtor/Petitioner

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TRUE COPY

*Kugler Kandestin LLP.*  
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**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

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Daniel Becker

Solemnly affirmed before me, in Montréal, Québec  
this 22<sup>nd</sup> day of January, 2018.

(SGD.) Éliane Tremblay # 220003

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Commissioner for Oaths for Québec

**TRUE COPY**

*Kugler Kandestin LLP.*  

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**KUGLER KANDESTIN LLP**

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Debtor/Petitioner

-and-

KPMG INC.;

Trustee

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**NOTICE OF PRESENTATION**

TO:

THE PARTIES LISTED IN THE SERVICE LIST

AND TO:

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

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

**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 January 24, 2018 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, January 22, 2018

(SGD.) Kugler Kandestin LLP

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**KUGLER KANDESTIN LLP**

Attorneys for Debtor/Petitioner

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*Kugler Kandestin LLP.*  

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**KUGLER KANDESTIN LLP**

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-and-

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-and-

**THE PARTIES LISTED IN THE ATTACHED  
SERVICE LIST**

**Mises-en-causes**

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|                     |
|---------------------|
| <b>SERVICE LIST</b> |
|---------------------|

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*The Toronto Dominion Bank*

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