

CANADA

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°: 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, with the consent of all party to those proceedings, as appears from the QBCA Order communicated herewith as **Exhibit R-1, en laisse**.

2. On November 20, 2019, KPMG, in its capacity as administrative 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 Motion for an Initial Order appearing in the Court record and communicated herewith for convenience as **Exhibit R-2**.
3. On November 22, 2019, the Honourable Peter Kalichman, J.S.C. issued an Initial Order herein, as appears from the Initial Order (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 and from the Amended and Restated Initial Order communicated herewith for convenience as **Exhibit R-3**.
4. Pursuant to the Amended and Restated Initial Order (Exhibit R-3), *inter alia*:
 - a) KPMG's mandate pursuant to the QBCA Order (Exhibit R-1) was terminated, and KPMG was appointed as monitor of the Debtors, with various expanded powers appropriate to the situation (para. 36ff. of the Amended and Restated Initial Order);
 - b) a stay of proceedings was ordered until December 20, 2019 (the "**Stay Period**") (para. 15ff. of the Amended and Restated Initial Order);
 - c) procedural consolidation was ordered in respect of the Debtors (para. 12 of the Amended and Restated Initial Order); and
 - d) an Administration Charge (as defined in the Amended and Restated Initial Order) of \$250,000 (para. 50 of the Amended and Restated Initial Order), ranking ahead of all Encumbrances (as defined in the Amended and Restated Initial Order) (para. 52 of the Amended and Restated Initial Order).
5. KPMG hereby seeks the extension of the Stay Period to **January 31, 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-4** (the "**Draft Order**").
6. Unless expressly provided to the contrary, any reference herein to monetary amounts refers to Canadian dollars.

2. THE DEBTORS' LIQUIDITY SITUATION

7. KPMG has informed the Court that the Debtors had enough liquidity to support operations until the expiry of the Stay Period, but that KPMG intended to return to Court for the approval of interim financing before the expiry of the Stay Period.

¹ CQLR c. S-31.1, ss. 450 and 451.

8. KPMG has been in discussions with at least two prospective lenders for the purposes of securing interim (DIP) financing and has been exchanging relevant information on a confidential basis with each of them, with a view towards receiving proposals or letters of intent.
9. In this regard, KPMG is most advanced in discussions with one of the two secured lenders, regarding the terms of an interim financing facility.
10. That said, KPMG has yet been able to reach an agreement on the terms of an interim financing facility within the delays necessary to seek the approval of same prior to the expiry of the current Stay Period.
11. In anticipation of this eventuality, KPMG has delayed incurring certain expenses and disbursements of the Debtors, such that the Debtors are now able to meet their post-filing obligations in the ordinary course until the expiry of the proposed extended Stay Period on January 31, 2020, as appears from the revised cash flow projections (the "**Cash Flow Forecast**") which will be filed under seal of confidentiality at the hearing of the present Motion as **Exhibit R-5, en laisse**.
12. KPMG expects to agree on interim financing terms and to return to court prior to the expiry of the extended Stay Period to seek approval of such interim financing.

3. EXTENSION OF THE STAY PERIOD

13. Since the issuance of the Initial Order, KPMG has acted and continues to act in good faith and with due diligence.
14. Among other things, KPMG has:
 - a) made significant progress towards obtaining much-needed interim financing;
 - b) continued to manage and ensure the stability of the Debtors' business, as it has done since the issuance of the QBCA Order;
 - 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;
 - e) continued its analysis of the nature and status of the Debtors' operations, being the development of the Square Candiac project;
 - f) held many discussions and meeting with the principals of the Mises en cause—in the Mise en cause respective capacity as undivided beneficial owners of the Debtors' property—and with secured creditors, in order to gauge their respective visions and expectations for the proposed restructuring, and to examine potential avenues to resolve the deadlock between the Mises and cause and the principals.
15. It is respectfully submitted that the extension of the Stay Period to January 31, 2020 is required to provide the KPMG and the Debtors with sufficient time to, *inter alia*:

- a) finalize an agreement on interim financing terms and return to court to seek approval of such interim financing;
- b) continue to manage and ensure the stability of the Debtors' business;
- c) continue its analysis of the nature and status of the Debtors' operations;
- d) interface with various stakeholders, including, *inter alia*, the City of Candiac, the Mises en cause and this 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;
- e) 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;
- f) generally oversee and, if it considers advisable, provide assistance in relation to Debtors' involvement in the proceedings for a partition of the respective of beneficial interests of the undivided co-owners in the property of 9227;
- g) analyze of the opportunity of selling certain property of the Debtors, if advisable; and
- h) such other matters that may arise throughout the process.

16. KPMG intends to submit a report to the Court in support of the present Motion.

4. PROCEDURAL MATTERS

4.1 Confidentiality

- 17. KPMG submits that the Cash Flow Forecast produced and/or communicated in the context of the present proceedings as Exhibit R-5 should be kept strictly confidential and shall be filed under seal.
- 18. Such information will be made available to creditors of the Debtors who execute a confidentiality agreement.
- 19. 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 purchaser, competitors or alternative lenders.
- 20. At the same time, this would cause no prejudice to their 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

- 21. 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

22. The Petitioners submit that the notices given of the presentation of the present Motion are proper and sufficient.
23. Pursuant to paragraph 59a) of the Amended and Restated Initial Order (Exhibit R-3), 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.
24. The service of the present Motion serves as notice pursuant paragraph 59a) of the Initial Order.
25. Paragraph 59b) of the Amended and Restated Initial Order requires that a 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 December 17, 2019.
26. Paragraph 59c) of the Amended and 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**").
27. Paragraph 59d) of the Amended and Restated Initial Order provides that KPMG shall communicate with the Judge and the service list with respect to the Hearing Details.
28. 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.
29. 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-4;

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

Montréal, December 13, 2019

Blake, Cassels & Graydon

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Attorneys for the Petitioner / Monitor

(Court Code: BB-8098)

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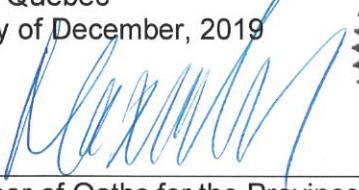
Fax: 514-982-4099

Our reference: 72396-22

AFFIDAVIT

I, the undersigned, **Dev 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 the Extension of the Stay of Proceedings* are true.

AND I HAVE SIGNED:


DEV COSSA

SOLEMNLY DECLARED before me
at Montréal, Québec
this 13th day of December, 2019



Commissioner of Oaths for the Province of
Québec

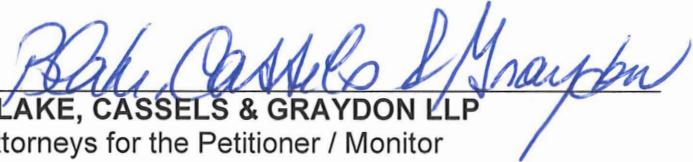
NOTICE OF PRESENTATION

To: SERVICE LIST

TAKE NOTICE that the present *Motion 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 **December 20, 2019 at 9:30 a.m.** or so soon thereafter as counsel may be heard, in **room 16.12 of the Montréal Courthouse**, located at 1 Notre-Dame Street East, Montréal, Québec, H2Y 1B6.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, December 13, 2019


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SUPERIOR COURT

Commercial Division

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LIST OF EXHIBITS

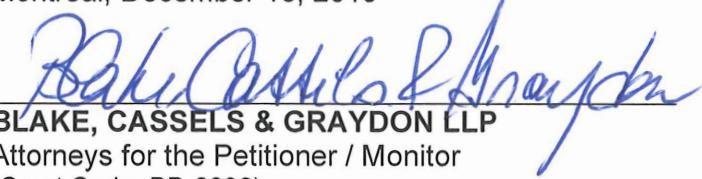
(in support of *Motion the Extension of the Stay of Proceedings*)

- R-1 QBCA Order (October 8, 2019)
- R-2 Motion for an Initial Order (November 20, 2019)
- R-3 Amended and Restated Initial Order (December 2, 2019)
- R-4 Draft Order
- R-5 UNDER SEAL: Cashflow Forecast, *en liasse*

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

<https://blakes.sharefile.com/d-s79df0bdfe914f989>

Montréal, December 13, 2019


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SUPERIOR COURT
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DISTRICT OF MONTREAL

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**MOTION FOR THE EXTENSION OF THE STAY
OF PROCEEDINGS,
AFFIDAVIT AND NOTICE OF PRESENTATION**

ORIGINAL

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Our File: 72396-22

The logo for Blakes, consisting of the word "Blakes" written in a stylized, cursive script font.