

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^o: 500-11-057549-194

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

9227-1584 QUÉBEC INC.

Debtor

-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 AND
TO AMEND THE *CORRECTED SECOND AMENDED AND RESTATED INITIAL ORDER*
(Sections 4, 5, 11 and *ff.* of the *Companies' Creditors Arrangement Act* ("CCAA"))**

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

1. INTRODUCTION AND REQUESTED RELIEF

1. On October 8, 2019, KPMG Inc. ("**KPMG**") was appointed as administrative agent and manager over the assets and property of the Debtors 9227-1584 Québec Inc. ("**9227**") (the "**Debtor**") 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.

¹ CQLR c. S-31.1, ss. 450 and 451.

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 and from the copy of the copy of the Motion for an Initial Order communicated for convenience herewith as Exhibit **R-1**.
3. The Motion for an Initial Order provides a detailed description of the activities of the Debtors, their key stakeholders, and the circumstances surrounding the filing of the Motion for an Initial Order.
4. On November 22, 2019, the Honourable Peter Kalichman, J.S.C. issued an Initial Order herein (as rectified on November 25, 2019, amended and restated on December 2, 2019 and January 30, 2020, and corrected on March 20, 2020, the “**Corrected Second Amended and Restated Initial Order**”),² as appears from the Court record and from the copy of the Corrected Second Amended and Restated Initial Order communicated for convenience herewith as Exhibit **R-2**.
5. On May 21, 2020, this Honourable Court issued a Claims Procedure Order, *inter alia*, approving a claims procedure (the “**Claims Procedure**”) for the filing, review, determination and adjudication of claims against the Debtors and their respective directors and officers (the “**Claims Procedure Order**”), as appears from the Court record.
6. On April 28, 2021, this Honourable Court issued a Plan Filing and Creditors’ Meeting Procedure Order in connection with two motions to authorize the filing of a plan filed on one hand by 110302 Canada Inc. and Arthur H. Steckler and, on the other hand by 9325-7277 Québec Inc. and Marc-André Nadon, as appears from the Court record.
7. On July 13, 2021, this Honourable Court issued a Sanction and Homologation Order whereby:
 - a) the *Re-Styled and Re-Amended Plan of Compromise and Arrangement* dated July 12, 2021 (the “**Plan**”) was sanctioned and approved by the Court, and
 - b) the Transaction Agreement entered into on June 30, 2021, by and between 110302 Canada inc., Mr. Arthur H. Steckler, Groupe Nadon, Mr. Marc-André Nadon, KPMG inc., Groupe Pessoa, Mr. Jean Pessoa and Groupe Trudeau was homologated by the Court.
8. On December 10, 2021, this Honourable Court issued an Order terminating the CCAA proceedings with respect to the debtor, 9336, and discharging the Monitor, as appears from the Court record.
9. The Stay Period has been extended from time to time and more recently by an order issued by this Honourable Court on November 29, 2021, amending the Corrected Second Amended and Restated Initial Order (Exhibit R-2) and further extending the Stay Period

² All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Corrected Second Amended and Restated Initial Order (Exhibit R-2).

to January 31, 2022, as appears from the November 29, 2021 Order communicated herewith for convenience as Exhibit **R-3**.

10. KPMG hereby seeks the issuance of an order substantially in the form of the draft order communicated herewith as Exhibit **R-4** (the “**Draft Extension Order**”) to, *inter alia*, amend the Corrected Second Amended and Restated Initial Order (Exhibit R-2) to extend the Stay Period to **April 29, 2022** pursuant to sections 11.02 and 11.03 of the CCAA and to limit some of the powers already granted to the Monitor.
11. KPMG has prepared a Fourteenth Report supporting the relief sought herein, a copy of which will be further communicated as Exhibit **R-5**.

2. CASH FLOW FORECAST

12. KPMG has prepared a revised cash flow forecast for the period ending April 29, 2022 (the “**Cash Flow Forecast**”), a copy of which is attached as Appendices *under seal* to its Fourteenth Report (Exhibit R-5).
13. Based on the financial position of the Debtor, 9227, and based on the assumptions set out in the Cash Flow Forecast, KPMG believes that the Cash Flow Forecast is fair and reasonable.

3. EXTENSION OF THE STAY PERIOD

14. Since the issuance of the Initial Order, and in particular since the issuance of the November 29, 2021, Order (Exhibit R-3), KPMG has acted and continues to act in good faith and with due diligence. Among other things, KPMG has:
 - a) updated its website to include Orders issued by the Court and reports of the Monitor;
 - b) continued to manage and ensure the stability of the Debtor’s 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) continued its analysis of the nature and status of the Debtor’s operations, being the development of the Square Candiatic project;
 - e) prepared all necessary financial projections, including cash flow projections;
 - f) coordinated and ensured the completion of infrastructure works including the creation of a joint ditch;
 - g) continued the implementation of the Claims Procedure pursuant to the terms of the Claims Procedure Order;
 - h) prepared and filed its various reports to the Court;
 - i) took all steps and actions necessary or appropriate to implement the Plan;

- j) completed the various steps described in the transaction which was sanctioned by the Court on July 13th, 2021;
 - k) filed an application and obtained an Order terminating the CCAA proceedings with respect to the debtor, 9336, and discharging the Monitor.
15. It is respectfully submitted that the extension of the Stay Period to April 29, 2022 is required to provide KPMG and the Debtor, 9227, with sufficient time to, *inter alia*:
- a) protect the interests of the Debtor with respect to proceedings commenced by 9325-7277 Québec inc. regarding the installation and connection of electric transformers on lots # 6 022 121 and 6 022 122 (the “**9325 Motion**”), pursue negotiation and attempt to reach an agreement to settle the proceedings, or failing to do so, to litigate the latter; and
 - b) such other matters that may arise throughout the process.

4. MONITOR'S POWERS

16. As of today, the sole issue which remains unsolved in connection with the Debtor's restructuring is the 9325 Motion.
17. In light of the above, it is the Monitor's opinion that although the Corrected Second Amended and Restated Order authorized and empowered KPMG to exercise broad powers, most of these powers are no longer required nor desirable.
18. Thus, the Monitor seeks the authorisation of the Court to amend the section “N. Powers of the Monitor” of the Corrected Second Amended and Restated Initial Order (Exhibit R-2) in order to reduce and limit its powers in accordance with the draft Third Amended and Restated Initial Order communicated herewith as Exhibit **R-6**;
19. With respect to said request, the Monitor respectfully submit that it should be granted despite the conclusions E and F sought by 9325-7277 Quebec Inc in the 9325 Motion entitled *Demande d'exécution forcée d'une transaction homologuée* dated November 11, 2021. For reasons already exposed before this Court, it is the Monitor's point of view that these conclusions are ill-founded and without any merit whatsoever.

PROCEDURAL MATTERS

4.1 Confidentiality

20. KPMG submits that, regardless of the outcome of the present Motion, the Cash Flow Forecast filed *under seal* to KPMG's Fourteenth Report (Exhibit R-5) should be kept strictly confidential and shall be filed under seal.
21. Such information will be made available to creditors of the Debtor who execute a confidentiality agreement.
22. It is submitted that public disclosure of such sensitive financial information and documentation would be very prejudicial to the Debtor, notably due to the potential use of this information by potential competitors.

23. 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

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

4.3 Service

25. Pursuant to paragraph 67a) of the Corrected Second Amended and 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.
26. KPMG hereby requests from this Court that this above-mentioned delay be abridged in order to allow this Motion to be properly presentable on **January 28, 2022**, which is the date that this Court has graciously made itself available to hear this Motion.
27. Paragraph 67b) of the Corrected Second Amended and Restated Initial Order (Exhibit R-2) 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**"). Considering the hearing date of the present Motion, KPMG agrees to abridge this delay. 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 5:00 p.m. Montréal time on **January 27, 2022**.
28. Pursuant to the Order of June 26, 2020, paragraph 67a) of the Corrected Second Amended was amended to ensure that the Objection Deadline will never be less than three (3) business days following service of a motion.
29. Paragraph 67c) of the Corrected Second Amended and Restated Initial Order (Exhibit R-2), as amended on April 24, 2020, 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, by videoconference or in writing and the parties from whom submissions are required (collectively, the "**Hearing Details**").
30. Paragraph 67d) of the Corrected Restated Initial Order (Exhibit R-2) provides that KPMG shall communicate with the Judge and the service list with respect to the Hearing Details.
31. Paragraph 67e) of the Corrected Second Amended and Restated Initial Order (Exhibit R-2), as amended on April 24, 2020, provides that, if a Notice of Objection is served by the Objection Deadline, the Court will advise the parties if the hearing will be in person, by telephone, by videoconference or by written submissions only, and then the interested parties shall appear before the Presiding Judge on the Initial Return Date at the Initial Return Time or such other time as may be directed by the Court, to either proceed with a

hearing, or establish a schedule for delivery of materials, for a hearing and for other matters.

5. CONCLUSIONS

- 32. 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.
- 33. 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 and to amend the Corrected Second Amended and Restated Initial Order*;

ABRIDGE the five-day delay for service of the present Motion and **DECLARE** that the present Motion is returnable on January 28, 2022;

ABRIDGE the delay for the filing of a Notice of Objection to 5:00 p.m. on January 27, 2022;

ISSUE an Order in the form of the Draft Extension Order communicated in support hereof as Exhibit R-4;

AMEND the *Corrected Second Amended and Restated Initial Order* by reducing and limiting the Powers of the Monitor and **ISSUE** an Order in the form of the draft Third Amended and Restated Initial Order in support hereof as Exhibit R-6;

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

Montréal, January 26, 2022

Blake, Cassels & Graydon L.L.P.

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

Our reference: 72396-22

AFFIDAVIT

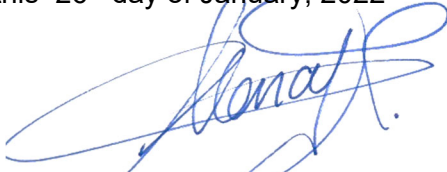
I, the undersigned, **Dev Coossa**, LIT, CIRP, practicing my profession at KPMG Inc., having a place of business at 1500-600 De Maisonneuve Blvd. West, in the city of Montréal, Québec, solemnly affirm that all the facts alleged in the present *Motion for the Extension of the Stay of Proceedings and to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

AND I HAVE SIGNED:



DEV COOSSA

SOLEMNLY DECLARED before me
at Montréal, Québec
this 26th day of January, 2022





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 and to amend the Corrected Second Amended and Restated Initial Order* will be presented for adjudication **virtually** before the Honourable Philippe Bélanger, J.S.C., or another Justice of the Superior Court of Québec, sitting in the commercial division for the district of Montréal, at the Courthouse located at 1, Notre-Dame Street East, Montréal, Québec on **Friday, January 28, 2022, at 1:00 p.m., in room 15.01** or so soon thereafter as counsel may be heard.

How to join the virtual hearing:

15.01	<p>Join the hearing with Microsoft Teams +1 581-319-2194 Canada, Québec (833) 450-1741 Canada Conference ID : 291 161 274# Vidéoconférence : teams@teams.justice.gouv.qc.ca Conference ID VTC : 1112194016</p>
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DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, January 26, 2022

Blake, Cassels & Graydon L.L.P.

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

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^o: **500-11-057549-194**

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

9227-1584 QUÉBEC INC.

Debtor

-and-

KPMG INC.

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-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 and to amend the
Corrected Second Amended and Restated Initial Order*)

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- | | |
|------------|---|
| R-1 | Motion for an Initial Order |
| R-2 | Corrected Second Amended and Restated Initial Order |
| R-3 | November 29, 2021 Order |
| R-4 | Draft Extension Order |
| R-5 | KPMG's Fourteenth Report (Cash Flow Forecast Appendices <i>under seal</i>) |
| R-6 | Draft Third Amended and Restated Initial Order |

Montréal, January 26, 2022

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

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SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL

**IN THE MATTER OF THE COMPROMISE OR
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9227-1584 QUÉBEC INC.

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Mises en cause

**MOTION FOR THE EXTENSION OF THE STAY OF
PROCEEDINGS AND TO AMEND THE CORRECTED
SECOND AMENDED AND RESTATED INITIAL ORDER
AFFIDAVIT AND NOTICE OF PRESENTATION**

ORIGINAL

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

M^{re}. Bernard Boucher **BB-8098**
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

Our File: 72396-22