

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-11-057570-190

DATE: June 10, 2021

BY THE HONOURABLE MARTIN CASTONGUAY, J.S.C.

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.C.S. 1985, c. C 36, AS AMENDED:**

**9348069 CANADA INC.
4295862 CANADA INC.
3441890 CANADA INC. (formerly MOTOVAN CORPORATION)**
(hereafter referred to as "MTV")
Debtors

v.

**MONCY HOLDING COMPANY INC.
MONCY FINANCIAL SERVICES COMPANY INC.
NICHOLS MOTORCYCLE SUPPLY INC.
MONCY LLC
MOTORCYCLE TIRES & ACCESSORIES LLC**

Mises en cause

and

**BANK OF MONTREAL
INVESTISSEMENT QUÉBEC
EXPORT DEVELOPMENT CANADA
BDC CAPITAL INC.**

Secured Creditors

and

KPMG INC.

Monitor

ORDER

JC 0009

[1] **ON READING** the *Motion for the Issuance of (i) a Distribution Order, (ii) an Order Terminating the CCAA Proceedings, and (iii) Other Ancillary Orders* (the "**Motion**"), the affidavit and the exhibits in support thereof, including the seventh report of the Monitor dated June 3, 2021 (the "**Report**");

[2] **SEEING** the service of the Motion;

[3] **SEEING** the submissions of the attorneys;

[4] **SEEING** that it is appropriate to issue orders as requested in the Motion;

WHEREFORE THE COURT:

[5] **GRANTS** the Motion and issues the present order (the "**Order**").

SERVICE AND DEFINITIONS

[6] **DECLARES** that the Monitor has given sufficient prior notice of the presentation of the Motion to interested parties.

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

[8] **PERMITS** service of this Order at any time and place and by any means whatsoever.

[9] **ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the *Re-Re-Amended and Restated Initial Order* issued by this Court on November 16, 2020, as amended (the "**ARIO**").

DISTRIBUTION OF PROCEEDS

[10] **ORDERS** that the Monitor be and is hereby authorized and directed, without any further Order of the Court, to distribute the amount specified hereunder from the proceeds held by the Monitor as a result of the realization of assets of the Debtors, the whole subject to minor adjustments as to the amount indicated hereunder as may be deemed necessary by the Monitor upon receipt of final statements and claims, as applicable (the "**Final Distribution**"):

- (i) An amount of **\$158,823** to Bank of Montreal;

[11] **DECLARES** that after the Final Distribution is completed, an amount of **\$12,170.93**, representing the remainder of the proceeds held by the Monitor, shall remain *in trust* with the Monitor (the "**QRA Deemed Trust Amount**") for the purposes of being distributed to the *Quebec Revenue Agency* in accordance with section 67(3) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 ("**BIA**") by the trustee to the bankruptcy of MTV following the assignment in bankruptcy of MTV as provided for in the present Order.

[12] **ORDERS** that notwithstanding the provisions of any federal or provincial legislation, including the BIA and the CCAA, the Final Distribution shall be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Debtors or the Monitor.

TERMINATION OF CCAA PROCEEDINGS

[13] **ORDERS** that following the Final Distribution, the Monitor is hereby authorized and empowered to act on behalf of MTV for the purposes of filing an voluntary assignment of MTV into bankruptcy pursuant to the BIA, and that nothing in this Order shall prevent the Monitor from acting as trustee to the bankruptcy of MTV.

[14] **ORDERS** and **DECLARES** that, upon the issuance by the Official Receiver of a Certificate of Appointment in respect of the assignment in bankruptcy of MTV (the "**Effective Date**"), the present proceedings under the CCAA (the "**CCAA Proceedings**") are terminated and discontinued, and the Debtors are discharged and released from these CCAA Proceedings, including any orders made therein.

[15] **ORDERS** and **DECLARES** that upon the bankruptcy of MTV on the Effective Date, the appointment of the Monitor, KPMG Inc., in these CCAA Proceedings shall be automatically terminated and the Monitor discharged and released from any obligations under the ARIO or any other Order of this Court in the CCAA Proceedings.

ANCILLARY ORDERS

[16] **ORDERS** that the CCAA Charges, namely the Administration Charge and the D&O Charge (as defined in the ARIO), are terminated and discharged and shall be released and deleted as charges against the Property as of the Effective Date.

[17] **DECLARES** that all actions of the Monitor from the date of its appointment to the time of their discharge under this Order are hereby approved, ratified and sanctioned.

[18] **ORDERS** that as of the Effective Date, the Monitor shall be and hereby is released and discharged from any and all claims that any Person may have or be entitled to assert against the Monitor, whether known or unknown, matured or unmatured, existing or hereafter arising, based in whole or in part on any act or omission in any way relating to,

arising out of or in respect of the CCAA Proceedings or with respect to its conduct in connection therewith, save and except for any gross negligence or intentional fault on the part of the Monitor.

[19] **ORDERS** that any and all administrative matters relating to the CCAA Proceedings, which arise following the termination of the CCAA Proceedings and the Effective Date, may be brought before this Court for determination, advice and direction.

[20] **ORDERS** and **DECLARES** that, notwithstanding any provision of this Order, the termination of the CCAA Proceedings and the discharge of the Monitor, the Monitor may carry out such functions and duties as may be incidental to the termination of the CCAA Proceedings and the transition to the bankruptcy of MTV, or of the other Debtors if applicable, pursuant to any further order of this Court or as otherwise required. In carrying out such functions and duties, the Monitor shall continue to have the benefit of any and all protections granted in the CCAA Proceedings.

[21] **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

[22] **ORDERS** and **DECLARES** that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the rights, approvals and protections in favour of the Monitor pursuant to the ARIO or any other order of this Court in these CCAA Proceedings, the CCAA or otherwise, all of which are expressly continued and confirmed.

GENERAL

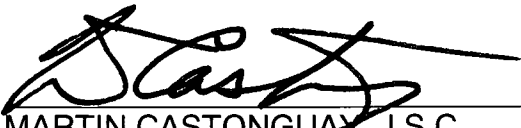
[23] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

[24] **DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Monitor shall be the foreign representative. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

[25] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.

[26] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

THE WHOLE WITHOUT COSTS.



MARTIN CASTONGUAY, J.S.C.

Hearing date: June 10, 2021