

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF **MONTREAL**

N°: 500-11-057570-190

**SUPERIOR COURT**  
(Commercial Division)

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

**9348069 CANADA INC.**

-and-

**4295862 CANADA INC.**

-and-

**MOTOVAN CORPORATION**

(collectively hereafter referred to as "**MTV**")

Petitioners

-and-

**MONCY HOLDING COMPANY INC.**

-and-

**MONCY FINANCIAL SERVICES COMPANY  
INC.**

-and-

**NICHOLS MOTORCYCLE SUPPLY INC.**

-and-

**MONCY LLC**

-and-

**MOTORCYCLE TIRES & ACCESSORIES LLC;**

Mises en cause

(Petitioners and the Mises en cause are

collectively hereafter referred to as the « **CCAA Parties** »)

-and-

**BANK OF MONTREAL**

-and-

**INVESTISSEMENT QUÉBEC**

-and-

**EXPORT DEVELOPMENT CANADA**

-and-

**BDC CAPITAL INC.**

Secured Creditors

-and-

**KPMG INC.**

Proposed Monitor

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**PETITIONERS' MOTION FOR AN ORDER  
EXTENDING THE STAY PERIOD**

*(Section 11 ff. of the Companies' Creditors Arrangement Act)*

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**TO HONOURABLE JUSTICE MARIE-ANNE PAQUETTE, J.S.C. SITTING IN  
COMMERCIAL DIVISION IN THE DISTRICT OF MONTREAL, THE PETITIONERS  
AND THE MISES-EN-CAUSE SUBMIT:**

**I. INTRODUCTION**

1. On December 2, 2019, the Honourable Justice Marie-Anne Paquette, J.S.C., issued an initial order (the "**Initial Order**"<sup>1</sup>) commencing these proceedings (the

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<sup>1</sup> Except as otherwise provided for herein, all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in Initial Order.

**“CCAA Proceedings”**) pursuant to the *Companies’ Creditors Arrangement Act* (the **“CCAA”**) in respect of the CCAA Parties, as appears from the Court record;

2. Pursuant to the Initial Order, the Court:

- a) Declared that the CCAA Parties are debtor companies to whom the CCAA applies, or companies entitled to benefit from the protection arising from the Initial Order;
- b) Declared a stay of proceedings in favour of the CCAA Parties and their respective directors and officers and other general CCAA relief pursuant to, inter alia, sections 11, 11.02 and 11.03 thereof for an initial period of ten (10) days, i.e. until on or about **December 12, 2019** (hereinafter the **“Initial Period”**); and
- c) Authorized the CCAA Parties to continue their operations in order to preserve their assets and make payments in the normal course of business;
- d) Named KPMG Inc. (**“KPMG”**) (Dev A. Coossa, PAIR, SI) as Monitor pursuant to Section 11 of the CCAA;
- e) Granted an Administration Charge to secure the Petitioners’ obligations towards its legal advisors (BCF LLP), the Monitor (KPMG) and the Monitor’s legal advisors (Norton Rose Fulbright Canada LLP);
- f) Granted a D&O Charge to secure the Petitioners’ obligations towards its directors and officers in respect of potential liabilities that could arise after the Initial Order has been issued, but only to the extent that such potential liability is not covered by existing insurance policies;
- g) Authorized Petitioners to file at a later date a plan of arrangement with their creditors pursuant to the CCAA (the **“Plan”**);
- h) Authorized various measures required in order to facilitate the proposed restructuring; and
- i) Declared that the Petitioners may at all times address this Court in order to seek any other measures necessary in order to carry out the restructuring process;

3. On December 12, 2019, the Honourable Marie-Anne Paquette, j.c.s., issued an Amended and Restated Initial Order pursuant to which the Court:

- a) Extended the Stay Period in respect of the CCAA Parties until January 31, 2020;
- b) Amended the Initial Order to increase the amount of the Administration Charge from \$335,000.00 to \$500,000.00;
- c) Approved the SISP proposed by the CCAA Parties;

## **II. ORDERS SOUGHT**

4. The CCAA Parties hereby seek the extension of the Stay Period in respect of the CCAA Parties until May 15, 2020, for reasons more fully explained hereafter;

## **III. CHAPTER 15 PROCEEDINGS**

5. On December 12, 2019, Motorcycle Tires & Accessories LLC (“**MTA**”) entered into an agreement with Gordon Brothers with respect to the liquidation of its U.S. inventory. The Agency Agreement is attached to the Monitor’s report as Appendix D;
6. On December 20<sup>th</sup>, 2019, the CCAA Parties sought provisional relief under Chapter 15 of the *Bankruptcy Code* for the recognition of the present proceedings by the U.S. Court;
7. On January 23, 2020, the CCAA Parties obtained final relief under Chapter 15 of the *Bankruptcy Code* for recognition of the present proceedings by the U.S. Court;
8. The liquidation process of MTA will continue until at least April 2020 with the help of Gordon Brothers;

## **IV. SISP UPDATE**

9. Since the implementation of the SISP, on or about December 10, 2019, the CCAA Parties and KPMG CF carried out the process in accordance with the milestones approved by this Court;
10. On January 22, 2020, four (4) offers had been submitted to KPMG CF, as more fully explained in the Monitor’s report;
11. As a result of their declared intention to participate in the SISP, Management has not been privy to the Offers;
12. Management has been informed by Monitor of the following :

- a) that 4 offers had been received in the context of the SISP, two (2) of which would allow to preserve the going concern operations of Motovan, while preserving the vast majority of existing jobs;
- b) that ongoing discussions are taking place with bidders and the main secured creditors to firm up some lingering conditions associated to the completion of the contemplated transactions;
- c) that it is anticipated that approval of a transaction is likely to be sought from this honourable Court by end on February.

**V. EXTENSION OF THE STAY PERIOD**

- 13. The CCAA Parties are seeking an extension of the Stay Period to May 15, 2020 for the following reasons:
  - a) MTA requires additional time to complete its liquidation process, as approved by the U.S. Court;
  - b) The extension sought herein will enable the CCAA Parties to complete the SISP initiated during the month of December 2019;
- 14. The CCAA Parties will continue to operate their businesses in the ordinary course;
- 15. With the support of BMO, the CCAA Parties have sufficient liquidity to continue their operations on a going concern basis up to and until May 15, 2020;
- 16. The CCAA Parties will continue their restructuring efforts with a view to preserve their operation, maximize the value of their assets;
- 17. Since the issuance of the Initial Order, the CCAA Parties have acted, and continue to act, in good faith and with due diligence;
- 18. The Monitor supports the present Motion;
- 19. The present Motion is well founded in fact and in law.

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present Motion;

**ISSUE** an order substantially in the form of the draft Order (**Exhibit R-1**) communicated in support hereof;

**THE WHOLE** without costs, save and except in case of contestation.

Montreal, January 29, 2020

BCF LLP

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**BCF LLP**

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## NOTICE OF PRESENTATION

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**TAKE NOTICE** that the present *Petitioners' Motion (i) for an Order extending the Stay Period, (ii) to amend the Initial Order and (iii) for the approval of a Sale and Investment Solicitation Process ("SISP")* will be presented before one of the honourable judges of the Superior Court sitting in practice division and for the district of Montreal, located at 1, Notre-Dame Street East, in Montréal, as soon as counsel may be heard.

**DO GOVERN YOURSELF ACCORDINGLY.**

Montreal, January 29, 2020

BCF LLP

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## LIST OF EXHIBITS

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**EXHIBIT R-1:** Draft Order;

Montreal, January 29, 2020

*BCF LLP*

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**BCF LLP**

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