

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTREAL**

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.

9325-7277 QUÉBEC INC.

9344-8181 QUÉBEC INC.

-and-

CAISSE DESJARDINS DE TERREBONNE

GERPRO CONSTRUCTION INC.

A. & J.L. BOURGEOIS LTÉE

GROUPE ABS INC.

EXCAVATION RENÉ ST-PIERRE INC.

ENVIRONNEMENT ROUTIER NRJ INC.

COFFRAGES ATLANTIQUE INC.

PLOMBERIE J. VACHON INC.

STANTEC EXPERTS-CONSEILS LTÉE

LA CORPORATION STECKMAR

SOCIÉTÉ IMMOBILIÈRE GAGNÉ INC.

-and-

**THE REGISTRAR OF THE LAND REGISTRY OFFICE
OF LAPRAIRIE**

Mises-en-cause

**MOTION FOR THE ISSUANCE OF AN APPROVAL AND VESTING ORDER
WITH RESPECT TO THE SALE OF CERTAIN ASSETS**

(Sections 11 and 36 *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, 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**") 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.
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. (as he then was) 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**"), 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. Pursuant to the Corrected Second Amended and Restated Initial Order, inter alia:
 - a) the Monitor was appointed as the monitor of the Debtors (para. 45 of the Corrected Second Amended and Restated Initial Order) and a stay of proceedings was granted to the Debtors until April 30, 2020 (the "**Stay Period**") (para. 15 *ff.* of the Corrected Second Amended and Restated Initial Order); and

¹ CQLR c. S-31.1, ss. 450 and 451.

- b) the Monitor was authorized, subject to sections 11.3 and 36 of the CCAA and further order of the Court, to pursue all avenues to, *inter alia*, market, convey, transfer, assign or in any other manner dispose of the Business or Property (as such terms are defined in the Corrected Second Amended and Restated Initial Order), in whole or part (para. 40 (b) of the Corrected Second Amended and Restated Initial Order).
6. On June 26, 2020, this Honourable Court issued an Order, *inter alia*, amending the Corrected Second Amended and Restated Initial Order and further extending the Stay Period thereunder to September 30, 2020, as appears from the Court record.
 7. On September 29, 2020, this Honourable Court issued an Order, *inter alia*, amending the Corrected Second Amended and Restated Initial Order and further extending the Stay Period thereunder to January 15, 2021, as appears from the Court record.
 8. On January 29, 2021, this Honourable Court issued an Order, *inter alia*, amending the Corrected Second Amended and Restated Initial Order and further extending the Stay Period thereunder to March 31, 2021, as appears from the Court record.
 9. On March 31, 2021, this Honourable Court issued an Order, *inter alia*, amending the Corrected Second Amended and Restated Initial Order and further extending the Stay Period thereunder to June 30, 2021, as appears from the Court record.
 10. On June 30, 2021, this Honourable Court issued an Order, *inter alia*, amending the Corrected Second Amended and Restated Initial Order and further extending the Stay Period thereunder to September 30, 2021, as appears from the Court record.
 11. On July 13, 2021, this Honourable Court issued a Sanction and Homologation Order, *inter alia*, sanctioning the Steckler Plan and its implementation as defined therein, and homologating a transaction (settlement agreement) memorialized in a *Convention de Transaction* dated June 30, 2021 (the "**Transaction Agreement**"), as appears from the Court record.
 12. In accordance with the foregoing, KPMG hereby seeks the issuance of an Approval and Vesting Order substantially in the form of the draft Approval and Vesting Order communicated herewith as **Exhibit R-3** (the "**Draft Approval and Vesting Order**"), which provides, *inter alia*, for:
 - a) the Court's approval of the proposed transaction (the "**Transaction**") contemplated by the Transaction Agreement and three promises to purchase (*'Promesses d'achat'*) dated as of July 12, 2021 (the "**Promises to Purchase**") concluded respectively by and between the Petitioner, as vendor, and 9344-8181 Québec Inc. and 9325-7277 Québec Inc. as purchasers (the "**Purchasers**").
 - b) the vesting of all of Petitioner's rights, title and interest in and to the Immovable (as defined below) in the Purchaser, free and clear of all encumbrances (the "**Encumbrances**") other than the permitted encumbrances set out in Schedule "B" to the Draft Approval and Vesting Order (the "**Permitted Encumbrances**"), upon the issuance of a certificate by the Monitor in the form of Schedule "A" to the Draft Approval and Vesting Order (the "**Monitor's Certificate**").

13. A copy of the Transaction Agreement is communicated herewith, UNDER SEAL, as **Exhibit R-4**.

14. Copies of the Promises to Purchase are communicated herewith, UNDER SEAL, as **Exhibit R-5**, *en liasse*.

2. OVERVIEW OF THE PROPOSED TRANSACTION

15. The Transaction, including the consequences associated with concluding same, or not concluding same, within the prescribed delays, is one of the key elements of the Steckler Plan as described thereof and sanctioned by this Honourable Court on July 13, 2021.

16. The Transaction contemplates the sale of i) the lots 6 073 665, 6 073 693 and 6 073 694 of the Quebec cadastre ("**Lots PUC**"), ii) the lots 6 022 121, 6 022 122 and 6 294 371 of the Quebec cadastre ("**Secteur 8**"), and iii) the lots 6 022 019 and 6 022 120 of the Quebec cadastre ("**Secteur 5**"), the whole as more fully described at Section 1.5 of Transaction Agreement as well as at Section 2.3 of the Promises to Purchase (the "**Immovable**").

3. THE PROMISES TO PURCHASE

3.1 The Purchasers

17. The Purchasers, 9325-7277 Québec Inc. and 9344-8181 Québec Inc., are companies involved in the development of real estate projects within the province of Quebec.

3.2 Purchase Price

18. The Transaction contemplates the sale of the Immovable for the Purchase Price set out in the Transaction Agreement and the Promises to Purchase, respectively communicated herewith, UNDER SEAL, as Exhibits R-4 and R-5.

19. The Immovable is being sold on an "as is, where is" basis without legal warranty and at the risk of the Purchaser, as appears from section 5.3.2 of the Promises to Purchase.

3.3 Conditions to Closing

20. The closing of the Transaction contemplated by the Transaction Agreement and the Promises to Purchase is and was conditional on the Court approval of the Transaction, as contemplated by the Draft Approval and Vesting Order sought herein.

3.4 Closing Mechanics

21. The Purchase Price shall be paid in full by the Purchasers by no later than the date of the closing of the Transaction, which can be no later than September 9, 2021.

22. Upon receipt of payment in full of the Purchase Price plus applicable taxes on closing, the Monitor shall issue its Monitor's Certificate forthwith concurrently to the Petitioners and the Purchasers, at which time closing shall be deemed to have occurred. The Monitor shall then file, as soon as practicable, a copy of the Monitor's Certificate with the Court (and

shall thereafter provide a true copy of such filed certificate to the Petitioners and the Purchasers).

23. The Transaction shall close by no later than September 9, 2021. All deadlines provided by the Transaction Agreement and the Promises to purchase are strict and peremptory.

3.5 Overall Assessment

24. The Petitioner is satisfied that the Purchase Price for the sale of the Immovable is reasonable and fair in the circumstances.
25. It is submitted that, given that the proposed Transaction form part of the Plan and of the Transaction Agreement, both of which have been homologated by this Court, this Court need not examine the criteria set out at subsections 36(3) and 36 (4) CCAA, especially given that, under the Steckler Plan, the Creditors are to be repaid in full from the proceeds of the sale.
26. The Petitioner is satisfied that the conditions to closing and the closing mechanics should lead to the closing of the proposed Transaction on an expedited basis should this Court approve this Motion.
27. The Monitor 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.

4. PROCEDURAL MATTERS

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. In addition, considering:
 - a) the foregoing circumstances, including the terms of the Transaction Agreement, of the Promises to Purchase and of the Steckler Plan, all of which provide that time is of the essence and that all delays are peremptory;
 - b) the delays and costs associated with the present proceedings and that it is crucial and urgent that the Steckler Plan be implemented as soon as possible;
 - c) that any further delay, including delays pertaining to any appeal, would be highly prejudicial to the Debtor itself and to the stakeholders; and
 - d) that the Transaction Agreement and the Steckler Plan have already been homologated by this Court, such that the order sought herein is merely the consequence of the implementation of the terms thereof;

it is submitted that it is in the interests of justice and of the stakeholders as a whole that the order sought herein be declared executory notwithstanding any appeal and without requiring security.

5. CONCLUSIONS

30. In light of the foregoing, the Petitioner hereby respectfully seeks the issuance of an Order substantially in the form of the Draft Approval and Vesting Order (Exhibit R-3), which

provides for the Court's approval of the Promises to Purchase and of the Transaction contemplated therein.

31. 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 Issuance of an Approval and Vesting Order with respect to the sale of certain assets*;

ISSUE an Order in the form of the Draft Approval and Vesting Order communicated in support hereof as Exhibit R-3;

THE WHOLE WITHOUT COSTS, save and except in case of contestation, in which case, with costs against the contesting party.

Montreal, July 23, 2021

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

Attorneys for the Petitioners and the Mises en cause
(Court Code: BB-8098)

1, Place Ville-Marie, bureau 3000
Montreal, Quebec H3B 4N8

M^e Bernard Boucher

Bernard.boucher@blakes.com

Telephone : 514-982-4006

M^e Philippe Dubois

Philippe.dubois@blakes.com

Telephone : 514-982-4290


Fax : 514-982-4099

Our reference: 72396-22

AFFIDAVIT

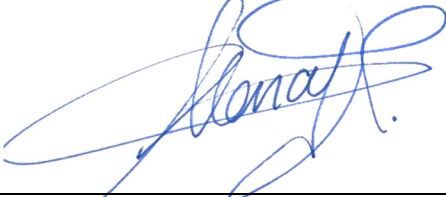
I, the undersigned, **Dev Coossa**, LIT, CIRP, practicing my profession at KPMG Inc., having a place of business at 1500-600 De Maisonneuve Blvd. West, in the city of Montréal, Québec, solemnly affirm that all the facts alleged in the present *Motion for the Issuance of an Approval and Vesting Order with respect to the sale of certain assets* are true.

AND I HAVE SIGNED:



DEV COOSSA

SOLEMNLY DECLARED before me
at Montréal, Québec
this 23rd day of July, 2021





Commissioner of Oaths for the Province of
Québec

NOTICE OF PRESENTATION

To: SERVICE LIST

THE REGISTRAR OF THE LAND REGISTRY OFFICE OF LAPRAIRIE

notificationOPF@mern.gouv.qc.ca

1. PRESENTATION OF THE APPLICATION

TAKE NOTICE that the present *Motion for the Issuance of an Approval and Vesting Order with respect to the sale of certain assets* 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 on **July 28, 2021**, at **9:30 a.m.**, in **room 16.08**, or so soon thereafter as counsel may be heard, in a forum to be further announced to the Service List.

2. HOW TO JOIN THE HEARING

The coordinates to join the hearing in room **16.08** are as follows:

A. Using Teams

To open the permanent link established for room **16.08** click [here](#)².

You must then fill in your name and click “*Join Now*”.

In order to facilitate the process and the identification of the parties, we invite you to fill in your name as follows:

Attorneys: Mtre. “Name”, “Surname” (name of the party being represented)

Trustees: “Name”, “Surname” (Trustee)

Superintendent : Name”, “Surname” (Superintendent)

Parties not represented by an attorney: “Name”, “Surname” (specify: Petitioner, Respondent, creditor or other)

B. By telephone

Dial one of the following numbers and ID of the conference:

CANADA (toll-free): 1 (833) 450-1741

CANADA, QUÉBEC (charges will apply): +1 581-319-2194

Conference ID: 888 751 938#

² The permanent links for the Montreal Courthouse rooms can also be found in the document entitled *Liens TEAMS pour rejoindre les salles du Palais de justice de Montréal en matière commerciale, civile et familiale* under the heading “Audiences virtuelles” found on the Superior Court of Quebec website at : <https://coursuperieureduquebec.ca/roles-de-la-cour/audiences-virtuelles>

C. By videoconference

Email address: teams@teams.justice.gouv.qc.ca
VTC Conference ID: 1189221126

D. In person

If and only if the above-mentioned means are not available, you can then go to room 16.08 of the Montreal Courthouse located at 1, Notre-Dame East, Montréal, Québec.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, July 23, 2021

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

Attorneys for the Petitioners and the Mises en cause
(Court Code: BB-8098)

1, Place Ville-Marie, bureau 3000
Montreal, Quebec H3B 4N8

M^e Bernard Boucher

Bernard.boucher@blakes.com

Telephone : 514-982-4006

M^e Philippe Dubois

Philippe.dubois@blakes.com

Telephone : 514-982-4290

Fax : 514-982-4099

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.
9336-9262 QUÉBEC INC.**

Debtors

-and-

KPMG INC.

Petitioner / Monitor

-and-

**110302 CANADA INC.
9325-7277 QUÉBEC INC.
9344-8181 QUÉBEC INC.**

-and-

**CAISSE DESJARDINS DE TERREBONNE
GERPRO CONSTRUCTION INC.
A. & J.L. BOURGEOIS LTÉE
GROUPE ABS INC.
EXCAVATION RENÉ ST-PIERRE INC.
ENVIRONNEMENT ROUTIER NRJ INC.
COFFRAGES ATLANTIQUE INC.
PLOMBERIE J. VACHON INC.
STANTEC EXPERTS-CONSEILS LTÉE
LA CORPORATION STECKMAR
SOCIÉTÉ IMMOBILIÈRE GAGNÉ INC.**

-and-

**THE REGISTRAR OF THE LAND REGISTRY OFFICE
OF LAPRAIRIE**

Mises-en-cause

LIST OF EXHIBITS

(in support of the *Motion for the Issuance of an Approval and Vesting Order with respect to the sale of certain assets*)

- R-1** Motion for an Initial Order
- R-2** Corrected Second Amended and Restated Initial Order
- R-3** Draft Approval and Vesting Order
- R-4** Transaction Agreement dated June 30, 2021 – UNDER SEAL
- R-5** *En liasse*, Promises to Purchase dated July 12, 2021 – UNDER SEAL

Montréal, July 23, 2021

Blake, Cassels & Graydon L.L.P.

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

N°: 500-11-057549-194

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL

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.
9325 7277 QUÉBEC INC.
9344-8181 QUÉBEC INC.
CAISSE DESJARDINS DE TERREBONNE
GERPRO CONSTRUCTION INC.
A. & J.L. BOURGEOIS LTÉE
GROUPE ABS INC.
EXCAVATION RENÉ ST-PIERRE INC.
ENVIRONNEMENT ROUTIER NRJ INC.
COFFRAGES ATLANTIQUE INC.
PLOMBERIE J. VACHON INC.
STANTEC EXPERTS-CONSEILS LTÉE
LA CORPORATION STECKMAR
SOCIÉTÉ IMMOBILIÈRE GAGNÉ INC.
THE REGISTRAR OF THE LAND REGISTRY OFFICE OF LAPRAIRIE

Mises-en-cause

**MOTION FOR THE ISSUANCE OF AN APPROVAL AND VESTING
ORDER WITH RESPECT TO THE SALE OF CERTAIN ASSETS,
AFFIDAVIT, NOTICE OF PRESENTATION AND LIST OF EXHIBITS**

ORIGINAL



M^{re}. Bernard Boucher
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

BB-8098

Our File: 72396-22