

ESTATE #: 51-2772665  
COURT#: 25597

**IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK**

**IN BANKRUPTCY AND INSOLVENCY**

**JUDICIAL DISTRICT OF MONCTON**

**IN THE MATTER OF** the proposal of Tomavo Inc.  
under the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3.

**AFFIDAVIT OF MOHAMEDAMER ABDUALSOUD**

I, **MOHAMEDAMER ABDUALSOUD**, more commonly known as **AMER KHALED**, of the City of Halifax, in the County of Halifax and Province of Nova Scotia **MAKE OATH AND SAY THAT:**

1. I am the President/CEO, director and sole beneficial shareholder of Tomavo Inc. ("**Tomavo**") and as such, have personal knowledge of the matters to which I hereafter depose, except where otherwise acknowledged to be on the basis of information and belief. The matters hereinafter deposed of which I have personal knowledge are true. Those matters of which I do not have personal knowledge, but am informed of by others, I do verily believe to be true.

**BUSINESS AND BUSINESS OWNER HISTORY**

2. I am a permanent resident of Canada, having immigrated from Palestine in 2009. I studied Business Administration for a time at the University of Prince

Edward Island in Charlottetown, PE, where I met my fellow students and future business colleagues, Zeeyad Alarfaj and Omar Alfalah, and I met my future wife Samar Ali Najarian in Vancouver, BC (collectively, the “**Initial Shareholders**”).

3. During my time in PE, I opened and operated several businesses, including a store selling fruits and vegetables, until some time in 2015 when I was diagnosed with lymphoma, and later thyroid cancer. Over the course of my ensuing battle with cancer, I sold several of my businesses, including the closing of a fruit and vegetable business. After no less than seventeen surgeries and chemotherapy, I was successful in my battle against cancer and remain cancer-free today.

4. In 2017, with a clean bill of health, the knowledge and experience I had gained from my previous business ventures, a \$75,000 personal investment and further investments by the Initial Shareholders, Tomavo was incorporated as a specialty retail produce business. We leased our first store on Ferdinand Boulevard in Dieppe, NB and found early success in our business notwithstanding our “out-of-the-way” location. Following our initial success, we were able to relocate to Mountain Road, in Moncton, NB as fate would have it, in the former location of Pete’s Frootique, a previously established and evidently successful grocery business.

5. Between roughly August of 2017 and November of 2019, Tomavo was quite successful, generating revenues of roughly \$1.5 to \$2 million from its one location. Building upon that success, and clear indications that Tomavo was supplying a product which was in demand, we proceeded to open several additional store locations in Shediac, Fredericton, Dartmouth (NS), Bedford (NS) and Bayer’s Lake (NS). The Bedford location alone saw customer traffic of roughly 1,000 per day, and roughly \$250 to \$300 thousand per month in sales.

## **COVID-19 AND OTHER BUSINESS DISRUPTIONS**

6. In or about November of 2018, our original Mountain Road location faced significant setbacks resulting from municipal infrastructure improvements being undertaken on the roadway. These improvements impacted ingress and egress to our business due to the partial or, at times, total closure of Mountain Road to vehicular traffic, over the course of roughly six months.

7. Beginning in or about late 2019 and worsening in 2020, the economic impacts of the COVID-19 pandemic and the resulting lockdowns and other restrictions imposed by local governments were felt around the world. The Maritimes were no exception to the rule. When the pandemic struck the Maritimes, Tomavo initially experienced a sharp 80% reduction in revenues. While large grocery store chains had been deemed “essential” by local governments, Tomavo was recognized as a specialty store and was therefore subject to restrictive customer capacity limitations. This also increased our overhead as we were required to employ additional staff to manage outside line-ups, clean carts and fill online and pick-up orders.

8. In response to the set-backs posed by the COVID-19 pandemic and corresponding restrictions, we created an online store offering curbside pick-up. Our online store was met with some success, generating approximately \$150 thousand in revenues monthly, but the rolling lockdowns continued to hurt our business. We had applied for but found no success in obtaining any form of government assistance or loans, notwithstanding the fact that our sales were approaching \$1 million per month.

9. In or around May, 2021, the Initial Shareholders, two of whom had long since returned to their home country of Saudi Arabia, had intended to simply shut the business down and walk away from it. However, I believed Tomavo was fulfilling an unmet demand in the Maritimes and had a real potential for success; success which could be demonstrated notwithstanding a significant number of unfortunate and unavoidable setbacks. In 2020, I therefore acquired all outstanding shares of Tomavo from the Initial Shareholders, and have continued operations to present day.

10. In or about August of 2021, local governments began to relax restrictions placed on local restaurant businesses, causing a surge of customer traffic to restaurants, and a reduction in demand for specialty produce meant for in-home consumption. Tomavo experienced a resulting decline in revenues of roughly 50% to 60%.

11. In or around October, 2021, a media piece was released in the Halifax area claiming Tomavo did not pay its local farm suppliers. While there are some local farmers awaiting payment of outstanding accounts, the reality is that they made up only a portion of Tomavo's total liabilities. These local farmers are also on record stating that Tomavo's debts have not seriously impacted their businesses, as most of the produce purchased was produce that would not otherwise have been sold. The misleading media piece nevertheless generated negative sentiment towards our business which has impacted our online marketing presence as well as in-store revenues, which are down roughly 30% to 40%.

## RECENT ACTIVITIES

12. Since in or around October, 2021, we have been working closely with our primary supplier, Courchesne Larose Ltd. (“**Courchesne Larose**”) to review and improve various aspects of our business, including but not limited to business planning, product offerings, supply-chain management, sales and marketing, cost control, and management processes and procedures. Courchesne Larose is a Canada-wide fruit and vegetable wholesaler, importer and exporter based out of Montreal, Quebec, with over 100 years of experience in the industry and over \$400 million in sales volume.

13. 95% of our product is supplied by Courchesne Larose, and they are by far our single largest creditor. Courchesne Larose has agreed, while we work out terms of an acceptable creditor proposal, to accept payment on our account for produce supplied on a cash on delivery basis. We pay our account weekly and are able to meet all current liabilities.

14. Our contacts at Courchesne Larose have indicated they have, in the past, assisted at least one other customer in a similar situation as Tomavo in the city of Montreal, QC. I am advised and do verily believe that the industry experts at Courchesne Larose, lead primarily by Alex Monette, assisted in scaling this other retail produce business down in size from 30 stores to 10, as well as improving various management aspects of the business, and that the business has since achieved reliable profitability and grown in size by another four stores. Alex Monette is providing similar guidance to Tomavo currently.

15. We have replaced our Chief Financial Officer with Anil Sharma, a former Global Process Advisor at Exxon Mobil Corporation and a Chartered Professional

Accountant. Our previous CFO was not performing to satisfactory standards, nor was he similarly credentialed.

16. We have developed a mobile app to sell our products, which has yet to be implemented. We intend to launch the mobile app in Montreal and Toronto, delivering ordered produce to customers' doorsteps, and using Courchesne Larose warehouses to package orders.

17. Courchesne Larose also introduced us to contacts at KPMG INC. ("KPMG"). On or about October 7, 2021, Tomavo engaged KPMG as licensed insolvency trustees to oversee Tomavo's business operations and to assist with our insolvency issues, including the preparation of a viable creditor proposal. Courchesne Larose has gratuitously offered to pay for all legal and accounting expenses incurred by Tomavo in the course of preparing this creditor proposal.

18. We intend to engage a public relations firm, National PR, based in Halifax, to advise on and manage issues we have faced resulting from misleading yet damaging news reporting in Halifax.

19. Tomavo appears to have generated a great deal of interest from third parties interested in securing franchise rights to open additional stores in their locations, a potential future profit stream which we are currently investigating.

## **CREDITOR PROPOSAL**

20. On October, 7, 2021, Tomavo filed a Notice of Intention to Make a Proposal (the "**Notice of Intention**") under section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. 8-3 (the "**BIA**"). Attached hereto as Exhibit "1" is a copy of the October, 7, 2021 Certificate of Filing of a Notice of Intention to Make a

Proposal from the Office of the Superintendent of Bankruptcy Canada naming KPMG as the Proposal Trustee.

21. Immediately after the filing of the Notice of Intention, after consultation with representatives of KPMG and Courchesne Larose, Tomavo gave notice to its landlords in Dartmouth, NS and Fredericton, NB to disclaim its realty leases in those municipalities, pursuant to subsection 65.2(1) of the BIA effective November 7, 2021. The closure in Dartmouth should reduce operating costs by approximately \$50,000 monthly and the closure of the Fredericton location will enable Tomavo to move its operations to a better and less costly location. These closures will enable Tomavo to narrow our focus to the more profitable locations.

22. Since in or about October, 2021, I have been speaking with other creditors and suppliers essential to Tomavo's ongoing business operations, making arrangements for the continued supply of necessary goods and services. I have had positive communications with the creditors/suppliers contacted to date.

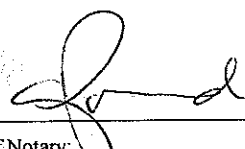
23. Thanks to our forbearance and continued supply arrangements with Courchesne Larose, as well as planned cost reductions to the business, cash flow is expected to remain positive while we undertake our efforts to formulate a successful creditor proposal.

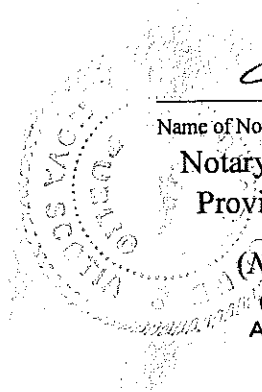
24. At present, Tomavo employs roughly 75 people in the Maritimes, approximately 65 of whom are full-time employees, with 10 located in our head office in Halifax. In the preceding 12 months, we have paid over \$2 million in payroll expenses. All employees are paid up to date. Currently, we conduct roughly 35,000 customer transactions per month, spread over our four remaining store locations in Moncton, Fredericton, Bayer's Lake and Bedford.

25. It is my belief that an appropriate creditor proposal would be to the benefit of the creditors overall as well as to Tomavo, and would certainly be a more favourable option than bankruptcy. Tomavo is continuing for the time being to pay all current liabilities from its operational cash flow, and as such it is not anticipated that the requested extension would cause the erosion of any debtor assets or collateral.

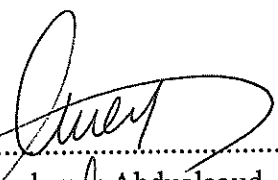
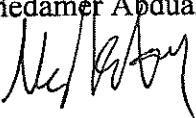
26. This affidavit is made in support of a motion for an extension of the stay of proceedings made under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. 8-3, and for no other purpose.

**SWORN TO** at the City of Halifax )  
in the County of Halifax and )  
Province of Nova Scotia, this )  
5<sup>th</sup> day of November, 2021 )  
BEFORE ME: )

  
\_\_\_\_\_  
Name of Notary: )  
Notary Public in and for the )  
Province of Nova Scotia )



(Notarial Seal)  
CHRISTINE C. POUND  
A Notary Public in and for the  
Province of Nova Scotia

  
.....  
Mohamedamer Abdualsoud  




This is Exhibit "1" referred to in the Affidavit of Mohamedamer Abdulsoud sworn to at the City of Halifax, County of Halifax and Province of Nova Scotia, this 5th day of November, A.D., 2021.

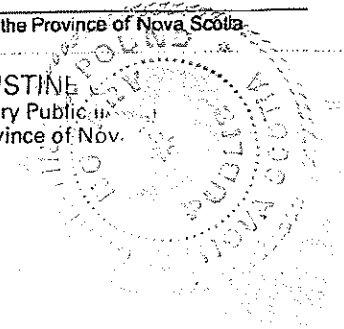


Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

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Bureau du surintendant  
des faillites Canada

A Notary Public in and for the Province of Nova Scotia

CHRISTINE  
A Notary Public in  
Province of Nova Scotia



District of New Brunswick  
Division No. 04 - Moncton  
Court No. 25597  
Estate No. 51-2772665

In the Matter of the Notice of Intention to make a proposal of:

**TOMAVO INC.**

Insolvent Person

**KPMG INC.**

Licensed Insolvency Trustee

Date of the Notice of Intention:

October 07, 2021

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

-- AMENDED --

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: October 07, 2021, 16:30

Official Receiver

E-File/Dépôt Electronique

Maritime Centre, 1505 Barrington Street, 16th Floor, Halifax, Nova Scotia, Canada, B3J3K5, (877)376-9902

Canada