

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T  
(Commercial Division)

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N°: 500-11-057549-194

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

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**9227-1584 QUÉBEC INC.**

and

**9336-9262 QUÉBEC INC.**

Debtors

and

**KPMG INC.**

Monitor

and

**110302 CANADA INC.**

and

**ARTHUR H. STECKLER**

Applicants/Plan Sponsors

and

**9325-7277 QUÉBEC INC.**

Mise en cause

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**AMENDED DE BENE ESSE APPLICATION FOR AUTHORIZATION TO AMEND THE PLAN OF  
ARRANGEMENT**

(sections 7, 9 and 11 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36  
(the "CCAA" or the "Act"))

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**TO THE HONOURABLE PHILIPPE BÉLANGER, J.S.C., SITTING IN AND FOR THE COMMERCIAL  
DIVISION IN THE JUDICIAL DISTRICT OF MONTRÉAL, THE APPLICANTS RESPECTFULLY SUBMIT  
AS FOLLOWS:**

**I. ORDER SOUGHT**

1. By the present application (the "**Application**"), the Applicants 110302 Canada inc. ("**110302**") and Mr. Arthur H. Steckler ("**Mr. Steckler**", together with 110302 the "**Applicants**" or the "**Plan Sponsors**") seek this Court's authorization, to the extent necessary, to amend the Plan of Compromise and Arrangement filed by the Applicants (as amended, the "**Steckler Plan**") with respect to the Debtor 9227-1584 Québec inc. ("**9227**" or the "**Company**") under the CCAA., which

plan has already been approved by the requisite majorities of Creditors. A copy of the Steckler Plan, as approved by this Court and by the Creditors is communicated as **Exhibit R-1**.

2. A copy of the Steckler Plan containing the amendments being the subject of the present application (the "**Amendments**") is communicated as **Exhibit R-2** (the "**Re-Stated Re-Amended Steckler Plan**"). A "redline" indicating the modifications to the Steckler Plan is communicated as **Exhibit R-2-A**.
3. All capitalized terms not otherwise defined in this Application have the meaning ascribed to them in the Re-Stated and Re-Amended Steckler Plan, Exhibit R-2.

## **II. PROCEDURAL BACKGROUND – OVERVIEW OF THE CCAA PROCEEDINGS**

4. Additional background as to the history between the parties, the corporate structure and other factors leading to the insolvency of 9227 is more fully chronicled in the *Originating Motion for the Appointment of an Administrative Agent and Manager and for the Issuance of Other Orders for Redress* filed on or around October 8, 2019 in the Court file bearing number 500-11-057283-190, communicated as **Exhibit R-3** (the "**Originating Motion**"), which Originating Motion was granted as per its conclusions by the Honourable Justice Castonguay, J.S.C., on October 8, 2019, a copy of which is communicated *en liasse* with Exhibit R-3.
5. For the purposes hereof, Applicants allege and refer the Court to each of the Monitor's Reports and to each of the proceedings, motion materials and Orders that appear on the Monitor's website at <https://home.kpmg/ca/en/home/services/advisory/deal-advisory/creditorlinks/quebec-inc-9227-1584-and-9336-9262.html> and/or that appear on the *plumitif* (court docket) in respect of these proceedings bearing number 500-11-057549-194 communicated herewith as **Exhibit R-4**, as if herein recited and communicated at length. Any specific document requested by any Party will be communicated upon request.
6. On October 22, 2019, this Court, per the Honourable Peter Kalichman, J.S.C. (as he then was), issued an Initial Order pursuant to the CCAA (as rectified on November 25, 2019, amended and restated on December 22, 2019 and January 20, 2020, and corrected on March 20, 2020, the "**Initial Order**"), as appears from the Court record herein.
7. Pursuant to the Initial Order, KPMG was appointed Monitor of both 9227 and 9336, the whole as appears from the Court record herein.
8. On January 30, 2020, this Court authorized 9227 to borrow from Caisse Desjardins de Terrebonne (the "**Caisse**") up to \$3.3 million (the "**DIP Loan**") on an interim basis secured by a superiority charge of \$5 million (the "**DIP Charge**") as appears from the Court record.
9. On May 21, 2020, this Court issued a Claims Procedure Order, *inter alia*, approving a claims procedure for the filing, review, termination and adjudication of claims against the Debtors and their respective directors and officers (the "**Claims Procedural Order**"), as appears from the Court record.
10. On August 11, 2020, the Monitor, on behalf of 9227 and pursuant to its powers under the Initial Order, filed a motion for declaratory judgment, safeguard order, and Paulian action, wherein, the Monitor seeks the nullity of various transactions concluded between, on the one hand, Mr. Marc-André Nadon ("**Mr. Nadon**") and his companies (including 9325-7277 Québec Inc. and

9345-7406 Québec Inc.), and, on the other hand, certain entities under the direction or control of Mr. Jean Pessoa, a business associate of Mr. Nadon, namely 9361-4048 Québec Inc. (“**JMJ Immobilier**”), 9344-8181 Québec Inc. (“**PUC**”) and 9173-5670 Québec Inc., and that certain assets, including share capital and moneys, be repatriated into the patrimony of 9227 (“**Motion for Declaratory Judgment**”), which proceedings are contested and pending.

11. On August 28, 2020, the Monitor, on behalf of 9227 and pursuant to its powers under the Initial Order, filed a Motion for Directions in respect of the interpretation to be made of certain contracts concluded with PUC, including in respect of contracts affecting the Disclaimed Lots, wherein the Monitor is seeking, *inter alia*, a declaration that PUC is indebted towards 9227 in the approximate amount of \$490,130, plus interest at the rate of 4% per annum (the “**Motion for Directions**”), which proceedings are contested and pending.
12. On September 4, 2020, the Monitor, on behalf of 9227 and pursuant to its powers under the Initial Order, filed a motion for payment of overdue rent and in respect of other rights and obligations relating to contract of lease entered into with Groupe XPansion Inc., an entity also under the direction or control of Mr. Jean Pessoa, wherein the Monitor, on behalf of 9227, is claiming the payment of the approximate sum of \$648,097 (the “**Motion for Unpaid Rent**”, and, together with the Motion for Declaratory Judgment and the Motion for Directions, the “**9227 Retained Claims**”), which proceedings are contested and pending.
13. On November 2, 2020 the Monitor issued a Notice of Disclaimer pursuant to subsection 32(1) CCAA (“**Notice of Disclaimer**”) in respect of a certain offer to purchase entered into on or around August 17, 2016 (the “**Disclaimed Offer to Purchase**”), between 9227, on one hand, and PUC, on the other hand, in respect of lots 6 073 693 (Lot L), 6 073 665 (Lot J), and 6 073 694 (Lot M), (collectively, the “**Disclaimed Lots**”).
14. On or around November 26, 2020, PUC filed a contestation of the Monitor’s Notice of Disclaimer in respect of the Disclaimed Offer to Purchase, and on January 27, 2021, filed an amended contestation (the “**Disclaimer Contestation**” and, together with the Partition Motion, the “**Outstanding Litigation**”). These proceedings are contested and pending.
15. On March 25, 2021, the Applicants filed the Steckler Plan, which was restated on March 31, 2021, and later amended on April 30, 2021.
16. On March 31, 2021, this Court (per the Honourable Peter Kalichman, J.S.C., as he then was), approved the Steckler Plan for filing and for purposes of submitting it to a vote at the Creditors’ Meeting. At the March 31, 2021 hearing, Justice Kalichman announced that the Court planned to proceed on the matters of the Outstanding Litigation and the 9227 Retained Claims this summer (i.e. June through August 2021).
17. On or around April 9, 2021, seemingly by way of offering to settle the Partition Motion, 9325 communicated a “with prejudice” offer to 110302, by which it offered, *inter alia*, to sell and assign “all of the rights, actions, interests and titles in the Square Candiac Project” to 110302 in consideration of the payment by 110302 of the sum of \$3,000,000 to 9325, as appears from the correspondence from Me Cléroux to Me Sorek dated April 9, 2021, **Exhibit R-5**.
18. On April 12, 2021, the Nadon Group and the Pessoa Group simultaneously sent two separate “with prejudice” offers (filed as Exhibit R-3 in support of the Nadon Application, as hereinafter defined)

to the Sponsors and to the Monitor, respectively, by which, collectively, they offered to purchase the Disclaimed Lots, Lot C, and Lot D<sup>1</sup>, and to settle the Outstanding Litigation and the 9227 Retained Claims, under certain terms that were rejected by the Monitor and the Sponsors, the whole as appears from the Court record.

19. In parallel, the Pessoa-Nadon Group also issued a demand letter to the Monitor, attempting to compel the Company to accept an offer received from a third party for Lots A and B (Secteur 5), the whole as appears from a copy of the demand letter dated April 12, 2021, **Exhibit R-6**.
20. On April 13, 2021, this Court rendered a decision in respect of the Motion for Declaratory Judgment, the Motion for Directions and the Motion for Unpaid Rent filed by the Monitor. This Court dismissed the Motions of the Pessoa-Nadon Group, which sought to (i) stay / suspend the litigation pertaining to the 9227 Retained Claims and the Notice of Disclaimer, or, alternatively, (ii) split those proceedings and extract them from these CCAA Proceedings.
21. In effect, as contemplated at the hearing of March 31, 2021, Justice Kalichman ordered that the Monitor's investigation into the affairs of the Pessoa-Nadon Group may continue, allowed the prosecution of the 9227 Retained Claims, and allowed the continuation of the Disclaimer Contestation.
22. On April 15, 2021, the Nadon Group filed a *Motion to Authorize the Filing of a Plan* (the "**Nadon Application**"), to which was annexed a purported plan of compromising arrangement (the "**Nadon Plan**"), as appears from the Court record. The Nadon Plan was later amended on May 12, 2021.
23. On April 21, 2021, this Court accepted the Nadon Plan for filing (the Steckler Plan and the Nadon Plan being collectively referred to as the "**Plans**"), as appears from the minutes of the hearing held and decision rendered on April 21, 2021, **Exhibit R-7**;
24. On April 28, 2021, this Court issued the Plan Filing and Creditor's Meeting Procedure Order, which order was rectified on April 29, 2021, as appears from the minutes of the hearing and decision, **Exhibit R-8**, *en liasse*.
25. On May 12, 2021, the Monitor held the Meeting of Creditors virtually (by videoconference) for the purpose of voting on the Plans.
26. The results of the vote at the Creditors' meeting are as follows, as appears from the vote tally prepared by the Monitor, **Exhibit R-9**:
  - (a) **95%** in value (\$3 837 459 out of \$4 060 577) of the Proofs of Claim of the Affected Creditors present at the Creditors' Meeting (in person or by proxy) **voted to approve the Steckler Plan**;
  - (b) **76%** (13 out of 17) of the Affected Creditors present at the Creditors' Meeting (in person or by proxy) **voted to approve the Steckler Plan**;

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<sup>1</sup> The designation follows that which is provided in the plan of the Square Candiac Project already filed into the Court record (see for example Exhibit R-2 in support of the Nadon Application). Lots C and D refer to Lots # 6 022 121 and 6 022 122 of the Cadastre of Quebec, respectively.

- (c) **78%** of the Affected Creditors who were eligible to vote on the **Nadon Plan** and who were present at the Creditors' Meeting (in person or by proxy) **voted against the Nadon Plan**; and
- (d) **3% in value** (\$223 127 out of \$6 540 647) of the Proofs of Claim of the Affected Creditors present at the Creditors' Meeting (in person or by proxy) **voted in favour of the Nadon Plan**.<sup>2</sup>
27. Accordingly, the Steckler Plan was approved by the Required Majority of the Affected Creditors at the Creditors' Meeting.
28. On May 21, 2021, the Applicants filed an Application for the Issuance of Sanction Order, the whole as appears from the Court record herein.
29. [...] On June 23, 2021, in the context of a new version of the Plan which the Applicants proposed to amend, the Sponsors issued a "with prejudice" offer to the Pessoa-Nadon Group (the "**Pessoa-Nadon Offer**"), by which the Sponsors offered, subject to the Monitor's approval, to support accept that the Sponsors' Contribution be partially funded through, and that all litigation, including the 9227 Retained Claims and the Outstanding Litigation, be resolved through a global and definitive transaction (as more fully defined in the Transaction Agreement and in the Plan, the "**Acquisition**") involving the sale and transfer of all of the Lots to the Pessoa-Nadon Group in accordance with the terms and conditions which the Pessoa-Nadon Group endorsed and advocated for in the Nadon Plan. If accepted, the Pessoa-Nadon Offer was aimed at allowing the Company to expedite the distributions contemplated in the Steckler Plan, while also resolving all litigation, allow the Company to emerge from these CCAA Proceedings expeditiously, and terminate these CCAA Proceedings expeditiously;
30. [...] On June 30, 2021, further to subsequent negotiations between the Company, acting through the Monitor, the Sponsors and the Pessoa-Nadon Group, a settlement (transaction) agreement was concluded by and between the aforementioned parties. Messrs Pessoa, Nadon and Steckler also intervened in their respective personal capacities for the purposes of the said transaction agreement, a redacted copy of which is communicated herewith as **Exhibit R-11** (the "**Transaction Agreement**"), and an un-redacted copy of which will be filed under seal of confidentiality into the Court record.
31. [...].
32. [...].
33. Considering that the disbursement of the Sponsor's Contribution was contingent upon the realization of certain conditions precedent as set forth in Article 9.3 of the Steckler Plan (the "**Conditions Precedent**"), and considering the contestation announced by the Pessoa Group and the Nadon Group in respect of the Application for the Issuance of Sanction Order, this Court decided, in the context of a case management hearing, to hear the Application for the Issuance of Sanction Order, the Partition Motion, and the Disclaimer Contestation simultaneously in the context

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<sup>2</sup> It should be noted that in its Proxy and Voting Form, PUC initially classified itself as a "related party" in respect of the Nadon Group, within the meaning and for the purposes of s.4 BIA and ss. 2 and 22(3) CCAA. However, on the day prior to the Creditor's Meeting, PUC reversed course and asked the Monitor to disregard said designation by considering it as being at arms' length with the Nadon Group.

of a five-day hearing, which has now been scheduled to be held from August 22 to August 27, 2021, the whole as appears from the Court record herein.

34. Seeing as this significantly delays the payment of any distribution to creditors, the Sponsors sought and secured additional sources of financing to partially fund the Sponsors' Contribution.
35. The Sponsors are now in a position to immediately effect a partial distribution of the Sponsors' Contribution and to disburse substantial amounts corresponding to the Affected Claims, without any Conditions Precedent being attached to such interim distribution, on the sole condition that the Steckler Plan be sanctioned.
36. In light of certain new developments, and upon consultation with the Monitor, the Applicants have decided to amend the Steckler Plan so as to precipitate the payment of certain sums to all of the creditors and proceed with an interim distribution notwithstanding the pendency of the conditions precedent as contained in the Steckler Plan.
37. In addition to the foregoing, in an attempt to both further expedite the distributions to creditors and, more importantly, to offer an avenue to terminate these proceedings while settling any and all pending litigation, the Sponsors extended yet another offer to the Pessoa-Nadon Group, namely the Pessoa-Nadon Offer, on June 23, 2021, by which they offered to implement the Steckler Plan by way of a sale of all the Lots to the Pessoa-Nadon Group, and to settle all litigation (including the Outstanding Litigation and the 9227 Retained Claims), the whole as appears from Exhibit B to the Steckler Plan, as re-stated and re-amended on the date hereof.
38. It is important to note that the Pessoa-Nadon Offer, in essence proposed to or has the effect of:
  - (a) allowing the Nadon Group to settle the Partition Motion and acquire Lots C and D, on the [...] same financial terms offered by the Nadon Group itself and endorsed by the Nadon Plan;
  - (b) allowing the Pessoa Group to settle the 9227 Retained Claims and the Disclaimer Contestation on the [...] same financial terms offered by the Pessoa Group itself and endorsed by the Nadon Plan;
  - (c) allowing the Pessoa-Nadon Group to acquire Secteur 5 and the PUC Lots on the [...] same financial terms which the Pessoa-Nadon Group itself [...] advocated for and endorsed in the Nadon Plan.
- 38.1 Following negotiations to modify certain terms of the Pessoa-Nadon Offer, the parties came to an agreement, leading to the Transaction Agreement, Exhibit R-8, which is also Annex B to the Re-Amended Steckler Plan.
- 38.2 Accordingly, the Pessoa-Nadon Group essentially accepted the Pessoa-Nadon Offer and have undertaken to acquire all of the Lots (as such term is defined in the Pessoa-Nadon Offer) of the Square Candiac Project, in consideration of the terms, conditions and undertakings of the Transaction Agreement, including the payment of a purchase price which shall remain confidential.
- 38.3 The Acquisition must close no later than September 9, 2021 (the "Acquisition Closing Date"). Time is of the essence, such that in the event that the Pessoa-Nadon Group does not close by the Acquisition Closing Date, the Disclaimer Contestation will be deemed discontinued, and all litigation

and claims by and between the parties, including the Outstanding Litigation and the 9227 Retained Claims will be deemed discontinued and settled. The Company, through the Sponsors' Contribution, will then be able to proceed with the payments contemplated in the Plan, which payments must be made by September 30, 2021. Conversely, in the scenario contemplated at article 1.16 of the Transaction Agreement, i.e. that the Company refuses or fails to pass title, the parties will revert to situation that prevailed prior to the execution of the Transaction Agreement. The parties have undertaken to then deploy all efforts to set the proof and hearing before this Court for the Outstanding Litigation, the 9227 Retained Claims and any other contestations as quickly as possible and with diligence.

### **III. THE AMENDMENTS TO THE STECKLER PLAN**

#### **A. The Amendments Generally**

39. As appears from a copy of the Re-Styled and Re-Amended Steckler Plan dated June 23, 2021, the Amendments in question aim to modify the modalities of the distribution of the Sponsor's Contribution and to allow for a distribution of Sponsors' Contribution without regard for the Conditions Precedent (save for the fact that the Plan must be approved and sanctioned and the Transaction Agreement must be homologated by this Court).
40. Generally, the Sponsors now propose to:
- (a) [...] pay and discharge the full amount of the Affected Claims and Secured Claims if the Acquisition closes by the Acquisition Closing Date, within days of the said closing;
  - (b) [...] in all other cases (i.e. in the event that [...] the Acquisition does not close), to pay and discharge the full amount of the Affected Claims and Secured Claims by no later than September 30, 2021.
  - (c) [...] (except in the improbable scenario that the Monitor refuses to close the Acquisition on behalf of the Company on the Acquisition Closing Date), and in consideration of the various undertakings and conditions of the Transaction Agreement, to release and discharge all of the claims and demands they have against the Company and the Pessoa-Nadon Group, who will also provide reciprocal releases.<sup>3</sup>
41. Indeed, rather than conditioning any and all disbursements of the Sponsors' Contribution to the accomplishment or waiver of the Conditions Precedent, the Sponsors propose to disburse the Sponsor's Contribution notwithstanding the pendency of the realisation of the conditions precedent.
42. [...] As per the terms of the Amendments proposed, assuming that the Pessoa-Nadon Group proceed with the Acquisition on the Acquisition Closing Date, the Company will be in a position to pay all Affected Claims and Secured Claims within days of the Acquisition Closing Date, while also emerging, soon thereafter, from the CCAA Process with all litigation and claims having been settled, including the Outstanding Litigation and the 9227 Retained Claims.
43. As per the Amendments proposed, the balance of all the Provable Claims will be paid [...], regardless of the outcome of the Acquisition, no later than September 30, 2021.

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<sup>3</sup> [...].

44. The amendments therefore only aim to improve the terms and conditions Steckler Plan; there are no material modifications of the terms and conditions originally proposed in the Steckler Plan.
45. The support of the overwhelming majority of Creditors in respect of the Steckler Plan prior to the present Amendments means, *a fortiori*, that such support would only be strengthened if the Creditors were asked to vote on the Re-Stated and Re-Amended Plan. In fact, it stands to reason<sup>4</sup> that even the few Creditors who voted against the Steckler Plan might have voted to support the Plan had it contained the present Amendments, which aim to ensure that the payments to creditors are not subsumed to the Conditions Precedents and to expedite payments.

**B. Specific terms of the Re-Stated and Re-Amended Plan**

46. [...] The Amendments are aimed at further facilitating the Company's emergence from these CCAA Proceedings, and potentially expediting yet further the Distribution Date, is the addition of the Pessoa-Nadon Offer.
47. Indeed, considering:
- (a) That all prior offers made by the Sponsors and by the Monitor have been refused by the Pessoa-Group;
  - (b) The Sponsors are shouldering 75% of all the fees and costs associated with these CCAA Proceedings;
  - (c) the myriad contestations and motions [...] announced by the Pessoa-Nadon Group, [...];
  - (d) the costs associated with the sundry motions filed or contested by the Pessoa-Nadon Group, including the fact that the proof and hearing on the Outstanding Litigation alone is scheduled to take place over five (5) days in more than eight (8) weeks from now;
  - (e) that, as a result of these contestations and delays, the Company has lost yet another summer and opportunities to advance the development of the Project;
  - (f) that, in the last few weeks, the Nadon Group has asked the Sponsors to make an offer that would enable the Nadon Group to purchase Secteur 5 and effect a partition;

the Sponsors [...] decided to make yet another offer to the Pessoa-Nadon Group.

48. The Pessoa-Nadon Offer was therefore submitted on June 23, 2021. [...]. Further to discussions held in the days following the communication of the Pessoa-Nadon Offer, the Company, acting through the Monitor, as well as the Pessoa-Nadon Group and the Steckler Group, the Transaction Agreement was concluded. It is an essential condition of the Transaction Agreement and of the Steckler Plan that the Transaction Agreement be homologated by this Court.

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<sup>4</sup> Assuming the motives predicated the vote of certain creditors against the Steckler Plan were otherwise rational, commercially-minded and made for a proper purpose.



49. The Acquisition [...], if completed by the Acquisition Closing Date, will enable the implementation of the Steckler Plan more expeditiously, and will simultaneously allow for all of the following to occur by the [...] Distribution Date (as such terms is defined in the Steckler Plan [...]) :
- (a) Allow the payment of all Claims, including all Secured Claims by the [...] Distribution Date;
  - (b) Allow for or facilitate the satisfaction or waiver of all the Conditions Precedent, thereby allowing the implementation of the Steckler Plan by the end of September [...] 2021;
  - (c) Settle all outstanding litigation and claims, in full.
  - (d) Terminate these CCAA Proceedings [...] in the Fall of 2021.
50. The Pessoa-Nadon Offer is not a material modification to the Plan: it is an *alternative* means of partially funding the Sponsors' Contribution. It does not cause any delays nor affect in any way the rights or claims of any Creditors.
51. To the contrary, if accepted and implemented, the Pessoa-Nadon Offer will allow these proceedings to terminate [...] sooner and allow the creditors to be paid even prior to September 30, 2021, or at the latest on such date, regardless of the outcome of the Pessoa-Nadon Offer.
52. If, alternatively, the [...] Acquisition does not close by the Acquisition Closing Date, the creditors are in the same position as they were when they approved the Plan, but will still see their position improved by these Amendments, as the [...] Distribution will occur without regard for the Conditions Precedent, so long as the Plan is sanctioned and the Transaction Agreement homologated.
53. If, alternatively, [...] t the Pessoa-Nadon Group fails to close [...] by the Acquisition Closing Date [...] (namely September 9, 2021), the Disclaimer Contestation will be deemed discontinued by Group Pessoa, and the Nadon Group will be entitled only to the \$3,000,000 partition share which it has itself offered.

### **C. Specific terms of the Re-Stated and Re-Amended Plan**

54. As a result of the unexpected delays incurred in this matter since the filing of the Steckler Plan in March 2021, the Outside Date also needed to be amended seeing as the date of June 30, 2021 appears impracticable, especially in light of the myriad contestations announced by Pessoa Group and Nadon Group.
55. Accordingly, the Outside Date has now been amended to refer to September 30, 2021, the whole as appears from the Re-Stated and Re-Amended Steckler Plan.
56. The Commitment Letter received by the Sponsors allows for an extension of the financial commitment to allow for such an extension.
57. The Sponsors hereby communicate to the Court, for the Supervisory Judge's eyes only, a copy of the Commitment Letter executed by the Sponsors and the financial institution in question, as **Exhibit R-10 (under seal and for the Judge's eyes only)**.
58. It is to be noted that the Sponsors have disbursed substantial sums of money to the financial institution in question in order to obtain the said commitment letter and there is no reason to

consider that the terms of commitment letter will be extended beyond September 2021. It is therefore imperative that the sanction order be entered prior to the Outside Date.

59. [...].
60. [...] If necessary, i.e.: in the event that the Acquisition does not close on the Acquisition Closing Date, the Sponsors will advance the sums required to make the payments contemplated in the Steckler Plan, [...].
61. Finally, in light of the rapidly evolving nature of the circumstances, including the fact the Pessoa-Nadon Offer was devised concurrently with previously-contemplated amendments, the Sponsors are reserving the right to, and have contemplated in the Plan that the Plan may be Re-Stated and Re-Amended prior to its implementation for the purposes of correcting incongruities, especially as these may arise or be noted in the context of the Plan's implementation or, if applicable, in the context of the implementation of the consummation of the Acquisition [...].

#### **IV. CONCLUSIONS**

62. As appears from the foregoing and from the Re-Stated and Re-Amended Steckler Plan, Exhibit R-2, the purpose of the amendments proposed by the Applicants are to augment and improve the terms and conditions of the Steckler Plan in favor of the Creditors.
63. No prejudice will be caused to any party as a result of the amendments proposed; to the contrary, the amendments proposed will expedite the payment of sums to all of the Affected Creditors by [...] notwithstanding the pendency of the majority of the conditions precedent.
64. In essence, the Applicants are partially waiving the conditions precedent so as to enable distributions to Creditors [...] notwithstanding that the conditions precedent will have not yet been fulfilled or waived.
65. It is respectfully submitted that it is in the interest of justice, of all the stakeholders and in the interest of the Company, that the amendments be approved and that the Sponsors be allowed to implement the Re-Stated and Re-Amended Steckler Plan, to the extent that it may be sanctioned by this Court.
66. As regards the beneficial owners of the assets of 9227, namely 110302 Canada Inc. and Nadon Group, it should be noted that:
  - (a) pursuant to the Re-Stated and Re-Amended Steckler Plan, neither 110302 Canada Inc. nor any creditor related to Group Steckler is receiving any interim distribution or payment in respect of the payments made or distributions received pursuant to the Steckler Plan; and
  - (b) [...]
67. In light of the foregoing, to the extent this Court's permission is required to amend the plan as proposed so as to facilitate and expedite distributions, it is submitted that such permission to amend be granted by this Court. Moreover, considering the costs and delays associated with a new meeting of the creditors, and considering especially that the consent and approval of the creditors was already overwhelmingly obtained in respect of a plan with inferior commercial terms.

**WHEREFORE, MAY IT PLEASE THIS COURT TO:**

**DE BENE ESSE, GRANT** the present Amended *de bene esse* Application for Authorization to Amend the Plan of Arrangement;

**DE BENE ESSE, AUTHORIZE** the Amendments as proposed in the Re-Stated and Re-Amended Steckler Plan and as indicated in Exhibit R-2-A, and **DECLARE** that a further meeting of the Creditors is not necessary for the Re-Stated and Re-Amended Steckler Plan to be deemed to have been approved by the required majority of Creditors within the meaning of the Steckler Plan and the Act.

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

Montréal, July 12, 2021



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**SWORN STATEMENT**

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I, the undersigned, **MONTY STECKLER**, lawyer and businessman, domiciled for purposes hereof at 4360 Chemin de la Côte-de-Liesse, Suite 200, in the City of Mount-Royal, District of Montreal, Province of Quebec, H4N 2P7, solemnly declare as follows:

1. I am a duly authorized representative of 110302 Canada Inc.;
2. All facts alleged in the present *De Bene Esse Application for Authorization to Amend the Plan of Arrangement* are true.

AND I HAVE SIGNED:



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**MONTY STECKLER**

**SOLEMNLY DECLARED** before me by Zoom Videoconference. The Affiant is located in Montréal, Province of Québec, and the commissioner of oaths is located in the city of Verdun, Province of Québec, this 12<sup>th</sup> day of July, 2021.



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**Dimitri Ghneim #226218**  
Commissioner for oaths for the Province of Québec



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**NOTICE OF PRESENTATION**

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**TO: SERVICE LIST**

**TAKE NOTICE** that the present *De Bene Esse Application for Authorization to Amend the Plan of Arrangement* will be presented for adjudication **virtually** before the Honourable Philippe Bélanger, J.S.C., of the Superior Court, sitting in commercial division for the district of Montréal on **July 13, 2021 in room 16.12 at 9:00 a.m.**

<b>16.12</b>	<p><b><u><a href="#">Rejoindre la réunion Microsoft Teams</a></u></b> <a href="#">+1 581-319-2194</a> Canada, Québec (Numéro payant) <a href="#">(833) 450-1741</a> Canada (Numéro gratuit) ID de conférence : 559 596 749# <a href="#">Numéros locaux</a>   <a href="#">Réinitialiser le code confidentiel</a>   <a href="#">En savoir plus sur Teams</a>   <a href="#">Options de réunion</a> Rejoindre à l'aide d'un dispositif de vidéoconférence <a href="mailto:teams@teams.justice.gouv.qc.ca">teams@teams.justice.gouv.qc.ca</a> ID de la conférence VTC : 1158898292 <a href="#">Autres instructions relatives à la numérotation VTC</a></p>
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**DO GOVERN YOURSELVES ACCORDINGLY.**

Montréal, July 12, 2021

*Dentons Canada LLP*

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**DENTONS CANADA LLP**

Attorneys for the Applicants, 110302 Canada Inc. and Arthur H. Steckler

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Our reference: 579544-1

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Commercial Division)

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N°: 500-11-057549-194

IN THE MATTER OF THE PLAN OF ARRANGEMENT  
OF:

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**9227-1584 QUÉBEC INC.**

and

**9336-9262 QUÉBEC INC.**

Debtors

and

**KPMG INC.**

Monitor

and

**110302 CANADA INC.**

and

**ARTHUR H. STECKLER**

Applicants/Plan Sponsors

and

**9325-7277 QUÉBEC INC.**

Mise en cause

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**LIST OF EXHIBITS IN SUPPORT OF *DE BENE ESSE* APPLICATION FOR  
AUTHORIZATION TO AMEND THE PLAN OF ARRANGEMENT**

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<b>Exhibit R-1:</b>	Draft Order;
<b>Exhibit R-2:</b>	Re-Stated and Re-Amended Steckler Plan;
<b>Exhibit R-2a:</b>	"Redline" indicating modifications to the Steckler Plan;
<b>Exhibit R-3:</b>	<i>Originating Motion for the Appointment of an Administrative Agent and Manager and for the Issuance of Other Orders for Redress</i> filed on or around October 8,

	2019 in the Court file bearing number 500-11-057283-190, and ensuing Order of the Honourable Justice Castonguay, J.S.C., on October 8, 2019, <i>en liasse</i> ;
<b>Exhibit R-4:</b>	Monitor's Reports and to each of the proceedings, motion materials and Orders that appear on the Monitor's website and/or the <i>plumitif</i> (court docket) in respect of these proceedings bearing number 500-11-057549-194;
<b>Exhibit R-5:</b>	Correspondence from Me Cleroux to Me Sorek dated April 9, 2021;
<b>Exhibit R-6 (redacted):</b>	Demand letter from counsel for Groupe Nadon to the Monitor dated April 12, 2021;
<b>Exhibit R-7:</b>	Minutes of the hearing held and decision rendered on April 21, 2021;
<b>Exhibit R-8:</b>	Minutes of the hearing held and decision rendered on April 28, 2021 and rectified on April 29, 2021, <i>en liasse</i> ;
<b>Exhibit R-9:</b>	Monitor's vote tally at Creditors' meeting held on May 12, 2021;
<b>Exhibit R-10:</b>	Copy of the Commitment Letter executed by the Sponsors and the financial institution <b>(under seal and for the Judge's eyes only)</b> ; and
<b>Exhibit R-11:</b>	Transaction Agreement dated June 30, 2021 (redacted).

A copy of these exhibits is available upon request.

Montreal, July 12, 2021



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**DENTONS CANADA LLP**

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Fax: 514 866 2241  
Our reference: 579544-1

**No. 500-11-057549-194**

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SUPERIOR COURT (Commercial Division)  
DISTRICT OF **MONTREAL**

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

**9227-1584 QUÉBEC INC.**  
and  
**9336-9262 QUÉBEC INC.**

Debtors

-and-  
**KPMG INC.**

Monitor

-and-  
**110302 CANADA INC.**  
and  
**ARTHUR H. STECKLER**

Applicants/Plan Sponsors

And  
**9325-7277 QUÉBEC INC.**

Mise en cause

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**AMENDED *DE BENE ESSE* APPLICATION FOR  
AUTHORIZATION TO AMEND THE PLAN OF  
ARRANGEMENT, NOTICE OF PRESENTATION and  
LIST OF EXHIBITS**

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ORIGINAL

File: 579544-1

**大成 DENTONS**

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