

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-057679-199

SUPERIOR COURT
Commercial Division

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

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Impleaded Party

- and -

FORTRESS GLOBAL ENTERPRISES INC.

- and -

FORTRESS SPECIALTY CELLULOSE INC.

- and -

FORTRESS BIOENERGY LTD.

- and -

FORTRESS XYLITOL INC.

- and -

9217-6536 QUÉBEC INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

Monitor

APPLICATION FOR THE ISSUANCE OF AN ORDER
EXTENDING THE STAY PERIOD
(Sections 11.02(2) of the *Companies' Creditors Arrangement Act*)

TO THE HONOURABLE MARIE-ANNE PAQUETTE OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE APPLICANT, INVESTISSEMENT QUÉBEC, RESPECTFULLY SUBMITS THE FOLLOWING:

1. ORDER SOUGHT

1. The Applicant, Investissement Québec ("**IQ**") in its capacity as interim lender and secured creditor of the Debtors, hereby seeks the issuance of an order substantially in the form of the draft order communicated herewith as **Exhibit R-1**:
 - (a) extending the Stay Period (as defined below) until November 25, 2022; and
 - (b) approving the activities of the Monitor (as defined below) as described in its Sixteenth report to this Court.

2. PROCEDURAL BACKGROUND

2. On December 13, 2019, IQ and Fiera Private Debt Inc. ("**Fiera**"), in their capacity as principal secured creditors of the Debtors, filed a joint application in respect of the Debtors pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), entitled *Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order, a Receivership Order and a Claims Process Order* (the "**Initial Application**").
3. On December 16, 2019, the Initial Application filed by IQ and Fiera was partially granted by the Honourable Marie-Anne Paquette, j.c.s., who rendered, on the same day, a first day initial order (the "**First Day Order**"), pursuant to which, *inter alia*:
 - (a) Deloitte Restructuring Ing. ("**Deloitte**") was appointed as monitor of the Debtors (in such capacity, the "**Monitor**");
 - (b) all claims against the Debtors, their properties and their directors and officers were stayed (the "**Stay**") until December 26, 2019 (the "**Stay Period**"); and
 - (c) the Debtors were authorized to borrow from IQ an amount of up to \$1,000,000 on the terms and conditions of the Interim Financing Term Sheet (the "**Interim Financing Term Sheet**"), which was to be secured by a super-priority charge and security over all of the assets of each of the Debtors in the aggregate amount of \$1,200,000 (the "**Interim Lender Charge**").

4. On December 16, 2019, the Court also rendered an order appointing Deloitte as receiver to the Debtors for the sole purpose of allowing their respective employees from benefiting from those payments provided under the *Wage Earner Protection Program Act* (S.C. 2005, c. 47, s. 1).
5. On December 19, 2020, IQ and Fiera filed a motion requesting the issuance of an Amended First Day Order which was granted on December 26, 2020, as appears from the Court record, and which provided for, *inter alia*:
 - (a) an extension of the Stay Period until January 10, 2020;
 - (b) the authorization for the Debtors to borrow from IQ an amount of up to \$1,500,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$1,800,000; and
 - (c) the authorization for the Debtors (with the prior approval of the Monitor), or the Monitor (on behalf of the Debtors), to pay amounts owing for goods or services actually supplied to the Debtors either prior to or after the date of this Order up to a maximum of \$250,000, to the extent that, in the opinion of the Monitor, the supplier was essential to the business and ongoing operations of the Debtors.
6. On January 10, 2020, the Court granted the Initial Application filed by IQ and Fiera in its entirety, and rendered, as appears from the Court record:
 - (a) an Amended and Restated Initial Order which provided, *inter alia*:
 - (i) an extension of the Stay Period until May 2, 2020; and
 - (ii) the authorization for the Debtors to borrow from IQ an amount of up to \$6,000,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$7,200,000; and
 - (iii) an increase in the Monitor's powers, including the powers to conduct and control the financial affairs and operations of the Debtors, and carry on the business of the Debtors;
 - (b) a Claims Procedure Order which established a "*Claims Bar Date*" of March 16, 2020 (except for restructuring claims).
7. Since then, the Court has rendered several other orders, including:
 - (a) orders extending the Stay Period (which is currently set to expire on October 14, 2022); and
 - (b) orders approving a First Amending Agreement, a Second Amending Agreement, a Third Amending Agreement, a Fourth Amending Agreement and a Fifth Amending Agreement to the Interim Financing Term Sheet, providing for an increase to the Facility Amount (as defined in the Interim Financing Agreement) to

a total amount of 30 800 000\$, and a corresponding increase to the Interim Lender Charge to a total amount of 36 960 000\$.

3. SUMMARY OF THE DEBTORS' RESTRUCTURING EFFORTS TO DATE

A. The Debtors' Operations

8. Since the issuance of the Amended and Restated Initial Order, the Monitor, in accordance with the powers granted to it by the Court, worked with the Debtors, in consultation with IQ, to reduce their operations to a bare minimum in order to minimize their operating costs, until the demand for pulp and related products increased in the global market.
9. In this context, it was decided that:
 - (a) Fortress Specialty Cellulose Inc.'s ("**Fortress Specialty**") specialty cellulose mill located in Thurso, Québec (the "**Pulp Mill**") would be idled indefinitely so as to minimize operating costs while market conditions improved; and
 - (b) Fortress Bioenergy Ltd.'s ("**Fortress Bioenergy**", together with Fortress Specialty, "**Fortress**") cogeneration facility (the "**Cogeneration Facility**") would continue to operate, but at a substantially reduced production rate.
10. On March 24, 2020, the Quebec Government issued a decree ordering the closure of all non-essential businesses in Quebec which prompted the temporary shutdown of the Cogeneration Facility, which was intended to take place, in any event, a few weeks later given low demand for electricity and the fact that the Pulp Mill would not require to be heated during the spring and summer months.
11. As non-essential businesses gradually reopened and the market price for dissolving pulp increased, Fortress, under the supervision and oversight of the Monitor, proceeded to restart its Cogeneration Facility between the fall of 2020 until the spring of 2021, with a view to preserve the value of Fortress' assets and maximize its revenues.
12. As the market price for dissolving pulp continued to remain robust,¹ Fortress, under the supervision and oversight of the Monitor, proceeded to restart the Cogeneration Facility during the fall of 2021 until the spring of 2022, once again with a view to preserve the value of Fortress' assets, maximize its revenues and, ultimately, increase its chances of closing a transaction with a purchaser willing to acquire Fortress' assets, including its Cogeneration Facility, and, hopefully, continue its operations as a going concern.

¹ In December 2019, dissolving pulp was sold at market price of US\$640 per metric ton, whereas in the first half of 2021, the market price for dissolving pulp went up to US\$1,100 per metric ton. Today, the market price for dissolving pulp now ranges between US\$900 to \$US925 per metric ton.

B. The Pre-Filing Solicitation Efforts

13. As previously discussed in IQ and Fiera's Initial Application, between August and November 2019 (i.e. prior to the issuance of the Initial Order), a sale and investment solicitation process had been conducted by the Debtors with the assistance of its then financial advisor (and in consultation with IQ and Deloitte).
14. Despite these efforts, no offer or indication of interest or other proposal had been submitted to the Debtors at that time.

C. The Post-Filing Solicitation Efforts

15. Since the commencement of these CCAA proceedings, the Debtors and the Monitor, in consultation with IQ and Fiera, have had discussions with various parties on an informal basis regarding a potential transaction which could allow the continuation of the Debtors' operations.
16. On September 3, 2020, the Monitor received an offer from one of these parties for the acquisition of the Cogeneration Facility which was shared with IQ and Fiera and subsequently refused. The Monitor has also received a draft letter of intention for the same facility, which was also shared with IQ and Fiera, and subsequently refused.
17. In 2021, the Debtors and the Monitor continued to have active discussions with various interested parties with a view of securing a binding offer with a party willing to continue the operations of the Debtors as a going concern.
18. Despite these continued efforts, no such binding offer was agreed upon.

D. The August 2021 SISP

19. In late July of 2021, the Monitor met with the respective representatives and counsel of IQ and Fiera to discuss the status of this file as well as the next steps.
20. During such meeting and in the discussions which followed such meeting, it was agreed that given the advantageous market price of dissolving pulp, it would be appropriate at that time to establish a formal deadline for the submission of letters of intent as well as the terms and conditions in connection with the process for the acquisition of the Debtors' business and assets (the "**SISP**").
21. As part of the SISP, the Monitor would communicate with a variety of potentially interested parties, including parties that had previously manifested some interest in acquiring the Debtors' business and assets, parties potentially interested in a going concern transaction and parties potentially interested in submitting liquidation offers whereby the Debtors' assets would be decommissioned and dismantled.
22. Accordingly, the Monitor, in consultation with IQ and Fiera, prepared a list of twenty-two (22) potentially interested parties to whom the Monitor would reach out to.
23. On August 4, 2021, the Monitor sent to the above parties solicitation materials and advised them that offers should be submitted to the Monitor by no later than September 15, 2021 (the "**Bid Deadline**").

24. Several offers (the “**Offers**”) from various parties (collectively, the “**Bidders**”) were received by the Bid Deadline. These included going concern offers from strategic parties as well as liquidation bids.
25. On September 17, 2021, the Monitor presented a summary of the Offers to IQ and Fiera.
26. Since several of the Offers contained conditions relating to IQ and the Québec government (including requests for financial support), IQ, together with the Monitor, proceeded with a detailed review of each and every one of these Offers in order to assess their respective viability and to evaluate and quantify the various conditions set out thereunder, in order to ultimately determine whether or not a transaction could be successfully negotiated and implemented.
27. At that time, given the nature of these conditions, IQ expected that the completion of such transaction (if possible) could take several months.
28. In late 2021, IQ and the Monitor determined that it would be appropriate to focus their discussions with one of the Bidders (the “**Original Potential Purchaser**”) and to evaluate such Original Potential Purchaser’s ability to implement a project involving the restart of Fortress’ Pulp Mill and Cogeneration Facility (the “**Original Proposed Project**”).
29. As such, discussions and meetings have been held between, *inter alia*, this Original Potential Purchaser, the Monitor, IQ as well as other governmental entities to clarify its offer, negotiate certain improvements to same and ultimately discuss the path going forward in order to properly assess the Original Potential Purchaser’s Original Proposed Project and determine how such project could be implemented.
30. In this context, the parties namely discussed the terms and conditions which would be required to be met in order to complete a transaction and implement the Original Proposed Project.
31. In addition to discussing the financial terms of such transaction and the manner in which the Original Proposed Project could be implemented, the Original Potential Purchaser, IQ and the Monitor have also discussed the engagement by the Monitor of a third-party consultant which would proceed with an in-depth review of such the Original Proposed Project and conduct feasibility studies relating to same (in order to validate the viability and the technical and financial feasibility of the Original Proposed Project), identify the areas of risks relating to same and obtain such third-party consultant’s recommendations. All parties agreed at that time that the preparation of a feasibility report by such third-party consultant constituted a critical step in moving forward with any transaction with the Original Potential Purchaser.
32. Unfortunately, and despite the significant efforts from all parties involved, it became clear that certain conditions relating to the Original Proposed Project and the required participation from the Quebec government in such project would not be met.
33. Accordingly, by the end of March 2022, the Quebec government notified the Original Potential Purchaser that it would not be in a position to pursue a transaction with such party in connection with the Original Proposed Project.

E. The Current Discussions With Potential Purchasers

35. Despite the above set-back, Fortress, together with the support of the Quebec government, and the assistance of the Monitor, has continued to discuss with other parties other potential transactions and projects involving the acquisition of Fortress' assets.
36. However, as it has been the case from the beginning, given that there was no certainty as to whether or not a viable transaction or project could be implemented, despite the continued efforts of all parties involved in this matter, a decision was taken to gradually implement a "**Cold Idle Scenario**", as further described in the Monitor's Sixteenth Report.
37. The purpose of gradually implementing such Cold Idle Scenario was to allow Fortress to significantly reduce its operating costs and expenses, while it continued to work with the Quebec government to determine the eventual path forward, and, at the same time, allow it to protect and preserve any remaining value for its assets for any future transaction or project, as the case may be. In addition, as part of the Cold Idle Scenario, Fortress would provide some assistance to the City of Thurso for the treatment of its wastewater and plan for environmental remediation of the site, which has remained on-going over the course of the past few months.
38. Despite the gradual implementation of the Cold Idle Scenario, discussions and meetings have continued to be held in parallel between, on the one hand, Fortress, the Monitor and the Quebec government, and, on the other hand, certain parties that had previously shown interest in potentially implementing a transaction in connection with Fortress' assets, as well as additional new parties.
39. On September 30, 2022, Fortress and the Monitor received a non-binding letter of intent, together with a business plan, which is currently being reviewed.
40. The Monitor has also been advised by other parties that they could also potentially submit their own letter of intent and/or business plan over the course of the next few weeks, which would set forth in further details their proposal and intentions with regards to a potential transaction involving Fortress' assets.

F. Fortress' Claim Against Les Pompes Goulds

41. As previously discussed in prior applications to the Court, Fortress is party to certain litigation proceedings involving Les Pompes Gould Inc. ("**Pompes Gould**") in which Fortress claims from the latter damages in an amount of approximately \$17 million.
42. On February 11, 2022, this Court rendered an order essentially approving a Litigation Funding Agreement entered into between Fortress, the Monitor and Omni Bridgeway (Fund 5) Canada Investments Limited.
43. IQ understands that in light of the above order, Fortress has taken the necessary steps to pursue its damage claim against Pompes Gould.

5. RELIEF SOUGHT: EXTENSION OF THE STAY PERIOD

44. As previously mentioned, the Stay Period is currently set to expire on October 14, 2022.
45. Given the above, it is hereby requested that the Stay Period be extended up to and including November 25, 2022.
46. While the restructuring and/or sale of Fortress has proven to be lengthier and much more challenging than initially contemplated, IQ requests a short extension of the Stay Period in order to:
 - (a) allow Fortress, the Monitor, IQ and the Quebec government to review the letter of intent and business plan recently submitted to Fortress and to the Monitor, as well as any other offers which might be submitted in the next few weeks; and
 - (b) allow IQ, together with the Quebec government, to assess, in parallel, its remaining options available in the circumstances and the next steps.
47. At this stage, the only other potential alternatives are to “*transform*” or “*transfer*” these CCAA proceedings into proceedings under the Bankruptcy and Insolvency Act (either receivership proceedings or bankruptcy proceedings), which would not change the current situation and challenges which Fortress and its stakeholders are currently facing, but would, however, require additional filing of court materials, reports and associated costs and expenses.
48. IQ understands that both Fortress and the Monitor also believe that the maintenance of these CCAA proceedings remains appropriate in the circumstances.
49. IQ submits that itself, the Debtors and the Monitor have each acted in good faith over the course of these CCAA proceedings, and that no creditor of the Debtors will be materially prejudiced by the relief sought herein.
50. IQ understand that the Monitor will confirm its support to such relief in its Seventeenth Report to the Court.

WHEREFORE, MAY THIS COURT:

GRANT this *Application for the Issuance of an Order Extending the Stay Period* (the “**Application**”);

ISSUE an order substantially in the form of the draft Order communicated in support of the Application as Exhibit R-1;

WITHOUT COSTS, save and except in case of contestation.

MONTREAL, October 4, 2022

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**Attorneys for the Applicant
INVESTISSEMENT QUÉBEC**

SWORN STATEMENT

I, the undersigned, Eric Pelletier, having my principal place of business at 413, Saint-Jacques Street, Suite 500, in the city of Montreal, Province of Quebec, solemnly declare the following:

1. I am a Senior Director of Investissement Québec;
2. All the facts alleged in the *Application for the Issuance of an Order Extending the Stay Period* are, to the best of my knowledge, true.

AND I HAVE SIGNED



ERIC PELLETIER

Solemnly declared before me at Montreal,
on the 3th day of October 2022

Carol Tathde 305151-0

NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Application for the Issuance of an Order Extending the Stay Period* will be presented for adjudication before the Honourable Marie-Anne Paquette of the Superior Court of Quebec, Commercial Division by videoconference, on **October 7, 2022**, at **11 a.m.**, in room **17.61 A** of the Montreal Courthouse. The instructions to attend such hearing by videoconference are below:

[Rejoindre la réunion Microsoft Teams](#)

[+1 581-319-2194](tel:+15813192194) Canada, Quebec (Numéro payant)

[\(833\) 450-1741](tel:(833)4501741) Canada (Numéro gratuit)

ID de conférence : 613 634 544#

[Numéros locaux](#) | [Réinitialiser le code confidentiel](#) | [En savoir plus sur Teams](#) | [Options de réunion](#)

Rejoindre à l'aide d'un dispositif de vidéoconférence

teams@teams.justice.gouv.qc.ca ID de la conférence VTC : 1122662855

[Autres instructions relatives à la numérotation VTC](#)

Best regards.

MONTREAL, October 4, 2022



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INVESTISSEMENT QUÉBEC**

R-1

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-057679-199

SUPERIOR COURT
Commercial Division

Montreal, October 7, 2022

Present: The Honourable Marie-Anne Paquette,
J.S.C.

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

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Impleaded Party

- and -

FORTRESS GLOBAL ENTERPRISES INC.

- and -

FORTRESS SPECIALTY CELLULOSE INC.

- and -

FORTRESS BIOENERGY LTD.

- and -

FORTRESS XYLITOL INC.

- and -

9217-6536 QUÉBEC INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

Monitor

ORDER

ON READING Investissement Québec (“**IQ**” or the “**Applicant**”)’s *Application for the Issuance of an Order Extending the Stay Period* (the “**Application**”), the affidavit of Mr. Eric Pelletier filed in support thereof and the Seventeenth Report (the “**Seventeenth Report**”) of Deloitte Restructuring Inc., in its capacity as monitor of the Debtors (the “**Monitor**”), and relying upon the submissions of counsel and being advised that the parties listed on the service list prepared by the Applicant were given prior notice of the presentation of the Application;

GIVEN the initial order rendered by this Court in the present matter on December 16, 2019 (as amended, restated or otherwise modified, from time to time, including pursuant to orders rendered by this Court on December 26, 2019 and on January 10, 2020, the “**Initial Order**”);

GIVEN the orders rendered by this Court in the present matter on March 23, 2020, May 1, 2020, August 10, 2020, October 23, 2020, October 8, 2021, March 3, 2022 and May 27, 2022;

GIVEN the provisions of the the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the “**CCAA**”);

WHEREFORE, THE COURT:

1. **GRANTS** the Application.
2. **ORDERS** that the Stay Period (as defined in the Initial Order) shall be extended to and including November 25, 2022.
3. **APPROVES** the activities of the Monitor, up to the date of this Order as described in the Seventeenth Report of the Monitor and in his testimony at the hearing.
4. **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

WITHOUT COSTS.

Montreal, October 7, 2022

The Honourable Marie-Anne Paquette, j.s.c.

**SUPERIOR COURT
(Commercial Division)**

Court No: 500-11-057679-199

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

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

INVESTISSEMENT QUÉBEC

Applicants / Secured Creditor

-and-

FIERA PRIVATE DEBT INC.

Impleaded Party

-and- FORTRESS GLOBAL ENTREPRISES INC.

-and- FORTRESS SPECIALTY CELLULOSE INC.

-and- FORTRESS BIOENERGY LTD.

-and- FORTRESS XYLITOL INC.

-and- 9712-6536 QUÉBEC INC.

Debtors

-and

DELOITTE RESTRUCTURING INC.

Monitor

BS0350

Our file: 107804.1024

**APPLICATION FOR ISSUANCE OF AN ORDER EXTENDING THE
STAY PERIOD (Sections 11.02(2) of the *Compagnies' Creditors
Arrangement Act*), SWORN STATEMENT, NOTICE OF
PRESENTATION AND EXHIBIT R-1**

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