

# **SUPERIOR COURT**

(Commercial Division)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-11-065195-253

DATE: June 26, 2025

---

**BY THE HONOURABLE JANET MICHELIN, J.S.C.**

---

IN THE MATTER OF THE RECEIVERSHIP OF:

**9408-7129 QUÉBEC INC.**

Debtor

and

**LAURENTIAN BANK OF CANADA**

Secured Creditor

and

**DELOITTE RESTRUCTURING INC.**

Receiver/Petitioner

and

**COMPLEXE DU MUSÉE INC.**

Impleaded Party (Purchaser)

and

**GROUPE MACH ACQUISITION INC.**

Impleaded Party (Guarantor)

and

**THE REGISTRAR OF THE REGISTER OF PERSONAL MOVABLE REAL RIGHTS  
(QUEBEC)**

**THE REGISTRAR OF THE LAND REGISTER FOR THE REGISTRATION DIVISION  
OF MONTREAL**

**HORIZON CAPITAL HOLDINGS INC.**

**PAOLO PRESTI**

**PLACEMENT IMMOBILIERS PRESTI INC.****PRESTICO INC.****PRESTI DEMEURES INC.**

Impleaded Parties

---

**REASONS FOR JUDGMENT**(Issuance of an Approval and Reverse Vesting Order  
Sections 183(1.1) and 243 of the *Bankruptcy and Insolvency Act*)

---

**OVERVIEW**

[1] The Applicant Deloitte Restructuring Inc. (**Deloitte** or the **Receiver**), in its capacity as receiver of the Debtor 9408-7129 Québec Inc. (**9408** or the **Debtor**) seeks the issuance of an approval and reverse vesting order (the **Order**) providing for:<sup>1</sup>

- 1.1. The authorization for the Receiver to execute, on behalf of the Debtor, a Share Purchase Agreement dated June 6, 2025 (the **SPA**)<sup>2</sup> with Complexe Du Musée Inc., which is a purchasing vehicle for Groupe Mach Acquisition Inc. (**Groupe Mach**), pursuant to which the purchaser will acquire all of the shares in the Debtor, and the approval of the transactions contemplated under the SPA, including the Reorganization described therein (collectively, the **Transactions**);
- 1.2. The transfer and vesting of all Excluded Assets, Excluded Contracts and all Excluded Liabilities (as these terms are defined in the SPA) in a corporation to be incorporated by the Receiver (acting on behalf of the Debtor) for the purpose of the Transactions, which corporation is 9542-9916 Québec Inc. (**ResidualCo**), and the release of the Debtor from any obligations and liabilities in relation to the Excluded Assets, the Excluded Contracts and the Excluded Liabilities; and
- 1.3. The sealing of the non-redacted copy of the SPA and Schedules D and E of the Receiver's Report.<sup>3</sup>

[2] On June 12, 2025, the Court signed the Order with reasons to follow.<sup>4</sup> The present judgment contains those reasons.

---

<sup>1</sup> Exhibit R-1.

<sup>2</sup> Exhibits R-2A (non-redacted) and Exhibit R-2B (redacted).

<sup>3</sup> Exhibit R-7.

<sup>4</sup> The signed Order is annexed to the present judgment.

## **CONTEXT**

[3] In 2019, the Debtor began developing a luxurious residential project comprised of five (5) townhouses, fourteen (14) condominium units and parking spaces in downtown Montreal (the **Project**) with the goal of selling the properties to the public.

[4] The Project was expected to be completed in 2022. However, prior to completion, the Debtor became insolvent, at which point it informed its senior secured creditor, the Laurentian Bank of Canada (**LBC**), that it did not intend to inject further capital into the Project to bring it to completion.

[5] On February 5, 2025, upon application by LBC, Deloitte was appointed Receiver of the Debtor's property pursuant to section 243 of the *Bankruptcy and Insolvency Act* (**BIA**).<sup>5</sup> That property includes:

5.1. the immovables owned by the Debtor bearing civic numbers 3454, 3456 and 3458, avenue du Musée, Montréal (arrondissement Ville-Marie), Québec, H3G 2C7 (the **Immovables**); and

5.2. other movable property necessary to operate the Immovables and the business in place in the Immovables, including, but not limited to, all equipment, furniture, software, and cash.

(collectively the **Property**)

[6] The receivership order authorized Deloitte to proceed with a sale and investment solicitation process (**SISP**), resulting in 10 offers to purchase the Debtor's Property. The Receiver, in consultation with LBC, chose Groupe Mach as the successful bidder.

[7] Deloitte now seeks the approval of the Transactions, which are structured as a reverse vesting order (**RVO**).

## **1. APPROVAL OF THE SPA AND THE TRANSACTIONS**

### **1.1 Legal principals**

[8] Section 247 of the BIA provides that the receiver must deal with the debtor's property in a commercially reasonable manner. In the context of a sale outside the ordinary course of business, certain criteria have been developed by the courts, notably in the decision of *Royal Bank of Canada v. Soundair Corp.*, which states that the Court must consider:<sup>6</sup>

---

<sup>5</sup> R.S.C., 1985, c. B-3.

<sup>6</sup> 1991 CarswellOnt 205 (ONCA); *North American Lithium Inc. et Raymond Chabot inc.*, 2021 QCCS 2921, at par. 46, leave to appeal refused by the Court of Appeal of Quebec, *Central America Nickel inc. c. North American Lithium inc.*, 2021 QCCA 1186.



1. whether the receiver has made a sufficient effort to get the best price and has not acted improvidently;
2. the interests of all parties;
3. the efficacy and integrity of the process by which offers are obtained; and
4. whether there has been unfairness in the working out of the process.

## 1.2 Discussion

### 1.2.1 The Receiver has made sufficient efforts to obtain the best price and did not act improvidently.

[9] Deloitte's representative, Benoit Clouâtre, prepared a report dated June 10, 2025<sup>7</sup> in which he sets out the steps he took to conduct the SISP. He also testified at the hearing. In his testimony, he provided some context to the circumstances in which the SISP took place.

[10] More particularly, he explained that work on the Project had been suspended in March 2023. In the following months, the Debtor tried without success to sell some of the units in the Project. A new general contractor then continued construction until December 2024, at which point the Project again stalled because the Debtor's stakeholders refused to inject further amounts to bring the project to completion.

[11] Furthermore, the City of Montreal suspended the construction permits due to non-conformity between the work executed and the plans submitted to the city. However, Mr. Clouâtre confirmed in his testimony that the Project was for the most part complete.

[12] In that context, after Deloitte was appointed receiver on February 5, 2025, it proceeded with the SISP by taking the following steps:

- 12.1. It prepared promotional documents, known as a teaser,<sup>8</sup> and an information memorandum<sup>9</sup> and compiled a list of potential purchasers;<sup>10</sup>
- 12.2. It established a virtual data room containing all information relating to the Project;
- 12.3. Commencing on February 19, 2025, a total of 147 potential purchasers were contacted and provided with the promotional material for the Project;

---

<sup>7</sup> Exhibit R-7.

<sup>8</sup> Exhibit R-7, Appendix B.

<sup>9</sup> Exhibit R-7, Appendix C.

<sup>10</sup> Exhibit R-7, Appendix D.

- 12.4. Among them, 39 showed an interest in acquiring the assets;
- 12.5. 27 potential purchasers visited the Project one or more times;
- 12.6. 23 potential purchasers requested and were given access to the virtual data room after signing confidentiality agreements;
- 12.7. 10 potential purchasers submitted offers, the due date being April 4, 2025 to send a binding offer for the acquisition of the Debtor's Property.

[13] By soliciting 147 potential purchasers and providing them with detailed material relating to the Project, the Receiver made sufficient effort to obtain the best price for the Debtor's Property. The Receiver initially identified 110 potential purchasers and through word of mouth, another 37 were identified and provided with the materials. This represents a comprehensive canvassing of the real estate market.

[14] The Receiver considered all 10 offers received, even though several did not respect the conditions for a qualified offer. Groupe Mach's offer did respect the conditions and offered the highest consideration.

[15] Between April 4 and June 6, the date of the SPA, the Receiver was involved in the negotiations to ensure that the Transactions would be carried out under the best possible conditions for the creditor. Although the proceeds will be insufficient to pay other creditors, and in fact LBC's debt will not be paid in full, the Court nonetheless concludes that the Receiver's efforts demonstrate that the best value for the Property was in fact obtained by the Receiver.

### **1.2.2 The interest of all parties**

[16] In conducting the SISP, Mr. Clouâtre testified that he remained in regular contact with the Debtor's creditors and stakeholders to seek their input and provide them information, thereby demonstrating the transparency of the process. Mr. Clouâtre testified about his discussion with LBC's representatives to evaluate the offers and to negotiate the SPA. As for the other creditors, they were kept apprised of those discussions and none contested the Application.

[17] The purchase price will be used to reimburse the interim financing of \$1M and the administration charge of \$500,000. A reserve of \$400,000 will be held by ResidualCo to cover legal hypothecs currently registered on the buildings totalling approximately \$343,000.

[18] Since LBC is not being reimbursed the entirety of its debt, the balance will remain with the Debtor so that LBC may preserve its rights against the guarantors of the debt.

[19] The above demonstrates that the interest of the parties has been sufficiently considered.



### **1.2.3 The efficacy and integrity of the process by which offers were obtained**

[20] The Court has already described the SISP process. The Receiver sent the promotional material out on February 19, 2025 and the deadline for binding offers was April 4, 2025. This 45 day process was sufficient for all participants to act on any interest they may have had in the Project. This is demonstrated by the fact that 39 of them expressed interest, 27 visited the property and 10 offers were submitted.

[21] The Receiver held numerous conversations and followed up with potential purchasers in order to ensure that all information was provided to them with a view to obtaining as many offers as possible. All potential purchasers were required to sign non-disclosure agreements in order to access the virtual data room, thereby ensuring the integrity of the process.

[22] Given that the Project is dormant but almost complete, the Court finds the 45 day process to have been efficient in the circumstances.

### **1.2.4 Has there been unfairness in the working out of the process**

[23] The steps taken by the Receiver to conduct the SISP, together with the continued discussions with LBC and other stakeholders, show that the process was fair and transparent.

### **1.2.5 Conclusion**

[24] The Receiver is of the opinion that the Court should approve the Transactions because they offer highest value for the Property, including the Immovables, and the consideration is therefore just and reasonable.

[25] The SISP allowed for a transparent and comprehensive solicitation of the market so the Receiver is confident that the consideration offered by Groupe Mach reflects the market value for the Project. Groupe Mach, an experienced player in the Montreal real estate market, has completed its due diligence so its offer contains no conditions, and the Receiver is confident that it will be able to conclude the Transactions in a reasonable delay.

[26] Finally, LBC supports the Transactions.

## **2. THE COURT'S JURISDICTION TO APPROVE AN RVO**

### **2.3 Legal principles**

[27] Professor Janis Sarra explains as follows the purpose and structure of an RVO<sup>11</sup>:

The result of an RVO is to expunge the existing corporate structure of the debtor company of anything the purchaser does not want. The newco is added to the insolvency proceeding and continues in that process while the debtor company exits the insolvency proceeding with broad liability releases; then the newco is liquidated or placed in bankruptcy to be liquidated. The transaction takes place outside of a negotiated and court-approved plan of arrangement or compromise. The RVO structure was crafted to allow those businesses to continue through the debtor company, since it was that corporate vehicle who owned the valuable "assets" that could be not transferred

[28] In the matter of *Harte Gold Corp. (Re)*<sup>12</sup>, the Ontario Superior Court of Justice set out the applicable criteria to determine if an RVO should be authorized:

- (a) Why is the RVO necessary in this case?
- (b) Does the RVO structure produce an economic result at least as favourable as any other viable alternative?
- (c) Is any stakeholder worse off under the RVO structure than they would have been under any other viable alternative?
- (d) Does the consideration being paid for the debtor's business reflect the importance and value of the licences and permits (or other intangible assets) being preserved under the RVO structure?

[29] As for the issuance of an RVO in the context of a receivership, s. 243 of the BIA does not expressly set out such a power. However, given that "the purpose of a receivership is to "enhance and facilitate the preservation and realization of the assets for the benefit of creditors", which can be achieved through the liquidation of the debtor's assets, "such sales are inherent in court-appointed receiverships".<sup>13</sup>

[30] More recently, in *British Columbia v. Peakhill Capital Inc.*,<sup>14</sup> the British Columbia Court of Appeal held that the inherent jurisdiction conferred on the Court by section 183

<sup>11</sup> Janis P Sarra, "Reverse Vesting Orders – Developing Principles and Guardrails to Inform Judicial Decisions" (2022) 2022 CanLII Docs 431.

<sup>12</sup> 2022 ONSC 653, par. 38 [*Harte Gold*].

<sup>13</sup> *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, 2019 ONCA 508, par. 73-74.

<sup>14</sup> 2024 BCCA 246, par. 20-24. (leave to appeal to the Supreme Court of Canada refused at 2025 CanLII 38366 (SCC)).



of the BIA confers jurisdiction to authorize the sale of assets by a receiver, including by way of an RVO.

## 2.4 Discussion

[31] The SPA provides for several Transactions, the steps of which are as follows:<sup>15</sup>

### Steps to be Implemented prior to the Issuance of the Approval and Reverse Vesting Order

Step 1: The Debtor incorporates a corporation ("ResidualCo") under the QBCA with an authorized share capital consisting of a class of voting and fully participating common shares. The Debtor subscribes for one common share of ResidualCo for \$1.00;

Step 2: ResidualCo becomes party to the Receivership Proceedings in accordance with the Approval and Reverse Vesting Order sought;

### Steps to be Implemented after the Issuance of the Approval and Reverse Vesting Order and before Closing

Steps 3 to 5 shall be implemented prior to the Closing Date in the following order:

Step 3: As authorized pursuant to the Approval and Reverse Vesting Order, the Debtor shall file articles of amendment (the "Articles of Amendment") providing for the following;

a. the share terms of the Class "B" shares and the Class "C" shares in the share capital of the Debtor shall be amended to provide for a deemed redemption, without consideration and for cancellation, of all of the issued and outstanding Class "B" shares and Class "C" shares in the share capital of the Debtor, effective as of immediately prior to the issuance of the Purchased Shares (as defined below) to the Purchaser;

b. any and all Class "A" shares, Class "D" shares, Class "E" shares, Class "F" shares, Class "G" shares, Class "H" shares and Class "I" shares in the share capital of the Debtor shall be cancelled without consideration (which classes of shares shall all be deleted and removed from the authorized share capital of the Debtor); and (ii) any and all agreements, contracts, plans, indentures, deeds, certificates, subscription rights, conversion rights (including convertible debentures), pre-emptive rights, voting rights, options (including stock option, warrants or share purchase or equivalent plans), or other documents or instruments governing any and all securities convertible, exercisable for or exchangeable into Class "A" shares, Class "B" shares, Class "C" shares, Class "D" shares, Class "E" shares, Class "F" shares, Class "G" shares, Class "H" shares or

---

<sup>15</sup> Application for the Issuance of an Approval and Reverse Vesting Order, par. 38.



Class "I" shares in the share capital of the Debtor shall be cancelled without consideration; and

c. a new class of voting and fully participating common shares in the share capital of the Debtor, designated as Class "J" shares, shall be created (the "Class "J" Common Shares").

Step 4: The Debtor shall transfer the Excluded Assets to ResidualCo and ResidualCo shall assume the Excluded Liabilities as consideration for (i) the transfer of the Excluded Assets and (ii) the issuance by the Debtor of a non-interest bearing promissory note in the principal amount equal to the Cash Payment to ResidualCo Amount (as defined in the Share Purchase Agreement), if any (the "Promissory Note"). It is intended that novation of the Excluded Liabilities be affected. As a result of such transfer and assumption and such novation, and the Approval and Reverse Vesting Order, the Debtor shall be discharged of all Excluded Liabilities;

Step 5: The Debtor shall donate the one common share it owns in the share capital of ResidualCo to ResidualCo for cancellation;

#### Steps to be Implemented at Closing

Step 6: On the terms of the Share Purchase Agreement, as provided in Section 3.1 of the Share Purchase Agreement, the Purchaser shall subscribe for and purchase from the Debtor, 1,250,000 Class "J" Common Shares, being the Purchased Shares, in the share capital of the Debtor for a subscription price equal to the Purchase Price. Following the issuance of the Purchased Shares, the Debtor shall be deemed, immediately prior to such issuance, to have redeemed without consideration and for cancellation all of its Class "B" and Class "C" Shares in accordance with the terms of the Articles of Amendment;

Step 7: In accordance with the Approval and Reverse Vesting Order, all directors and officers of the Debtor shall be deemed to have resigned of their respective directorship or office as of the Effective Time of the Acquisition of the Purchased Shares;

Step 8: On the terms of the Share Purchase Agreement and the New LBC Financing Undertaking, the Purchaser shall cause the New LBC Financing Proceeds to be disbursed and paid to the Receiver, in trust, for the benefit of the Debtor; and

Step 9. On the terms of the Share Purchase Agreement, the Debtor shall use the cash received under Steps 6 and 8 above, in accordance with Section 3.4(b) of the Share Purchase Agreement, to retain an amount equal to the Administrative Reserve Amount, as well as an amount to cover claims validly secured by construction liens against the Immovable and then repay: (i) first, the principal amount of the Promissory Note, if any (for the payment of the Cash Payment to ResidualCo Amount), to ResidualCo, (ii) second, the amounts owing

under the Interim LBC Financing to LBC; and (iii) third, the amounts owing under the Existing LBC Financing to LBC.

### **2.1.1 Is the RVO necessary?**

[32] As can be seen above, an RVO is the contemplated structure to give effect to the Transactions.

[33] In his testimony, Mr. Clouâtre explained why it was important for the Debtor to continue to operate under its own name rather than proceeding by way of a traditional asset sale.

[34] First, and according to Mr. Clouâtre, most importantly, as with the case in all construction projects, there are guarantees in place for the work performed by the various sub-contractors, who contracted directly with the Debtor. It is very important that these guarantees remain in place in the event that there is a future issue with construction. The RVO structure avoids the complexity and risk of transferring the guarantees to a new entity.

[35] Second, all of the various building permits and licences that are essential for the completion of the Project are in the Debtor's name. This will continue to be the case in the context of an RVO, thereby avoiding additional delay and cost to transfer the permits to a new entity. Although the City of Montreal has suspended the building permit for the Project, Mr. Clouâtre confirmed that Groupe Mach has been in discussions with the city about this issue and was confident that the situation would be resolved.

[36] Third, there is a cost savings to proceeding by way of an RVO since it avoids the imposition of the transfer (welcome) tax.

[37] The advantages offered by the RVO structure confirm that it is necessary to proceed in this way.

### **2.1.2 Does the RVO structure produce an economic result at least as favourable as any other viable alternative?**

[38] The Court has already described the SISP and has concluded that it was conducted with transparency and integrity. Groupe Mach's offer was determined to be the most beneficial to the creditors due to, among other things, the consideration offered, which was the highest, and because it is not subject to any conditions, other than Court approval.

[39] Mr. Clouâtre testified about his implication in the negotiation of the SPA in order to obtain the best terms for the creditors. He is of the opinion that the Transactions achieve the highest realization for the Debtor's Property in the circumstances. Furthermore, LBC supports the Transactions. This criterion is therefore satisfied.



**2.1.3 Is any stakeholder worse off under the RVO structure than they would have been under any other viable alternative?**

[40] No stakeholder is worse off as a result of the RVO structure. The SISF confirmed the market value of the Debtor's Property, which does not exceed the amount owed to LBC. Accordingly, no other transaction, in the context of a bankruptcy or otherwise, would lead to a better result for other stakeholders. In fact, the cost savings resulting from the RVO will be to LBC's benefit.

[41] While some contracts, assets and liabilities will be excluded and transferred to ResidualCo, that would have been the case in a bankruptcy as well. The RVO structure provides for some liabilities to be retained by the Debtor.

[42] On this point, it is important to note that there are legal hypothecs registered on the Debtor's Immovables totalling approximately \$343,000. A reserve of \$400,000 will be transferred to ResidualCo to be used to pay those creditors should that prove to be necessary.

**2.1.4 Does the consideration being paid for the debtor's business reflect the importance and value of the licences and permits (or other intangible assets) being preserved under the RVO structure?**

[43] By canvassing 137 potential purchasers, the Receiver has ensured that the consideration offered by Groupe Mach is fair and reasonable, reflecting the fair market value of the Debtor's Property. The RVO structure allows for the permits and licences to remain with the Debtor, avoids the risk associated with trying to transfer them and also affords the Debtor some tax savings.

[44] All of this is reflected in the consideration that will be paid by Groupe Mach.

[45] Given the above, the Court concludes that the criteria for the approval of an RVO are satisfied.

**3. SHOULD CERTAIN EXHIBITS BE PLACED UNDER SEAL?**

**3.1 Legal principles**

[46] In *Sherman Estate v. Donovan*,<sup>16</sup> the Supreme Court of Canada set out the test for the issuance of sealing order by the Court, namely whether:

- i. court openness poses a serious risk to an important public interest;

---

<sup>16</sup> 2021 SCC 25, par. 38. [*Sherman Estate*]

- ii. the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk
- iii. as a matter of proportionality, the benefits of the order outweigh its negative effects

[47] The “general commercial interest of preserving confidential information” is an important interest because of its public character.<sup>17</sup>

### 3.2 Discussion

[48] The Receiver requests that a non-redacted copy of the SPA<sup>18</sup> and Schedules D and E of the Receiver’s Report<sup>19</sup> be filed under seal.

[49] Regarding the SPA, it contains sensitive commercial information, such as the terms, conditions and price to be paid by the purchaser. Schedules D and E of the Receiver’s Report contain information about the terms and conditions of the SPA (Schedule D) and a summary of the ten offers received (Schedule E).

[50] The Court considers that it is in the public interest that such information be kept confidential to preserve the integrity of any future SISP should that become necessary. The benefits of keeping this information confidential outweigh the negative effect to the public, which also has an interest in ensuring that bankruptcy and insolvency proceedings be carried out in order to obtain the best outcome for the stakeholders by way of a fair and transparent process.

[51] Furthermore, the Receiver’s request is proportional in that a redacted copy of the SPA is nonetheless being produced into Court,<sup>20</sup> together with the Receiver’s Report which contains some references to the Transactions.

### CONCLUSION

[52] For all of these reasons, the Court signed the Order.

  
JANET MICHELIN, J.S.C.

<sup>17</sup> *Sherman Estate*, par. 41; *Sierra Club du Canada v. Canada (Ministre des Finances)*, 2002 SCC 41, par. 55; *Graceffa c. Otéra Capital Holdings Inc.*, 2024 QCCA 531, par. 7.

<sup>18</sup> Exhibit R-2A.

<sup>19</sup> Exhibit R-4.

<sup>20</sup> Exhibit R-2B.



9408-7129 Québec Inc.  
Debtor  
Party not represented

Me Frédérique Drainville  
Me Isabelle Nazon  
Me Patricia Ghannoum  
MCCARTHY TÉTRAULT S.E.N.C.R.L., S.R.L.  
For the Secured Creditor, Laurentian Bank of Canada

Me Danny Duy Vu  
Me Darien Bahry  
STIKEMAN ELLIOTT S.E.N.C.R.L., S.R.L.  
For the Receiver/Petitioner, Deloitte Restructuring Inc.

Me Jeremy Cuttler  
KUGLER, KANDESTIN S.E.N.C.R.L., L.L.P.  
For the Impleaded Party (Purchaser), Complexe du Musée Inc.

Me Jeremy Cuttler  
KUGLER, KANDESTIN S.E.N.C.R.L., L.L.P.  
For the Impleaded Party (Guarantor), Groupe Mach Acquisition Inc.

The Registrar of the Register of Personal Movable Real Rights (Quebec)  
The Registrar of the Land Register for the Registration Division of Montreal  
Impleaded parties  
Parties not represented

Me Benjamin Jarvis  
DAVIES WARD PHILLIPS & VINEBERG S.E.N.C.R.L, S.R.L  
For the Impleaded party, Horizon Capital Holdings Inc.

Me Adam Spiro  
SPIEGEL RYAN S.E.N.C.R.L.  
For the impleaded parties, Paolo Presti, Placement Immobiliers Presti Inc., Prestico Inc.  
and Presti Demeures Inc.

Hearing date: June 12, 2025