

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
Commercial Division

Court No: 500-11-057470-193
Court No: 500-11-057469-195

IN THE MATTER OF THE NOTICES OF
INTENTION TO MAKE A PROPOSAL OF:

BOUCLAIR INC.

- and -

BOUCLAIR INTERNATIONAL INC.

Petitioners

- and -

DELOITTE RESTRUCTURING INC.

Proposal Trustee

- and -

NATIONAL BANK OF CANADA

Principal Secured Creditor

- and -

ALJUSA INVESTMENTS INC.

Subordinated Secured Creditor

- and -

AST TRUST COMPANY (CANADA)

**In its Capacity as Agent for certain
Subordinated Secured Creditors**

- and -

**THE AFFECTED PARTIES LISTED ON
SCHEDULE "A"**

Mis-en-cause

**MOTION FOR AN ORDER EXTENDING THE STAY PERIOD
(Section 50.4(9) of the *Bankruptcy and Insolvency Act*)**

TO THE HONOURABLE CHANTAL CORRIVEAU OF THE SUPERIOR COURT
SITTING IN COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL,
THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

I. ORDER SOUGHT

1. For the reasons further described herein, the Petitioners, Bouclair Inc. (“**Bouclair**”) and Bouclair International Inc. (“**Bouclair International**”, and collectively with Bouclair, the “**Petitioners**”) hereby seek the issuance of an order extending the Stay Period (as defined below) for an additional period of twenty-five (25) days from the expiry of the Stay Period, i.e. until **March 27, 2020**, the whole substantially in the form of the draft Third Stay Extension Order communicated herewith as **Exhibit P-1**.

II. BACKGROUND

2. On November 11, 2019, the Petitioners concurrently filed *Notices of Intention to Make a Proposal* (the “**NOIs**”) pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (the “**BIA**”), as appears from the Court record.
3. Deloitte Restructuring Inc. has been appointed as the Petitioners’ proposal trustee in the present proceedings (“**Deloitte**” or the “**Proposal Trustee**”).
4. The factual background which led to the filing of the present proceedings is described in the Petitioners’ *Motion for the Issuance of an Order (i) Creating Super-Priority Charges, (ii) Approving a Consulting Agreement and (iii) Approving Related Relief* (the “**Initial Motion**”), as well as in the *First Report to the Court submitted by Deloitte Restructuring Inc. in its Capacity as Trustee to the Notice of Intention to Make a Proposal*, both in the Court record.
5. In accordance with section 69(1) of the BIA, the filing of the NOIs resulted in all actions, executions or other proceedings against the Petitioners and their property being automatically stayed for a period of thirty (30) days, until December 11, 2019 (the “**Stay Period**”).
6. On November 12, 2019, following the presentation of the Petitioners’ Initial Motion, the Honourable Chantal Corriveau rendered an Order in the present proceedings (the “**First Day Order**”):
 - (a) operating a procedural consolidation of the court files of Bouclair and Bouclair International;
 - (b) granting priority Charges over all Affected Assets (as these terms are defined in the First Day Order);
 - (c) approving and ratifying, retroactively, the CRO Engagement Letter (as defined in the First Day Order);
 - (d) authorizing the payment, to certain suppliers situated outside of the jurisdiction of this Court, of certain pre-filing obligations; and

(e) approving other related relief;

the whole as appears from the Court record.

7. Prior to the filing of the present proceedings, the Petitioners had initiated a restructuring process (the “**Restructuring Process**”), the implementation of which includes two (2) main components:
 - (a) a transaction with Alston Investments Inc. (the “**Proposed Purchaser**”), which, once approved by this Court, would result in the Proposed Purchaser acquiring the majority of the assets and assuming certain of the liabilities of Bouclair, with a view to maintaining approximately sixty (60) Bouclair retail store locations, its head office in Pointe-Claire (Quebec) and approximately 80% of Bouclair’s national employee base (the “**Transaction**”); and
 - (b) the liquidation of thirty-one (31) Bouclair retail stores (with an additional four (4) option stores which could be liquidated following consultation between the Petitioners and their landlords) (the “**Liquidation Stores**”) out of the retail locations then operated by the Petitioners, with a view to remitting the net proceeds of the liquidation to the secured creditors that held security over said liquidated assets (the “**Liquidation**”).
8. To implement the second component of the Restructuring Process (i.e. the Liquidation), on November 11, 2019, Gordon Brothers Canada ULC (the “**Liquidator**”) and Bouclair finalized the terms of a Consulting Agreement (the “**Consulting Agreement**”) pursuant to which the Liquidator would act as the exclusive consultant to Bouclair to conduct the Liquidation.
9. On November 15, 2019, the Honourable Chantal Corriveau rendered an Order in these proceedings (the “**Liquidation Order**”) approving the Consulting Agreement and the Liquidation, as appears from the Court record.
10. On December 10, 2019, the Honourable Chantal Corriveau rendered an Order in these proceedings (the “**First Stay Extension Order**”):
 - (a) extending the Stay Period until January 24, 2020; and
 - (b) declaring that the scope of the Charges (as defined in the First Day Order rendered in these proceedings on November 12, 2019) shall be extended to cover all the assets of Bouclair, with no exception;the whole as appears from the Court record.
11. On January 23, 2020, the Honourable Chantal Corriveau rendered an Order in these proceedings (the “**Second Stay Extension Order**”) extending the Stay Period until March 2, 2020, as appears from the Court record.

III. RESTRUCTURING EFFORTS

A. The Liquidation

12. Beginning on November 15, 2019, Bouclair, with the assistance of the Liquidator, conducted the Liquidation in the Liquidation Stores.
13. The Liquidation is now completed, and the results have exceeded the expectations of the parties, as appears from the *Third Report to the Court submitted by Deloitte Restructuring Inc. in its capacity as Trustee to the Notice of Intention to make a Proposal*, in the Court record.
14. In the course of the Liquidation, Bouclair sent notices of disclaimer or resiliation in respect of all thirty-one (31) Liquidation Stores, of which twenty-two (22) were effective as of December 25, 2019, eight (8) were effective as of December 31, 2019, and one (1) was effective as of January 7, 2020.
15. On December 9, 2019, the Petitioners and the Proposal Trustee received, pursuant to section 65.2 of the BIA, an *Application to Contest a Notice of Disclaimer or Resiliation of a Commercial Lease* (the “**Contestation**”) from the Petitioners’ landlord 9230-1890 Québec Inc. at the Jonquière retail location (the “**Contesting Landlord**”), as appears from the Court record.
16. On or around February 19, 2020, the Contesting Landlord served the parties with and filed in the Court record a discontinuance and withdrawal of the Contestation, as appears from the Court record and a copy of said discontinuance communicated herewith as **Exhibit P-2**.

B. Landlord Negotiations

17. The Transaction contemplates that the Proposed Purchaser would maintain operations in approximately sixty (60) retail locations, as well as the Bouclair head office in Pointe-Claire.
18. To successfully implement the Transaction as proposed, the operating costs in certain of these locations need to be reduced. Since the filing of the NOIs, Bouclair has therefore approached several landlords to seek consensual amendments to existing leases.
19. Although amendments have been agreed-upon involving several locations, to date, discussions are continuing with several landlords regarding specific locations that management has identified as requiring improved economics or business terms.

C. Implementation of the Transaction

20. The financing of the Transaction rests on three inter-related prongs, namely (1) an injection of new funds in the Proposed Purchaser by certain equity investors; (2) a refinancing with the Proposed Purchaser of the secured indebtedness of the Petitioners’ principal secured lender, the National Bank of

Canada (the “NBC”); and (3) a new loan from a third-party source, which loan would be secured but subordinated to the indebtedness of the NBC.

21. Regarding the first prong, non-binding term sheets have been executed by the proposed equity investors and proposed lenders to certain equity investors.
22. Regarding the second and third prongs, on February 5, 2020, the Proposed Purchaser entered into non-binding term sheets with the NBC and a third-party lender regarding the refinancing of the NBC secured indebtedness and the granting of a new subordinated loan, respectively.
23. The Petitioners are now in the final stages of the Restructuring Process. The Liquidation is completed, and the Petitioners seek to complete the implementation of the Transaction in the coming weeks.
24. The objective of the Petitioners remains to finalize binding commitments as soon as possible with a view to seeking a hearing for approval of the Transaction, subject to the Court’s availabilities, on or around March 16, 2020, and proceeding with a closing of the Transaction on or around March 18, 2020, subject to any unforeseen delays in the closing of the Transaction.
25. The Petitioners intend to file, as soon as possible, a separate Court application describing the Transaction in more detail and seeking the issuance of an approval and vesting order in relation to the Transaction.

D. Forbearance Agreement with NBC

26. The NBC loan has been in default since the Spring of 2019. As such, on or around April 4, 2019, the NBC retained the services of Richter Advisory Group Inc. to act as its financial consultant to review Bouclair’s financial situation. Thereafter, the NBC agreed, on several occasions, to forbear from exercising its rights as secured lender.
27. On January 24, 2020, the NBC and the Petitioners finalized the terms of a Sixth Forbearance Agreement pursuant to which the NBC agreed to tolerate Bouclair’s defaults and finance its operations until February 28, 2020, as appears from the Sixth Forbearance Agreement communicated herewith, *under seal*, as **Exhibit P-3**.
28. As of the date hereof, the Petitioners are in discussions with the NBC in order to extend the term of the Sixth Forbearance Agreement to the date of the proposed extension of the Stay Period (i.e. March 27, 2020).

IV. GROUNDS FOR THIS MOTION

29. As previously indicated to the Court, the objective of the Petitioners is to attempt to maximize the value of their assets, for the benefit of their stakeholders.

30. It is respectfully submitted that, at this stage, the continuation of the Restructuring Process in the context of these proceedings constitutes the best option to meet the above objective.
31. In light of the foregoing, the Petitioners respectfully submit that the Stay Period should be extended until March 27, 2020 (i.e. twenty-five (25) days).
32. Such extension should allow the Petitioners and their financial advisors to have sufficient time to:
 - (a) continue negotiations with specific landlords where amendments to the current leases are deemed necessary;
 - (b) implement the Transaction, for the benefit of all the stakeholders;
 - (c) secure the financing structure with both senior and sub-debt lenders;
 - (d) potentially present a proposal to creditors; or
 - (e) consider other alternatives.
33. The Petitioners are of the view that no creditor will suffer any undue prejudice by the extension of the Stay Period and that the extension sought is appropriate in the present circumstances.
34. The Petitioners understand that the Proposal Trustee will file, prior to the hearing on this Motion, a report, in which the latter will confirm, *inter alia*, the Proposal Trustee's support for the extension requested herein.
35. The present Motion is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

- [1] **GRANT** this *Motion for an Order Extending the Stay Period* (the "**Motion**");
- [2] **DECLARE** that the notices given for the presentation of the Motion are proper and sufficient;
- [3] **EXTEND** the stay of proceedings resulting from the filing by Bouclair Inc. and Bouclair International Inc.'s *Notices of Intention to Make a Proposal* pursuant to the *Bankruptcy and Insolvency Act* on November 11, 2019, until March 27, 2020;
- [3] **ORDER** that the Sixth Forbearance Agreement filed as Exhibit P-3 to this Motion be kept confidential and *under seal* until further order from this Court;
- [4] **ORDER** the provisional execution of this Order to be rendered notwithstanding any appeal and without the necessity of furnishing any security;

WITHOUT COSTS, save and except in case of contestation.

MONTRÉAL, February 27, 2020

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Attorneys for the Petitioners

SCHEDULE "A"

AFFECTED PARTIES

A. PARTIES WITH SECURITY INTERESTS REGISTERED ON SPECIFIC STORES

1. Business Development Bank of Canada (Anjou Store)
2. Riotrin Properties (Kirkland) Inc. (Kirkland Store)
3. Riocan Holdings (Québec) Inc. (Lévis Store)
4. Place du Royaume Inc. (Chicoutimi Store)
5. Riocan Holdings (Brossard) Inc. (Brossard Store)
6. 9224-1892 Québec Inc. (Brossard Store)
7. 9171-9922 Québec Inc. (Brossard Store)
8. Vaudreuil Shopping Centres Limited (Vaudreuil Store)
9. Desjardins Sécurité Financière, Compagnie d'assurance-vie et Fonds Immobilier Cogir 1, Société en commandite (Neufchatel Store)
10. Peterborough Retail Portfolio LP (Peterborough Store)

B. CLOSING STORES LANDLORDS

1. 9045-4737 Quebec Inc. (Rosemère Store)
2. 9230-1860 Quebec Inc. (Jonquière Store)
3. Société de gestion Cogir, s.e.n.c. (Arthabaska Store)
4. Calloway REIT (Sarnia) Inc. (Sarnia Store)
5. Calloway REIT (Stouffville) Inc. (Stouffville Store)
6. Fonds immobilier Cogir I, société en commandite (Neufchatel Store)
7. Quartier KS Laval Inc. (Quartier Laval Store)
8. Riotrin Properties (Kirkland) Inc. (Kirkland Store)
9. Calloway REIT (Chatham) Inc. (Chatham Store)
10. First Capital (Peterborough) Corporation (Peterborough Store)
11. Sudbury South Shopping Centres Limited (Sudbury South Store)
12. Calloway REIT (Woodside) Inc. (Markham Store)
13. First Capital Holdings (Quebec) Corporation Inc. (Vanier Store)
14. Lacewoods Developments Limited (Bayer's Lake Store)
15. Dartmouth Crossing 2 Limited (Dartmouth Store)
16. Riocan (Clarkson) Inc. (South Mississauga Store)
17. Riotrin Properties (Weston) Inc. (Weston St-Clair Store)
18. Calloway Reit Harmony Inc. (Oshawa Store)
19. Harvard Developments Inc. (Regina Store)
20. Riotrin Properties (Fredericton) Inc. (Fredericton Store)
21. 1651051 Alberta Ltd. (Grande Prairie Store)
22. Riocan Property Services Trust (Calgary Beacon Hill Store)
23. Riotrin Properties Inc. (Calgary Signal Hill Store)
24. 1451945 Ontario Limited (Edmonton Mayfield Common Store)
25. First Capital (Southpark) Corporation (Edmonton South Park Centre Store)
26. Anthem Heritage Hill Ltd. (Calgary Heritage Hill Store)
27. 1445006 Alberta Ltd. (Edmonton Sherwood Park Store)
28. 1090 Lougheed Highway Limited Partnership (Vancouver Coquitlam Store)
29. First Capital (Anjou) Corporation Inc. (Anjou Store)
30. Ivanhoé Cambridge Inc. (Jean-Talon Store)

31. Calloway REIT (Westridge) Inc. (Vaughan Store)

C. OPTION STORES LANDLORDS

1. Cominar Real Estate Investment Trust (Shawinigan Store)
2. MCM Real Estate Trust (Marché Central Store)
3. Ivanhoé Cambridge Inc. (Laurier Store)
4. Iberville Developments Leasing Ltd. (Candiac Store)

AFFIDAVIT

I, the undersigned, Lionel Trombert, having my principal place of business at 152 av. Alston, in the city of Pointe-Claire, Province of Québec, H9R 6B4, solemnly declare the following:

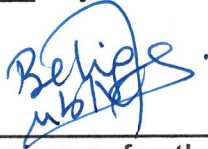
1. I am the Senior Director, Finance of Bouclair Inc.;
2. All the facts alleged in the *Motion for an Order Extending the Stay Period* are true.

AND I HAVE SIGNED



LIONEL TROMBERT

Solemnly declared before me at Montreal,
on the 27 day of February, 2020



Commissioner of oath
for the Province of Quebec



NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Motion for an Order Extending the Stay Period* will be presented for adjudication before the Honourable Chantal Corriveau of the Superior Court, sitting in the commercial division, in and for the District of Montreal, in the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, Québec, H2Y 1B6, **on Monday March 2, 2020, at 1:30 pm, in room 15.10.**

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, February 27, 2020

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SUPERIOR COURT (Commercial Division)	
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CANADA PROVINCE OF QUÉBEC DISTRICT OF MONTREAL	
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- and - DELOITTE RESTRUCTURING INC.	Proposal Trustee
- and - NATIONAL BANK OF CANADA	Principal Secured Creditor
- and – <i>et al.</i> BS0350	Our file: 041315-1033
MOTION FOR AN ORDER EXTENDING THE STAY PERIOD (Section 50.4(9) of the <i>Bankruptcy and Insolvency Act</i>) SCHEDULE “A” AFFIDAVIT OF LIONEL TROMBERT NOTICE OF PRESENTATION	
ORIGINAL	
M^e Joseph Reynaud Direct : 514 s Email : gmartel@stikeman.com M^e Vincent Lanctôt-Fortier Direct : 514 397 3176 Email : vianctotfortier@stikeman.com STIKEMAN ELLIOTT LLP 1155 René-Lévesque Blvd. West, 41st Floor Montréal, Québec, Canada H3B 3V2	