

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

COURT No: 500-11-050935-168
ESTATE No: 41-2140668

SUPERIOR COURT
(Commercial Division)
Bankruptcy and Insolvency Act

SOCIABLE LABS INC.

Debtor / Petitioner

-and-

DELOITTE RESTRUCTURING INC.

Trustee

-and-

INVESTISSEMENT QUÉBEC, having a place of business at 413, Saint-Jacques Street, Suite 500, Montreal, Quebec, H2Y 1N9

-and-

VENTURE LENDING & LEASING VI, INC., having its place of business at 2010, North First Street, San Jose, California, United States of America, 95131

-and-

VENTURE LENDING & LEASING VII, INC., having its place of business at 2010, North First Street, San Jose, California, United States of America, 95131

-and-

RHO CANADA VENTURES II L.P., having its place of business at Carnegie Hall Tower, 152 West 57th Street, 23rd Floor, New York, New York, United States of America, 10019

-and-

RHO INVESTMENT PARTNERS CANADA II L.P., having its place of business at Carnegie

Hall Tower, 152 West 57th Street, 23rd Floor,
New York, New York, United States of
America, 10019

-and-

LE REGISTRAIRE DES ENTREPRISES,
having its place of business at 2050, rue De
Bleury, Suite RC 10, Montréal, QC H3A 2J5

Mises-en-cause

**MOTION FOR THE APPROVAL OF AN AMENDED PROPOSAL AND FOR THE
REORGANISATION OF SHARE CAPITAL**

(art. 58 and 59(4) of the *Bankruptcy and Insolvency Act*, RSC (1985) c. B-3 (“**BIA**”) and
191 of the *Canada Business Corporations Act*, RSC (1985) c. C-44 (“**CBCA**”))

**TO ONE OF THE HONOURABLE JUDGES OR REGISTRARS OF THE SUPERIOR
COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF
MONTREAL, THE DEBTOR / PETITIONER RESPECTFULLY SUBMITS AS
FOLLOWS: :**

I. INTRODUCTION

1. By the present motion (the “**Motion**”), the Debtor / Petitioner *Sociable Labs Inc.* (the “**Debtor**”) is seeking from this Honourable Court the following:
 - a) That the Amended Proposal (as this term is defined hereinafter) be approved by this Court, as accepted by the Debtor’s creditors at a meeting of creditors held on July 11, 2016;
 - b) That the share capital of the Debtor be reorganized in accordance with the present Motion and the operations detailed in the Articles of Reorganization (as this term is defined hereinafter), and that the Debtor’s articles of incorporation be amended and modified in accordance with said Articles of Reorganization.

II. THE PARTIES

2. The Debtor was incorporated in 2014 under the CBCA, as appears from a copy of an excerpt of the *Registre des entreprises* communicated herewith as **EXHIBIT R-1**;
3. The Debtor is a technology business providing internet and marketing services and assisting businesses in their e-commerce efforts in customer acquisitions,

namely through its referral marketing software solutions, helping marketers to acquire customers for their clients' online businesses, as appears namely from the *Trustee's Report on the Proposal* dated June 30, 2016 (the "**Trustee's Report**") included in the documents sent by the Trustee (as this term is defined hereinafter) to the creditors, a copy of said documents being communicated herewith as **EXHIBIT R-2**;

4. The Debtor currently employs approximately 15 employees in the course of its operations;
5. *Deloitte Restructuring Inc.* was appointed as trustee (the "**Trustee**") to the proposal of the Debtor following the filing by the Debtor of a proposal on June 30, 2016, as appears from the Trustee's Report, **R-2**;
6. The Mises-en-cause *Investissement Québec* ("**IQ**"), *Venture Lending & Leasing VI, Inc.* ("**VLL 6**") and *Venture Lending & Leasing VII, Inc.* ("**VLL 7**", and together with VLL 6, "**VLL**") are, as of the date hereof, secured creditors holding security interests over the assets of the Debtor registered on the *Register of Personal Movable and Real Rights* ("**RPMRR**");
7. IQ is also one of the shareholders of the Debtor, as are, namely, the Mises-en-cause *Rho Canada Ventures II, L.P. / Rho Canada Capital de risque II, S.E.C.* ("**Rho Ventures**") and *Rho Investment Partners Canada II, L.P.* ("**Rho Investment**", and together with Rho Ventures, "**Rho**");

III. OVERVIEW OF THE DEBTOR'S FINANCIAL DIFFICULTIES

8. Since it started its operations in 2014 as a start-up business, the Debtor did not yet record a profit and has cumulated a deficit of \$4.3M in the 2-year period ended March 31, 2016, as appears more fully from the Trustee's Report, **R-2**;
9. The Debtor's main assets are intangible, as they represent the intellectual property related to the platform, technology and other internet and software infrastructure by which they provide their services in marketing and e-commerce to their clients. Despite the Debtor's efforts, which are still ongoing at the time of the present Proposal, its platform has not resulted yet into a profitable operation;
10. During that time, the Debtor's operations were financed notably by investors and lenders who indicated to the Debtor's management that they no longer intended to fund the operations and any future cash flow deficits of the Debtor;
11. Prior to this, on or about March 2016, the Debtor had proceeded with a sale process, with the assistance of the consulting firm *Sikes & Shadowood, LLC*, with respect to the sale of the business, in which approximately 80 potential purchasers have been contacted, and no interested party was successfully identified, as appears notably from the Trustee's Report, **R-2**;

12. As a result, the Debtor became insolvent, and on June 30, 2016, a proposal under the BIA was filed in an effort to restructure the Debtor's affairs, as appears from copy of the proposal (the "**Proposal**") included in the documents communicated herewith as **EXHIBIT R-2**;
13. The Proposal is essentially based on the Debtor's management and other stakeholders' financial support of the current restructuring efforts, and on the Debtor's management financial support (together with other investors related to them) of the operations of the Debtor as a going concern following the implementation of the Proposal, the whole in order to continue the Debtor's business and the Debtor's efforts to render its operations profitable, as well as to allow in the future for the realization of the potential value of the assets or the business of the Debtor, as the case may be;
14. Such financial support of the Debtor's operations and investments in the Debtor's business are conditional to the successful implementation of the Proposal, as appears from the Trustee's Report and of the Proposal (**R-2**);

IV. THE PROPOSAL

15. As aforementioned, on June 30, 2016, the Debtor produced with the Trustee and filed with the Official Receiver the Proposal, and on July 11, 2016, the Proposal was amended in a way that has no impact on the treatment of creditors (the "**Amended Proposal**"), as appears more fully from copy of the Amended Proposal communicated herewith as **EXHIBIT R-3**;
16. On June 30, 2016, in accordance with section 50 BIA, the Trustee sent all known creditors of the Debtor copy of the following documents:
 - a) The notice of the Proposal and the convening of a meeting of the creditors to be held on July 11, 2016;
 - b) The Proposal;
 - c) A statement of affairs with respect to the Debtor;
 - d) The list of known creditors of the Debtor;
 - e) A proof of claim form and voting letter;
 - f) The Trustee's Report, in which the acceptance of the Proposal by the creditors was recommended by the Trustee;as appears from **EXHIBIT R-2**;
17. As of June 30, 2016 as it appears from the statement of affairs filed with the Proposal, the Debtor's indebtedness was **\$2,142,676**, including **\$1,239,650** in unsecured indebtedness;

18. The Amended Proposal can be summarized as follows:

- a) The **Employee Claims** (as defined in the Amended Proposal) of the Debtor shall be paid in full by the Debtor in the ordinary course of business;
- b) The **Professional Fees** (as defined in the Amended Proposal) shall be paid by the Debtor in full in the ordinary course of business;
- c) The **Crown Claims** (as defined in the Amended Proposal), if any, shall be paid in full within six (6) months from the Date of Approval, or as may otherwise be arranged with the Crown, although there appears to be no Crown Claims as of the date hereof;
- d) With regards to **Secured Creditors** (as defined in the Amended Proposal) of the Debtor:
 - i) **IQ**: IQ's secured claim will be dealt with in accordance with existing agreements, as modified by agreements negotiated between IQ and the Debtor as part of the present restructuring. Notably, IQ has a secured claim over the research and development tax credits to be received by the Debtor;
 - ii) **VLL**: a payment of CAD \$100,000 will be remitted to the Trustee within fifteen (15) business days of the date of approval of the Amended Proposal, to be paid to VLL in full settlement of VLL's secured claim, the whole in accordance with the Amended Proposal and agreements negotiated between VLL and the Debtor as part of the present restructuring;
- e) With regards to **Ordinary Unsecured Creditors** (as defined in the Amended Proposal), the Amended Proposal provides for the following:
 - i) The renunciation by IQ to a dividend for its unsecured claim with respect to a promissory note totalling \$315 000 (i.e. the "IQ Notes Claim");
 - ii) The renunciation by Rho to a dividend for its unsecured claim with respect to a promissory note totalling \$315 000 (i.e. the "Rho Notes Claim");
 - iii) The subordination of unsecured claims from any shareholders or related entities of the Debtor other than the Secured Claims and the Notes Claim (as defined in the Amended Proposal);
 - iv) The payment to the Ordinary Unsecured Creditors of an amount of \$23,000 to be distributed as follows, in full and final settlement of their claims:

- I) The payment of all preferred claims, in priority to all unsecured claims (being understood that any preferred claims from the lessor for arrears related to unpaid rent would be limited, as per paragraph 136(1)f) BIA to the estimated realization value (i.e. \$2,500) of the property on the premises under lease);
- II) A payment of the lesser between each unsecured creditors' accepted and proven claim and the first \$1,000 of such claim;
- III) Any remaining amount, if any, to be paid on a pro rata basis to all unsecured creditors with accepted and proven claims;

As such, assuming all unsecured creditors with a right to a dividend in the Amended Proposal would file a valid proof of claim at the amount estimated in the statement of affairs of the Debtor, unsecured creditors would receive an average dividend of approximately 6.8% of their proven claim as part of the Amended Proposal;

- f) The investment by the Mises-en-cause Nisan Gabbay, Sébastien Brault and any other Person (as this term is defined in the Amended Proposal) they designate of an amount of no less than \$250,000 for the purposes of financing the operations of the Debtor;
 - g) The reorganization of the share capital of the Debtor in a manner providing for the cancellation of the existing share capital of the Debtor and providing for the issuance of new equity in a manner satisfactory to each of Nisan Gabbay, Sébastien Brault (i.e. the Debtor's management), IQ, Rho and VLL;
 - h) A release in favour of the directors of the Debtor pursuant to section 50(13) BIA, and a declaration of non-application of sections 95 through 101.1 BIA and of any provision of provincial legislation having a similar objective upon the full implementation of the Amended Proposal;
19. At the creditors meeting held on July 11, 2016, the Amended Proposal was accepted at **100% in value and 100% in number**, by both the unsecured creditors as well as the secured creditors affected by the Amended Proposal, as appears from copy of the minutes of the meeting of creditors (the "**Minutes**") included in the documents attached to the Second Trustee's Report (as this term is defined hereinafter) to the creditors, a copy of said documents being communicated herewith as **EXHIBIT R-4**;
20. Following the meeting of creditors, the Trustee has issued a second report with respect to the Amended Proposal, as appears from a copy of said report (the "**Second Trustee's Report**"), **EXHIBIT R-4**;

21. In a bankruptcy scenario, considering the liquidation value of the assets, the priority claims and the secured claims, no dividend would be available for the unsecured creditors and the liquidation of the assets would only allow for a partial repayment of the secured claims, whereas the Amended Proposal does provide for a dividend for the unsecured creditors and a substantial recovery for the affected secured creditors, while preserving employment for approximately 15 employees of the Debtor, as appears from the Second Trustee's Report, **R-5**;
22. In light of the foregoing, the Debtor respectfully submits to this Honourable Court that all the conditions required for approval of the Amended Proposal have been met;

V. THE REORGANISATION OF THE DEBTOR'S SHARE CAPITAL AND THE ARTICLES OF REORGANIZATION

23. The Debtor's authorized share capital consists of Common Shares, Class A Preferred Shares and Class B Preferred Shares, of which, 142 725 736 Common Shares, 0 Class A Preferred Shares, and 61 040 448 Class B Preferred Shares are issued and outstanding as of the date hereof;
24. As the Debtor is insolvent, the current share capital of the Debtor and the current shareholders' equity have no value, as appears from the Trustee's Report (**R-2**);
25. In accordance with the Amended Proposal, the Mises-en-cause Nisan Gabbay, Sébastien Brault and any other Person (as this term is defined in the Amended Proposal) they designate have agreed to disburse funds in an amount of no less than \$250,000 (the "**Investment**"), no later than five (5) business days following the date of homologation of the Amended Proposal;
26. The Amended Proposal, including the Investment, is conditional to notably the reorganization of the share capital of the Debtor in a manner providing for the cancellation of the existing share capital of the Debtor, and providing for the issuance of new equity in a manner satisfactory to each of Nisan Gabbay, Sébastien Brault, IQ, Rho and VLL. Such reorganization is to occur by the modification of the articles of incorporation of the Debtor in accordance with the articles of reorganization to be submitted to the Director (as this term is defined in the CBCA), subject to the authorization of this Court, copy of said articles of reorganization being communicated herewith as **EXHIBIT R-5** (respectively, the "**Reorganization**" and the "**Articles of Reorganization**");
27. Moreover, in the context of the negotiations of agreements with IQ, VLL and Rho as secured creditors and stakeholders of the Debtor in order to allow for the present Amended Proposal to be prepared and presented and for the present proceedings to be supported financially, said parties have agreed to finance part of the present proceedings and other related restructuring costs, and the Reorganization is a consideration for that financial support;
28. As such, the Reorganization is an integral part of the Proposal;

29. As of the date hereof, the Debtor is insolvent and the shareholders are in a deficit position, as appears more fully from the Statement of Affairs filed with the Amended Proposal;

VI. CONCLUSIONS SOUGHT

30. In light of the foregoing, the Debtor respectfully submits to this Honourable Court that:
- a) All of the required conditions to approve the Amended Proposal have been met;
 - b) The Reorganization must be authorized pursuant to section 191 CBCA, and the articles of incorporation of the Debtor must be modified accordingly by the Articles of Reorganization (**R-5**);
31. In a bankruptcy, both unsecured and preferred creditors pursuant to s. 136 BIA would not receive any Dividend, and the secured creditors would incur a greater loss. Moreover, approximately 15 jobs would be lost;
32. The Trustee is of the view that the Amended Proposal is in the best interest of the creditors of the Debtor, as appears from the Trustee's Report and the Second Trustee's Report (**R-2**);
33. The Debtor has acted and is acting in good faith and in the best interests of its creditors and stakeholders;
34. The Debtor respectfully submits that this application should be granted according to its conclusions;
35. The present application is well-founded both in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THIS COURT TO:

- [1] GRANT** the present Motion for the Approval of an Amended Proposal and for the Reorganization of Share Capital;
- [2] APPROVE AND HOMOLOGATE** the proposal dated June 30, 2016 of the Debtor / Petitioner *Sociable Labs Inc.* (the "**Debtor**") as amended on July 11, 2016 (the "**Amended Proposal**"), which was accepted by the required legal majority of its creditors at the creditors' meeting held July 11, 2016, copy of which is attached hereto as **EXHIBIT R-3** (the "**Amended Proposal**");
- [3] AUTHORIZE** the Debtor to proceed to a capital reorganization pursuant to section 191 of the *Canada Business Corporations Act*, RSC (1985), c. C-44 (the "**CBCA**");
- [4] ORDER** the modification of the articles of incorporation of the Debtor in accordance with the articles of reorganization filed herewith as **EXHIBIT R-5**,

subject to minor modifications that may be considered necessary by the Debtor and the Trustee (the “**Articles of Reorganization**”);

- [5] **APPROVE** the Articles of Reorganization and **AUTHORIZE** the Debtor to take all necessary or useful steps in order to give full effect to the Articles of Reorganization and to the reorganization provided for in the Amended Proposal and the Articles of Reorganization;
- [6] **ORDER** the *Registraire des entreprises* to accept and receive the Articles of Reorganization, **R-5**, notwithstanding appeal;
- [7] **ORDER** and **DECLARE** that:
- a) The effective date of the Articles of Reorganization shall be the date of emission of the certificate to be emitted by the *Registraire des entreprises* (the “**Certificate**”) pursuant to section 191 CBCA (the “**Effective Date**”);
 - b) The order to be rendered on the present application and the Certificate are the only approvals required in order to proceed to the reorganization set out in the Articles of Reorganization and that no other approval or authorization is required to give effect to the Articles of Reorganization;
- [8] **DECLARE** that no meeting of titleholders of the Debtor is required with regards to the Amended Proposal or the Articles of Reorganization;
- [9] **DECLARE** that none of the operations contemplated and/or arising from the application and implementation of the Articles of Reorganization and/or the Amended Proposal can be construed as a preference, a reviewable transaction or a fraudulent transaction, as these terms are used in the *Bankruptcy and Insolvency Act*, RSC (1985), c. B-3, the *Civil Code of Québec* or any other federal or provincial law, and cannot serve as the basis for an oppression remedy pursuant to the CBCA;
- [10] **DECLARE** and **ORDER** that as of the Effective Date:
- a) All the shares issued by the Debtor shall be treated in accordance with the operations described in the Articles of Reorganization;
 - b) All options, warrants, conversion or exchange rights, rights of first refusal, rights of redemption, preferential subscription rights, pre-emptive rights or any other right, of a contractual nature or of any other nature, acquired or not, with a view to acquiring the shares or any other existing title of the Debtor, shall be cancelled;
- [11] **AUTHORIZE** the Debtor and/or its directors to perform all acts, sign all documents and take any necessary action to execute any agreement or undertaking which could be required or useful to give full and complete effect to

the reorganization contemplated pursuant to the Amended Proposal and the Articles of Reorganization, without the necessity to seek further authorization;

[12] **ORDER** the provisional execution of this Order, notwithstanding appeal;

[13] **THE WHOLE** without costs, save and except in case of contestation.

Montréal, this July 29, 2016


Fasken Martineau DuMoulin LLP
Attorneys for Debtor / Petitioner

Mtre Guillaume-Pierre Michaud

Stock Exchange Tower
800 Victoria Square, Suite 3700
P.O. Box 242
Montréal, Quebec H4Z 1E9
Phone number: +1 514 397 5264
Fax number: +1 514 397 7600
Email: gmichaud@fasken.com

SWORN STATEMENT

I, the undersigned, Sébastien Brault, businessman, having a place of business at 201-145 Saint-Pierre Street, Montreal QC H2Y 2L6, solemnly affirm the following:

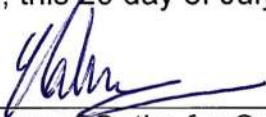
1. I am the President of *Sociable Labs Inc.*;
2. All the facts alleged in the present "*Motion for the Approval of an Amended Proposal and for the Reorganisation of Share Capital*" are true.

AND I HAVE SIGNED:



SEBASTIEN BRAULT

SOLEMNLY DECLARED before me
at Montréal, this 29 day of July, 2016



Commissioner of Oaths for Québec



NOTICE OF PRESENTATION

TO : INVESTISSEMENT QUÉBEC
413, Saint-Jacques Street
Suite 500
Montreal, Quebec, H2Y 1N9

TO: VENTURE LENDING & LEASING VI, INC.
2010, North First Street
San Jose, California
United States of America, 95131

TO : VENTURE LENDING & LEASING VII, INC.
2010, North First Street
San Jose, California
United States of America, 95131

TO : RHO CANADA VENTURES II L.P.
Carnegie Hall Tower
152 West 57th Street
23rd Floor, New York
New York«
United States of America, 10019


TO : RHO INVESTMENT PARTNERS CANADA II L.P.
Carnegie Hall Tower
152 West 57th Street
23rd Floor, New York
New York
United States of America, 10019

TO : LE REGISTRAIRE DES ENTREPRISES
2050, rue De Bleury
Suite RC 10
Montréal, QC H3A 2J5

TAKE NOTICE that the "*Motion for the Approval of an Amended Proposal and for the Reorganization of Share Capital*" will be presented for adjudication before one of the Honourable Judges of Superior Court or to the Registrar, sitting in the Commercial Division in and for the District of Montréal, in Room **16.10** of the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, (Québec), H2Y 1B6, on August 9, 2016 at 8:45 AM.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, this July 29, 2016


Fasken Martineau DuMoulin LLP
Attorneys for Debtor / Petitioner

Mtre Guillaume-Pierre Michaud

Stock Exchange Tower
800 Victoria Square, Suite 3700
P.O. Box 242
Montréal, Quebec H4Z 1E9
Phone number: +1 514 397 5264
Fax number: +1 514 397 7600
Email: gmichaud@fasken.com

C A N A D A

**PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL**

COURT No: 500-11-050935-168
ESTATE No: 41-2140668

SUPERIOR COURT
(Commercial Division)
Bankruptcy and Insolvency Act

SOCIABLE LABS INC.

Debtor / Petitioner

-and-

DELOITTE RESTRUCTURING INC.

Trustee

-and-

INVESTISSEMENT QUÉBEC,

-and-

VENTURE LENDING & LEASING VI, INC.,

-and-

VENTURE LENDING & LEASING VII, INC.,

-and-

RHO CANADA VENTURES II L.P.,

-and-

**RHO INVESTMENT PARTNERS CANADA II
L.P.,**

-and-

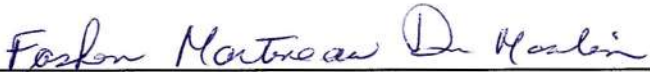
LE REGISTRAIRE DES ENTREPRISES,

Mises-en-cause

LIST OF EXHIBITS

- EXHIBIT R-1:** Excerpt of the *Registre des entreprises* for Sociable Labs Inc.
- EXHIBIT R-2:** *Trustee's Report on the Proposal* dated June 30, 2016.
- EXHIBIT R-3:** Amended Proposal.
- EXHIBIT R-4:** Second Trustee's Report.
- EXHIBIT R-5:** Articles of reorganization of Sociable Labs Inc.

Montréal, this July 29, 2016


Fasken Martineau DuMoulin LLP
Attorneys for Debtor / Petitioner

Mtre Guillaume-Pierre Michaud

Stock Exchange Tower
800 Victoria Square, Suite 3700
P.O. Box 242
Montréal, Quebec H4Z 1E9
Phone number: +1 514 397 5264
Fax number: +1 514 397 7600
Email: gmichaud@fasken.com

N° : 500-011-050935-168

PROVINCE OF QUÉBEC
SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTREAL

SOCIABLE LABS INC.

Debtor / Petitioner

-and-

DELOITTE RESTRUCTURING INC.

Trustee

-and-

INVESTISSEMENT QUÉBEC et al

Mises-en-cause

16809/306921.00001

BF1339

**Motion for the Approval of an Amended
Proposal and for the Reorganisation of
Share Capital, Sworn Statement, Notice of
Presentation, List of Exhibits and Exhibits
R-1 to R-5
(Bankruptcy)**

COPY FOR
LE REGISTRAIRE DES ENTREPRISES
2050, rue De Bleury - Suite RC 10
Montréal, QC H3A 2J5

Fasken Martineau DuMoulin LLP

Stock Exchange Tower
800 Victoria Square, Suite 3700
P.O. Box 242
Montréal, Quebec H4Z 1E9

**Me Guillaume-Pierre
Michaud**

Tél. +1 514 397 5264
Fax. +1 514 397 7600

gmichaud@fasken.com