CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N°:

SUPERIOR COURT
(Commercial Division)
(Sitting as a court designated pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1995, c. 36, as amended)

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

SPECTRA PREMIUM INDUSTRIES INC.

-and-

SPECTRA PREMIUM HOLDINGS (USA) CORP.

-and-

SPECTRA PREMIUM (USA) CORP.

-and-

SPECTRA PREMIUM PROPERTIES (USA) CORP.

-and-

SPECTRA PREMIUM TAIWAN CO. LTD.

-and-

SPECTRA PREMIUM (SHANGHAI) AUTOMOTIVE TECHNICAL SERVICES CO. LTD.

-and-

SPECTRA PREMIUM (CHONGQING) AUTOMOTIVE SERVICES CO. LTD.

Petitioners

and

ERNST & YOUNG INC.

Monitor

MOTION FOR THE ISSUANCE OF (I) A FIRST DAY INITIAL ORDER AND (II) AN AMENDED AND RESTATED INITIAL ORDER
Sections 4, 5, 11 and *ff.* of the *Companies' Creditors Arrangement Act* ("**CCAA**")

INTRODUCTION

1. Spectra Premium Industries inc. ("**Spectra**"), Spectra Premium Holdings (USA) Corp. ("**Spectra Holdings US**"), Spectra Premium (USA) Corp. ("**Spectra US**"), Spectra Premium Properties (USA) Corp. ("**Spectra Properties US**"), Spectra Premium Taiwan Co. Ltd. ("**Spectra Taiwan**"), Spectra Premium (Shanghai) Automotive Technical Services Co. Ltd. ("**Spectra Shanghai**"), Spectra Premium (Chongqing) Automotive Services Co. Ltd. ("**Spectra Chongqing**") (collectively, the "**Petitioners**" or the "**Spectra Group**"), hereby seek the intervention of this Court in accordance with the CCAA.

2. The Spectra Group also includes an additional entity, namely Spectra Premium AB, formerly known as TechRoi Fuel Systems AB ("**Spectra Sweden**"), for which no orders are sought at this stage of the present proceedings, for the reasons mentioned hereinafter.

3. The intervention of this Court is necessary in order for the Spectra Group to maintain its business and operations and protect its assets for the benefit of the creditors and other stakeholders through a court-supervised restructuring process.

4. The Petitioners hereby seek the issuance of a first day initial order (the "**First Day Order**") under the CCAA providing for, *inter alia*, the following reliefs:

    a. a stay of proceedings against the Petitioners and their respective directors and officers for an initial period of 10 days (or any other period acceptable to this Court) (the "**Stay Period**");

    b. the procedural consolidation of the restructuring proceedings of the Petitioners;

    c. the appointment of Ernst & Young inc., a licensed insolvency trustee, as monitor (the "**Proposed Monitor**");

    d. the granting of a limited administration charge;

    e. a sealing order with regards to certain exhibits;

    f. other relevant first day orders.

5. Subject to the issuance of the First Day Order sought herein, the Monitor will also seek before the United States Bankruptcy Court for the District of Delaware an order under Chapter 15 of the *U.S. Bankruptcy Code* in order, *inter alia*, to recognise the present proceedings as the foreign main proceedings and obtain the required protection of their assets and operations in the United States during the restructuring process.

6. The Petitioners also seek, at the time of the extension and renewal of the First Day Order (the "**Comeback Hearing**"), the issuance of an amended and restated initial order (the "**Initial Order**") providing for the following additional reliefs :

    a. the extension of the Stay Period, for a period ending May 29, 2020;

    b. the granting of an extended administration charge;

c. the granting of a Directors' charge;

d. the approval of a key employee retention plan (KERP) and a related charge.

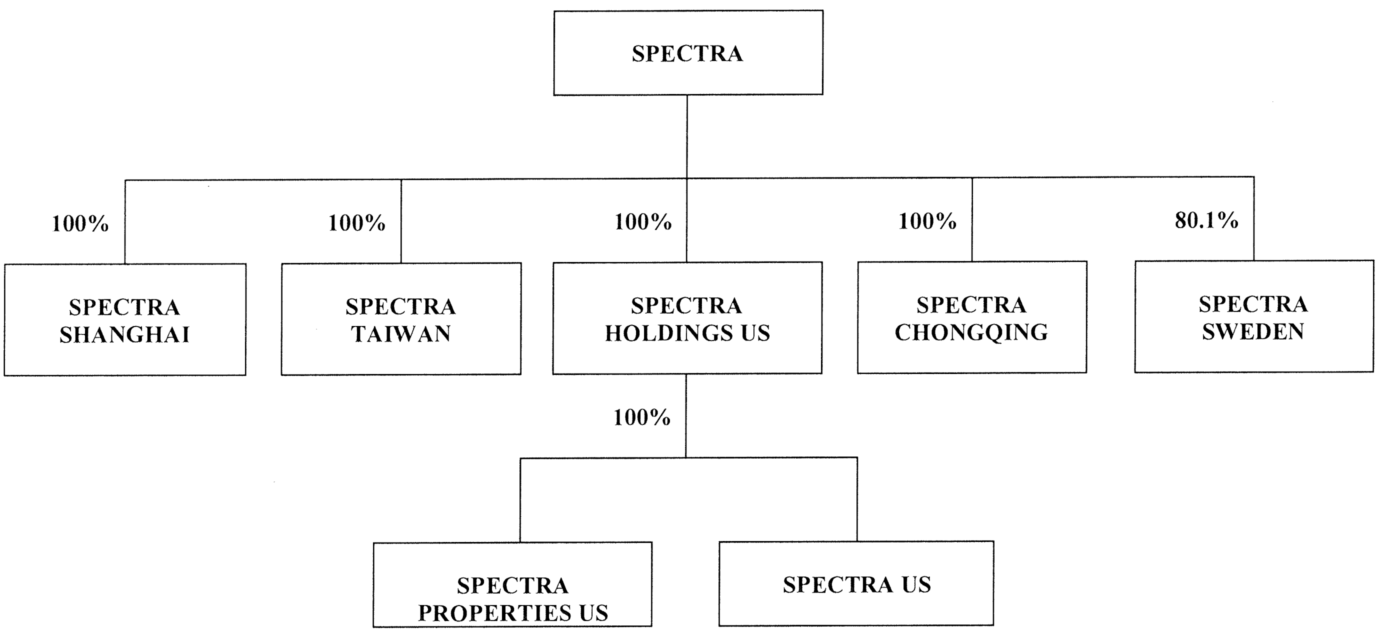
7. The draft First Day Order sought is communicated as **Exhibit R-1** and the comparison between said draft and the model initial order issued by the commercial Division of the Superior court of Quebec is communicated as **Exhibit R-2**. The draft Initial Order sought at the Comeback Hearing is communicated as **Exhibit R-3** and the comparison between said draft and the model initial order issued by the commercial Division of the Superior court of Quebec is communicated as **Exhibit R-4**.

8. A pre-filing report prepared by the Proposed Monitor will be communicated as **Exhibit R-5** prior to the hearing of this motion.

<u>PRESENTATION OF THE PETITIONERS</u>

<u>Overview</u>

9. The corporate structure of the Spectra Group is as follows:



10. Since 1989, the Spectra Group operates in the business of the design, manufacture and distribution of automotive parts, the corporate structure having changed over time due to several acquisitions and other transactions.

11. In the last 5 years, the Spectra Group generated annualised revenues between 500 M$ and 593 M$. These revenues were generated from 4 different divisions, namely:

a. the aftermarket division (the "**Aftermarket**") in which the Spectra Group distributes generic spare automotive parts that are either manufactured in Canada or purchased from third-party suppliers (mainly in China). The Aftermarket division represents approximately 80% of the sales of the Spectra Group. Sales of the Aftermarket division are made by Spectra (approximately

30% of the volume of sales of that division) and by Spectra US (approximately 70% of the volume of sales of that division). The majority of the products sold by the Aftermarket division (70%) are fuel pumps and cooling products.

b. the original equipment manufacturer division ("**OEM**") in which the Spectra Group manufactures and distributes various gas tanks that are used by automotive manufacturers in their assembly lines. The OEM division represents approximately 15 % of the sales of the Spectra Group. Sales of the OEM division are made by Spectra in the North-American market (approximately 61% of the volume of sales of that division) and by Spectra Sweden in the Swedish market (approximately 39 % of the volume of sales of that division);

c. the automotive tooling equipment division ("**Tooling**") in which the Spectra Group manufactures and distributes tooling equipment for itself and other manufacturers of automotive parts. The Tooling division started in 2014 and represents approximately 4% of the sales of the Spectra Group. The sales of the Tooling division are made exclusively by Spectra in the US (approximately 90% of sales) and in Mexico (approximately 10 % of sales);

d. the industrial division ("**Industrial**") in which the Spectra Group manufactures and distributes automotive parts and tooling for various types of industrial vehicles. The Industrial division represents approximately 1% of the sales of the Spectra Group and sales of the Industrial division are made exclusively by Spectra in the US.

12. Despite being comprised of separate legal entities having their own empowered boards of directors, the day-to-day operations of the Spectra Group are run by Spectra on a fully consolidated basis and without distinction between the relevant entities.

13. This is reflected in the way the Spectra Group's cashflow is managed, as funds flow through from one entity to the other to meet the ongoing obligations. This results in a large number of inter-company transactions and is reflected in the books and records of the Spectra Group by various inter-company claims.

14. This is also reflected in the way that the operating entities in the Spectra Group are financed, as Spectra and Spectra US are co-borrowers of the operating facilities made available by Wells Fargo Capital Finance Corporation Canada, in its capacity as administrative agent for itself and for the Canadian Imperial Bank of Commerce as lenders, (collectively, "**Wells Fargo**") and the amounts under these facilities are all consolidated in one Canadian account.

15. Finally, although the decisions at the board of directors level are taken by each separate board of directors of the Spectra Group, the activities of the entire Spectra Group are being monitored from Spectra's main offices in Boucherville, notably all the operational, financial and human resources management. Many employees in Boucherville directly or indirectly work for Spectra US despite being on Spectra's payroll.

16. For instance, although certain suppliers send direct invoices to Spectra US, the relationship with those suppliers is managed by Spectra's employees located in Boucherville.

17. The Petitioners communicate under seal the following financial statements for the year ended January 31, 2020:

    a. as **Exhibit R-6**, the consolidated financial statements of the Spectra Group;

    b. as **Exhibit R-7**, the consolidated financial statements of the Spectra Group without Spectra Sweden;

    c. as **Exhibit R-8**, the financial statements of Spectra;

    d. as **Exhibit R-9**, the financial statements of Spectra US;

    e. as **Exhibit R-10**, the financial statements of Spectra Shanghai;

    f. as **Exhibit R-11**, the financial statements of Spectra Taiwan;

    g. as **Exhibit R-12**, the financial statements of Spectra Chongqing.

Spectra

18. Spectra is the direct or indirect parent company of the other Petitioners and is constituted under the *Canada Business Corporations Act,* having its head office located at 1, Place Ville-Marie in Montreal, as appears from the company profile communicated as **Exhibit R-13**.

19. Spectra rents 14 locations across Canada to manufacture and/or distribute its products, including its Boucherville plant of 450,000 square feet and its Laval plant of more than 186,000 square feet.

20. In addition, Spectra owns a property in Nova Scotia in which Spectra manufactures radiator components.

21. Spectra employs 835 persons in Canada, the large majority of whom are located in the greater Montreal region and working in the Boucherville and Laval plants. 441 of these employees are unionized.

22. The main shareholders of Spectra are (i) *Fonds de solidarité des travailleurs du Québec (F.T.Q.)*, (ii) *CDP Investissements inc.*, (iii) *Fondaction, Le fonds de développement de la confédération des syndicats nationaux pour la coopération et l'emploi, (iv) Desjardins Régional et Coopératif Desjardins* and (v) the president and CEO of Spectra, Jacques Mombleau (directly or indirectly).

23. The shareholders are all aware of the financial situation of the Spectra Group and do not oppose the reliefs sought by the Spectra Group.

Spectra Holdings US, Spectra US and Spectra Properties US

24. Spectra Holdings US is a wholly-owned subsidiary of Spectra and is the parent company of Spectra US and Spectra Properties US.

25. Spectra Holdings US and Spectra US are constituted under the laws of the state of Delaware and Spectra Properties US is constituted under the laws of Indiana.

26. Spectra Holdings US and Spectra Properties US do not have any manufacturing, sale or distribution operations or employees but have potential liabilities related to the operations of the Spectra Group, notably as guarantors of certain of Spectra Group's debts.

27. Spectra US operates strictly in the Aftermarket division for distribution to the US market and it employs 319 non-unionised persons in three distribution centres, one located in Greenfield, Indiana,, one located in Knightstown, Indiana and the other in Redlands, California. No manufacturing activity is being conducted in the US.

28. Spectra US's suppliers are divided as follows: i) 85% represents the portion purchased from Chinese suppliers and ii) 15% represents the portion purchased from other suppliers, including Spectra.

Spectra Shanghai, Spectra Chongqing and Spectra Taiwan

29. Spectra Shanghai and Spectra Chongqing are entities that no longer have activities or employees but that still have some assets and debts related to the operations of the Spectra Group.

30. As appears from their financial statements, the large majority of their liabilities are inter-company claims.

31. Spectra Taiwan is an entity that was created for a single purpose, which is to purchase parts from Taiwanese suppliers to sell them to Chinese suppliers that use these parts in the manufacturing of products that are later sold to the Spectra Group.

32. Spectra Taiwan is therefore strictly an intermediary in the chain of supply of the goods ultimately purchased either by Spectra or Spectra US. It currently employs 6 persons.

33. As appears from its financial statements, the large majority of its liabilities are inter-company claims.

Spectra Sweden

34. Spectra Sweden is an entity based in Sweden in which Spectra holds 80,1% of the share-capital since 2018 and which manufactures and distributes fuel tanks specifically for the Swedish OEM market. Spectra Sweden's only client is Volvo Car.

35. As explained hereinafter, Spectra Sweden is one of the causes of the financial difficulties of the Spectra Group as the investment required from Spectra was more important than initially expected. The Swedish operations initiated in November 2019 have yet to reach their profitability threshold and have required the financial support of Spectra to a degree that had not been anticipated.

36. Considering the ongoing cash requirements of Spectra Sweden, Spectra's incapacity to continue funding Spectra Sweden and the pressure being exercised by Spectra Sweden's creditors, Spectra Sweden filed for creditor protection under the laws of Sweden on February 12, 2020.

37. Therefore, at this time, the intervention of the Canadian Court is not required with regards to Spectra Sweden. This might eventually change depending on the role to be played by Spectra Sweden in the global restructuring of the Spectra Group.

ASSETS

38. As of January 31, 2020, the approximate book value of the Spectra Group's assets (excluding Spectra Sweden) totals about 349 M $, detailed as follows :

ASSETS	APPROXIMATE BOOK VALUE
Accounts receivable	$78,398,000
Inventories	$125,061,000
Property, plant and equipment	$35,102,000
Inventories on sea or rail	$26,583,000
Other	$84,257,000
TOTAL:	**$349,401,000**

INDEBTEDNESS

39. As of January 31, 2020, the main indebtedness of the Spectra Group (excluding Spectra Sweden) was composed the following secured and unsecured debts:

SECURED CLAIMS	APPROXIMATE AMOUNT OF INDEBTEDNESS
Wells Fargo	$102,875,000
Laurentian Bank of Canada ("**BLC**")	$20,700,000
Export and Development Canada ("**EDC**")	$6,100,000
Varilease Finance Inc.	$7,145,820
TOTAL:	**$136,820,820**

UNSECURED CLAIMS	APPROXIMATE AMOUNT OF INDEBTEDNESS
Investissement Quebec ("**IQ**")	$5,000,000
Chinese and other Asian suppliers	$47,983,972
Accrued liabilities	$6,768,606
Other unsecured creditors	$52,442,254
TOTAL:	**$112,194,832**

Wells Fargo:

40. Wells Fargo has agreed to make available to Spectra and Spectra US revolving loans in the maximum aggregate amount of $150,000,000 to finance the day-to-day operations of the Spectra Group.

41. The maximum amount of funds made available by Wells Fargo to the Spectra Group is partly based on the value of accounts receivables and inventory at any giving time (the "**Borrowing Base**");

42. To secure the repayment of amounts owed by the Spectra Group to Wells Fargo, Wells Fargo holds security interests ("**Wells Fargo Security**") summarily described as follows:

    a. Guarantees granted by Spectra Holdings US and Spectra Properties US;

    b. a movable hypothec over the universality of Spectra's property;

    c. a general security agreement over all property of Spectra and Spectra US in Canada;

    d. a general security agreement over all property of Spectra Holdings US and Spectra Properties US in the state of Indiana.

43. The cash management system pursuant to the credit facilities with Wells Fargo provides that all receipts from the Petitioners have to be deposited into accounts subject to blocked accounts agreements in favour of Wells Fargo and that Wells Fargo is entitled to sweep and transfer the funds from such account to be applied against the outstanding loans.

BLC:

44. BLC, acting as administrative agent for itself and EDC, has granted a term loan to Spectra in the amount of $23,000,000 to finance the capital expenditures of the Spectra Group.

45. In order to secure the repayment of amounts owed by the Spectra Group to BLC, BLC holds the following security interests:

    a. guarantees granted by Spectra Holdings US, Spectra US and Spectra Properties US;

    b. a general security agreement over all property of Spectra in Canada;

    c. a general security agreement over all property of Spectra Holdings US, Spectra Properties US and Spectra US in the state of Indiana;

    d. a mortgage on certain immovable properties of Spectra in Nova Scotia.

EDC:

46. EDC has granted a term loan to Spectra in the amount of $6,100,000 to finance the purchase of equipment for the manufacturing line of Spectra Sweden.

47. To secure the repayment of amounts owed by the Spectra Group to EDC, EDC holds security interests on the assets of Spectra Sweden.

Other secured creditors:

48. The other secured creditors are composed of creditors that have financed specific equipment and that hold various kinds of rights on said specific equipment.

IQ:

49. IQ has granted a $5,000,000 unsecured term loan to Spectra.

50. The IQ term loan was granted to Spectra under IQ's Essor program to support Spectra's working capital.

Other creditors:

51. The majority of creditors of the Spectra Group are Asian suppliers. The other creditors have claims that relate to the day-to-day operations of the Spectra Group, like rent, transport, service etc...

FINANCIAL DIFFICULTIES

Overview:

52. Over the past few years, the Spectra Group has seen a progressive reduction of its profitability. The net income before tax was reduced from 32 M$ for the year ended January 31, 2017 to 2 M$ for the year ended January 31, 2018.

53. For the year ended January 31, 2019, the Spectra Group has suffered a net loss of 6 M$.

54. For the year ended January 31, 2020, the Spectra Group (including Spectra Sweden) has suffered a net loss of more than 13 M$ and even without considering the losses generated by the investment in Spectra Sweden, the Spectra Group has suffered a net loss of more than 4 M$ over the same period.

55. These losses have imposed a pressure on the Spectra Group's cashflow which has forced the Spectra Group to start postponing the payment of certain expenses.

56. As a consequence, the delays in the payables are longer than usual. The aging of the accounts payable (without the accrued liabilities) is as follows as of March 6, 2020:

AGING	AMOUNT OF PAYABLE
current	$22,345,076
30+	$22,804,670
60+	$9,970,570
90+	$11,960,774
TOTAL:	**$67,081,090**

57. Because of those delays in payment, the Spectra Group is at risk of having its orders cancelled by its suppliers, which would have an important negative impact on the operations.

Spectra Sweden:

58. Spectra Sweden is a new subsidiary of the Spectra Group in which Spectra invested in 2018 to enter the Swedish OEM market, and more particularly to supply Volvo Car with fuel tanks for its supply chain.

59. Initially, Spectra had forecasted an investment in an amount of 24 M$ in Spectra Sweden to contribute to the construction of the new manufacturing line. In reality, Spectra had to invest 37 M$ in Spectra Sweden. No specific financing was obtained to finance that difference between the forecasted and real initial investment in Spectra Sweden.

60. Despite these investments by Spectra, Spectra Sweden has yet to become profitable and Spectra had to inject additional amounts required to support the operations.

61. As of January 31, 2020, Spectra Sweden was indebted to Spectra for an amount of 39 M$ and there is no indication as to when the cashflow of Spectra Sweden would have allowed it to repay all or part of that amount.

62. In addition, several amounts were owed by Spectra Sweden to third parties, including to the Swedish tax authorities.

63. It is in that context that Spectra Sweden filed for creditor protection in Sweden on February 12, 2020, which confirms the uncertainty as to the capacity for Spectra to recover the amounts invested in Spectra Sweden.

Aftermarket:

64. As mentioned above, approximately 80% of the Spectra Group's business comes from the Aftermarket division. The biggest market of that division is the US market and most of the suppliers of the Aftermarket division are located in China.

65. A combination of several factors have resulted in a drastic decline of profitability of the Aftermarket division, namely:

    a. the fact that there has been a shift in customer demand towards lower price and quality products compared to the higher quality products distributed by the Spectra Group in the Aftermarket;
    b. the fact that there is an over capacity of production for the US market of fuel pumps and cooling products (which represent 70% of the sales of the Aftermarket division) which resulted in clients requesting reduction of prices;
    c. the fact that tariffs on Chinese imports in the US have fluctuated and ultimately reached 25%, which resulted in a significant increase of costs for the parts that the Spectra Group orders from Chinese suppliers and distributes in the US.

66. Because of these factors, the profitability of the Aftermarket division has decreased significantly.

RESTRUCTURING EFFORTS TO DATE AND PROPOSED RESTRUCTURING

67. The Spectra Group has retained the services of Ernst & Young inc. as restructuring professional to assist the Spectra Group in the analysis of its financial position and the implementation of restructuring measures to find solutions to the short-term financial issues and long-term solutions to allow the Spectra Group to emerge as a profitable business in the future.

68. In February 2019, in order to start reducing its expenses, the Spectra Group terminated the employment of 40 employees, mainly in the Boucherville and Laval plants.

69. To support the Spectra Group during that period, the shareholders invested a total amount of 10M$ in June 2019.

70. The Spectra Group retained the services of consultants specialized in the auto parts industry to review its business model and propose a plan to reorganize the Aftermarket distribution model of Spectra Group in order to return to profitability.

71. Such plan included the possibility for Spectra Group to create its own manufacturing capacity in the Philippines in order to be less dependent upon the Chinese suppliers and circumvent the effects of the US tariffs on Chinese imports.

72. However, the investments that would have been required to operate new manufacturing lines in the Philippines were too important and unrealistic for the Spectra Group considering its financial situation and its cash availability.

73. Spectra Group then decided to work on a plan of restructuring that would involve a significant reduction of Spectra Group's activities in the Aftermarket and centralise its activities in Canada around its newer and more profitable Tooling and Industrial divisions.

74. In January 2020, the Spectra Group terminated the employment of another 40 employees in Canada and 10 employees in the US. Those terminations represent an estimated reduction of 5 M$ of expenses on an annualized basis.

75. Other expenses are also being rationalized in the normal course of business in order to help the Spectra Group's cashflow.

76. On the US side, Spectra US's occupation of its existing 250,000 square feet warehouse in Greenfield, Indiana is scheduled to expire on May 31, 2020 and Spectra was supposed to move to a new warehouse of 500,000 square feet also located in Greenfield, Indiana. The same landlord owns both warehouses.

77. Considering its financial situation and the reality of the US market, Spectra US has decided not to move to the new warehouse and to continue operating from the existing smaller warehouse. At this time, it is anticipated that discussions with the landlord will take place to negotiate the continued occupancy of the existing premises beyond May 31, 2020.

78. As to the long-term solution, the exact plan that might be presented to creditors will have to be crafted in the coming months. However, it has already been determined by the Petitioners, with the assistance of the Proposed Monitor, that at least part of the solution resides in an important downsizing of the Aftermarket division in the US in order to

ultimately stop supplying clients with certain products that are less profitable, notably the fuel pumps and cooling products.

79. Such a downsizing cannot be made overnight as it is in the interest of the Spectra Group's business (and therefore of all stakeholders involved) to manage the relationship with the US clients and ensure that the client base remains for the profitable products of the Aftermarket division that the Spectra Group intends to continue selling.

80. Therefore, the Petitioners have forecasted a progressive reduction of the sales of the less profitable products over a period of 4 months, which will also lead to a progressive reduction of purchases of these less profitable products over that same period.

81. This approach will minimize the consequences for the US clients while allowing the Spectra Group to continue selling the more profitable products in its Aftermarket portfolio.

82. The Petitioners, with the assistance of the Proposed Monitor, have met with its principal secured creditors (Wells Fargo and BLC) to make them aware of the situation and obtain their support through this restructuring process.

83. This support was notably obtained because the Petitioners showed their capacity to manage their post-filing cashflow so that the position of the creditors should not deteriorate during the restructuring process. The cashflow projections for the period ending June 6, 2020 (the "**Cashflow**"), prepared by the Petitioners with the assistance of the Proposed Monitor, is communicated under seal as **Exhibit R-14**.

84. As outlined in the pre-filing report of the Proposed Monitor, the highlights of the Cashflow, are that, over the period ending May 30, 2020, the Petitioners will have a net cash inflow of 6,5 M$, the amounts owed to Wells Fargo will progressively decrease and the post-filing debts will be honoured in the normal course of business.

85. Wells Fargo and the Spectra Group have agreed to forbearance terms that would allow Spectra to operate in accordance with the Cashflow through its restructuring process.

86. Said flexibility was obtained by negotiating acceptable terms under the existing Wells Fargo credit facility and Wells Fargo Security. A forbearance agreement was executed between the parties on March 9, 2020 (the "**Forbearance Agreement**"), a copy of which is communicated under seal as **Exhibit R-15.** It is forecasted that the Petitioners will be able to respect the Borrowing Base and the other terms of the Forbearance Agreement during the restructuring process.

87. The Forbearance Agreement notably provides for the fact that Wells Fargo must be an unaffected creditor that is not subject to the stay of proceedings requested by the Spectra Group herein. This was considered acceptable by the Spectra Group, after consultation with the Proposed Monitor, considering the obvious need of financing during the restructuring period, and the fact that it is preferable to obtain said financing from the existing main secured creditor rather than from a third party interim lender.

88. Therefore, at this time, no interim financing or court-ordered charge is required.

89. The Forbearance Agreement also provides for Wells Fargo's consent to have two charges ranking prior to the Wells Fargo Security, namely an Administration Charge (as defined hereinafter) for an amount up to $750,000 and an KERP Charge (as defined

hereinafter) for an amount of $425,000. The relevancy of these charges is detailed below.

90. In addition to all the above, the Spectra Group, with the assistance of the Proposed Monitor, is reviewing all possible scenarios to improve the plan of arrangement that would be submitted to the creditors, including making one or multiple transactions with strategic partners and/or sell some of the Spectra Group's assets.

91. Spectra Group has in fact undertaken discussions with a third party for a possible sale of its Aftermarket division, in part or as a whole. However, discussions are at an early stage and it is impossible at this time to speculate on the results of these early discussions.

RELIEFS SOUGHT AT THE FIRST DAY HEARING

92. The Petitioners submit that their financial situation requires the intervention of the Court under the CCAA in order to give the flexibility required to allow a restructuring of their affairs in the interest of all stakeholders involved.

93. Although costs reduction measures have already been implemented, the upcoming downsizing and related modifications to Spectra's operations cannot be carried out in the normal course of business, especially considering the pressure of the unpaid suppliers.

94. Many suppliers have indicated that failure to pay late accounts will result in the suspension of deliveries. The pressure of the unpaid suppliers makes it impossible for Spectra to continue to meet its obligations on a very short term basis. The Cashflow is based on the premise that a stay of proceedings is ordered which would relieve Spectra of the pressure from its suppliers and that future purchases will be on a COD basis. Without the stay of proceedings, Spectra would be unable to continue its operations.

Application of the CCAA and consolidation of proceedings

95. Spectra is an insolvent company that cannot meet their obligations as they become due, that has more than 5 M$ of debts and that has assets and operations in Canada.

96. The other Petitioners are also insolvent companies that are affiliated to Spectra in accordance with section 3 (2) of the CCAA.

97. The Petitioners have historically managed their business on a consolidated basis and they share the same accounting, finances, human resources and overall management that is made from the headquarters in Boucherville, Quebec.

98. In terms of operations, the business activities of the Debtors are intertwined so that no entity can operate without the intervention of the others.

99. That is notably illustrated by i) the fact that both Spectra and Spectra US are co-borrowers of Wells Fargo and ii) the amount of inter-company claims between the Petitioners.

100. Finally, all the subsidiaries of Spectra that are Petitioners have transferred an amount of US$2,500 to the undersigned attorneys as deposits for fees in this file and these amounts are being held in the trust account of the undersigned in the branch of the Bank of Montreal located at 625 René-Lévesque West in Montreal.

101. Therefore, not only the CCAA applies to the Petitioners, but the procedural consolidation of the restructuring proceedings of the Petitioners is appropriate and necessary to achieve a global restructuring of their affairs.

District of Montreal

102. Not only is the head office located in Montreal, but the two main plants of the Spectra Group where most of the employees work are located in Boucherville and Laval, respectively on the South and North shore of Montreal.

103. The district of Montreal is therefore appropriate to manage these restructuring proceedings.

Appointment of the Monitor

104. The Proposed Monitor has been retained by the Spectra Group to assist them in their restructuring and is therefore already familiar with the Spectra Group's operations and financial situation;

105. The Proposed Monitor is qualified to act as it is a licensed insolvency trustee and none of the restrictions provided at section 11.7 (2) CCAA apply;

106. Subject to the authorisation of this Court, the Proposed Monitor has accepted to act as monitor in the present proceedings;

Assistance of foreign courts

107. Subject to the First Day Order being issued, it is the Petitioners' intention to apply to the United States Bankruptcy Court for the District of Delaware to obtain an order under Chapter 15 of the *U.S. Bankruptcy Code* to ensure that the stay of proceedings sought herein and the upcoming restructuring measures be implemented in the US. The Petitioners request that the Proposed Monitor be appointed to act as foreign representative for the purposes of these US proceedings.

108. The request for the assistance of foreign courts is therefore necessary in the circumstances.

Limited administration charge

109. Counsels for the Petitioners (Lavery, de Billy LLP and any US counsel, as might be necessary), the Proposed Monitor and the Proposed Monitor's counsel, in including its US counsel in its capacity as foreign representative (Norton Rose Fulbright Canada LLP, Norton Rose Fulbright US LLP and Landis Rath and Cobb LLP) are essential to the restructuring of the affairs of the Spectra Group and have all advised that they are prepared to continue to provide services to the Petitioners if they are protected by a charge over the assets of the Petitioners and that said charge should rank in priority over

other rights, charges and securities held by existing creditors (the "**Administration Charge**").

110. At the stage of the First Day Order, the Petitioners submit that an Administration Charge in the amount of $300,000 is reasonable to cover the work that was done in the context of the preparation of the present proceedings, the work that is required for the filing of Chapter 15 proceedings in the US and the work required until the Comeback Hearing.

Payment of pre-filing debts

111. At this time, the Spectra Group, with the assistance of the Proposed Monitor, has determined that it should be able to manage the suppliers, including key suppliers, in the normal course of its post-filing business, except for the US customs and the Spectra Group's customs brokers.

112. The payments to the US customs and the customs brokers is a *sine qua non* condition to allow the merchandise in transit to reach its destination. If the payments of the pre-filing amounts owed to the US customs and the customs brokers are not made, the merchandise could be retained at the border, which would irremediably affect the supply chain necessary for the day-to-day operations of the Spectra Group.

113. Although it is hard to determine exactly the cut-off between the pre-filing and the post-filing amounts owed to the US customs and the customs brokers, the total monthly payments to the US customs and the customs brokers usually varies between 2 M$ and 2,5 M$. As provided in the Cashflow, these payments would continue to be made in the normal course of business even is part of the amounts paid would include a pre-filing portion.

Sealing of confidential documents

114. The Petitioners request that the Financial statements (Exhibits R-6 to R-12), the Cashflow (Exhibit R-14), the Forbearance Agreement (Exhibit R-15) and the KERP summary (Exhibit R-16 below) be kept under seal.

115. These documents provide some information as to the internal affairs of the Petitioners which might give an undue advantage to third parties.

116. The Petitioners are all private companies and their financial statements are therefore not public. Although many financial details are contained herein and in the report of the Proposed Monitor, the Petitioners wish to keep confidential the rest of the information contained in the financial statements as it may become of interest to third parties depending on the next steps of the restructuring process.

117. As for the Cashflow, some expenses are estimated based on what the Petitioners, with the assistance of the Proposed Monitor, anticipate to be able to negotiate with third parties. However, the Petitioners wish to keep their flexibility in their relations with third parties in order to obtain the best possible terms post-filing.

118. As for the Forbearance Agreement, the terms are private and confidential a they set forth the forbearance and lending terms negotiated with Wells Fargo.

119. As for the KERP summary, it deals with private information of the employees that are included in the KERP (as defined below).

120. Notwithstanding the above, the Petitioners intend to share these documents with creditors that might request a copy of same, subject to entering into a non-disclosure agreement or agreeing to similar measures to protect the confidential nature of the information.

ADDITIONAL RELIEFS SOUGHT AT THE COMEBACK HEARING

121. At the Comeback Hearing, the Petitioners will request additional reliefs in order to allow the proposed restructuring to take place.

Extended administration Charge

122. Considering the nature of this file, which includes the complexity related to the multi-jurisdictional aspect of the file, it is submitted that the amount of the Administration Charge should be increased at the Comeback Hearing and that the amount of $750,000 is appropriate in order to secure the fees of the professionals involved in the file.

Directors' Charge

123. In order to carry on the Petitioners' business during these proceedings, the active and committed involvement and participation of the directors and officers of the Spectra Group is essential.

124. Although the Petitioners intend to comply with all applicable laws and regulations, the directors and officers are concerned about their potential personal liability given the restructuring measures that will be put in place in the context of the present proceedings and therefore require the Petitioners to indemnify them of all liabilities.

125. The Petitioners have maintained directors' and officers' liability insurance ("**D&O Insurance**") which provides various coverage and deductibles depending on the nature of the loss.

126. Although the D&O Insurance may provide appropriate coverage, there is no guarantee of coverage (exclusion, denial) or that the nature of the coverage and the maximum amount of coverage would be sufficient in the context of the upcoming restructuring process. It is therefore submitted that a risk of gap in coverage exists which creates uncertainty for the directors and officers.

127. The risk for the directors and officers of the Petitioners is determined by the amount of unpaid vacation that will accrue during the post-filing period. The Petitioners, with the assistance of the Proposed Monitor, have estimated that an amount of approximately $400,000 per month could accrue in unpaid vacation.

128. The Petitioners submit that it is reasonable to cover the directors and officers for the potential risk associated with unpaid vacation for a period of 2 months, which totals $800,000.

129. The Petitioners therefore request a court-ordered charge over the all of the Petitioner's assets, property and undertakings in the amount of $800,000 to indemnify the directors and officers of the Petitioners for any liability not already covered by the D&O Insurance ("**Directors' Charge**").

130. As agreed with Wells Fargo, the Petitioners request that the Directors' Charge rank in priority over other rights, charges and securities held by existing creditors, except the Administration Charge, the first tranche of the KERP Charge (as detailed hereinafter) and the Wells Fargo Security.

KERP

131. Spectra has identified 10 employees in its management that are key to any eventual successful restructuring and has therefore established a key employee retention plan ("**KERP**"), the terms of which are set out in the summary document communicated under seal as **Exhibit R-16**.

132. The KERP provides incentives for those 10 key employees to continue to remain employed by Spectra Group despite the insolvency of the Spectra Group. This will ensure that these key employees continue to work with the objective of preserving the value of the Spectra Group's business and implementing the upcoming restructuring measures, even though their own continued employment is not certain at this time. Without the KERP, those 10 key employees have no reason to continue working for the Spectra Group until the end of the restructuring process.

133. The retention of the employees that are included in the KERP provides the critical stability to the day-to-day operations that is essential in the circumstances and just as critical input in the restructuring of the Spectra Group's business.

134. Also, the payment of the amounts to the 10 employees that are included in the KERP is subject to some milestones to ensure the continued employment of the key employees for a period sufficient to complete the restructuring as anticipated.

135. In order to secure the payment owed to the key employees mentioned in the KERP, the Petitioners seek an order granting such employees a priority charge in the amount of $850,000 over the Petitioners' assets, property and undertakings (the "**KERP Charge**").

136. As agreed with Wells Fargo, the Petitioners request that the KERP Charge be divided in two tranches, i) the first tranche of $425,000 ranking in priority over other rights, charges and securities held by existing creditors, except the Administration Charge, and ii) the second tranche of $425,000 ranking in priority over the other rights, charges and securities held by existing creditors, except the Administration Charge, the first tranche of the KERP Charge, the Wells Fargo Security and the Directors' Charge.

CONCLUSION

137. In these uncertain times for the Spectra Group, the intervention of the Court is required to protect the Spectra Group's business, including the jobs of more than 1,100 employees, most of them being located in the greater Montreal region.

138. The stay of proceedings will provide the Spectra Group with: (i) the breathing room it requires to continue its operations without undue pressure from creditors; and (ii) the

benefits from the tools afforded by the CCAA to restructure its business maximize the value of its business and assets for the benefit of all stakeholders.

139. All the secured creditors of the Petitioners will be served with the present motion.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Motion for the Issuance of (i) a First Day Initial Order and (ii) an amended and restated initial order*;

ON THE FIRST DAY HEARING, ISSUE a first day initial order in the form of the draft First Day Order communicated as **Exhibit R-1**;

SET THE COMEBACK HEARING for March 20, 2020, in a room to be determined.

AT THE COMEBACK HEARING, ISSUE an amended and restated initial order in the form of the draft Initial Order communicated as **Exhibit R-2**;

THE WHOLE without costs, except in case of contestation.

MONTREAL, March 9, 2020

Lavery de Billy

LAVERY, DE BILLY, L.L.P.
Lawyers for Petitioners

AFFIDAVIT

I, the undersigned, DENIS CHABOT, Vice President and Chief Financial Officer of the Petitioners, having a place of business at 1421 Ampère Street, Boucherville, Québec, J4B 5Z5, solemnly affirm that:

1. I am the authorized representative of the Petitioners and, as such, I have cognizance of all the facts in the present matter;

2. All the facts alleged in the *Motion for the issuance of (i) a first day initial order* and (ii) an amended and restated initial order are true.

AND I HAVE SIGNED:

____

DENIS CHABOT

Solemnly declared before me at Montreal,
This ____ day of March, 2020

____

Commissioner of Oaths for Province of Quebec

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N°:

SUPERIOR COURT
(Commercial Division)
(Sitting as a court designated pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1995, c. 36, as amended)

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

SPECTRA PREMIUM INDUSTRIES INC.
-and-

SPECTRA PREMIUM HOLDINGS (USA) CORP.

-and-

SPECTRA PREMIUM (USA) CORP.

-and-

SPECTRA PREMIUM PROPERTIES (USA) CORP.

-and-

SPECTRA PREMIUM TAIWAN CO. LTD.

-and-

SPECTRA PREMIUM (SHANGHAI) AUTOMOTIVE TECHNICAL SERVICES CO. LTD.

-and-

SPECTRA PREMIUM (CHONGQING) AUTOMOTIVE SERVICES CO. LTD.

Petitioners

and

ERNST & YOUNG INC.

Monitor

NOTICE OF PRESENTATION

TO: **THE SERVICE LIST**

TAKE NOTICE that the present *Motion for the issuance of (i) a first day initial order and (ii) an amended and restated initial order* will be presented for first day hearing adjudication before a judge of the Superior Court, sitting in the Commercial Division for the district of Montréal, at the Montreal Courthouse located at 1 Notre-Dame Street East, Montréal, Québec, H2Y 1B6, in **room 16.06**, on **March 10, 2020**, **at 10 AM,** or as soon as counsel may be heard. The Comeback Hearing will be presented before a judge of that same court at a date and time to be determined at the first day hearing.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, March 9, 2020

Lavery de Billy

LAVERY, DE BILLY, L.L.P.
Lawyers for Petitioners

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

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-and-

SPECTRA PREMIUM (CHONGQING) AUTOMOTIVE SERVICES CO. LTD.

Petitioners

and

ERNST & YOUNG INC.

Monitor

LIST OF EXHIBITS
(In support of the *Motion for the issuance of (i) a first day initial order and (ii) an amended and restated initial order*)

EXHIBIT R-1: Draft First Day Order;

EXHIBIT R-2:	Comparison between drat First Day Order and the model initial order issued by the commercial Division of the Superior court of Quebec;
EXHIBIT R-3:	Draft Initial Order
EXHIBIT R-4:	Comparison between draft Initial Order and the model initial order issued by the commercial Division of the Superior court of Quebec;
EXHIBIT R-5:	Pre-filing report prepared by Ernst & Young inc.;
EXHIBIT R-6: ***Under Seal***	Consolidated financial statements of the Spectra Group for the year ended January 21, 2020;
EXHIBIT R-7: ***Under Seal***	Consolidated financial statements of the Spectra Group without Spectra Sweden for the year ended January 21, 2020;
EXHIBIT R-8: ***Under Seal***	Financial statements of Spectra for the year ended January 21, 2020;
EXHIBIT R-9: ***Under Seal***	Financial statements of Spectra US for the year ended January 21, 2020;
EXHIBIT R-10: ***Under Seal***	Financial statements of Spectra Shanghai for the year ended January 21, 2020;
EXHIBIT R-11: ***Under Seal***	Financial statements of Spectra Taiwan for the year ended January 21, 2020;
EXHIBIT R-12: ***Under Seal***	Financial statements of Spectra Chongqing for the year ended January 21, 2020;
EXHIBIT R-13:	Company profile of Spectra;
EXHIBIT R-14: ***Under Seal***	Cashflow projections for the period ending June 6, 2020;
EXHIBIT R-15: ***Under Seal***	Forbearance Agreement.
EXHIBIT R-16: ***Under Seal***	KERP summary.

MONTREAL, March 9, 2020

Lavery de Billy

LAVERY, DE BILLY, L.L.P.
Lawyers for Petitioners

N°:

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTRÉAL

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

SPECTRA PREMIUM INDUSTRIES INC.
-and- **SPECTRA PREMIUM HOLDINGS (USA) CORP.**
-and- **SPECTRA PREMIUM (USA) CORP.**
-and- **SPECTRA PREMIUM PROPERTIES (USA) CORP.**
-and- **SPECTRA PREMIUM TAIWAN CO. LTD.**
-and- **SPECTRA PREMIUM (SHANGHAI) AUTOMOTIVE TECHNICAL SERVICES CO. LTD.**
-and- **SPECTRA PREMIUM (CHONGQING) AUTOMOTIVE SERVICES CO. LTD.**

Petitioners

AND

ERNST & YOUNG INC.

Monitor

MOTION FOR THE ISSUANCE OF
(I) A FIRST DAY INITIAL ORDER AND
(II) AN AMENDED RESTATED INITIAL ORDER
(Sections 4, 5, 11 and *ff.* of CCAA),
AFFIDAVIT, NOTICE OF PRESENTATION
AND LIST OF EXHIBITS

O R I G I N A L

O/file: 001320-00060 BL 1332

Me Jean Legault: 514 878-5561
Me Jonathan Warin: 514 878-5616

LAVERY, DE BILLY, L.L.P.
SUITE 4000, 1, PLACE VILLE MARIE, MONTREAL, QUEBEC H3B 4M4
TELEPHONE: 514 871-1522 FAX NUMBER: 514 871-8977
EMAIL NOTIFICATIONS: NOTIFICATIONS-MTL@LAVERY.CA