C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

Nº: 500-11-058116-209

S U P E R I O R C O U R T
(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 AN APPROVAL AND VESTING ORDER
Section 36 and of the *Companies' Creditors Arrangement Act* (“**CCAA**”)

Introduction

1. The Petitioners (the "**Spectra Group**") are debtor companies in the Motion for the issuance of an Initial Order filed on March 9, 2020 (the "**Initial Motion**") for whom a First Day Initial Order under the *Companies' Creditors Arrangement Act* ("**CCAA**") was issued in this Court file on March 10, 2020 (the "**First Day Order**") and an Amended and Restated Initial Order was rendered on March 24, 2020 (the "**A&R Initial Order**"), as appears from the Court record.

2. On March 12, 2020, following the filing by the Monitor of (i) a *Verified Petition under Chapter 15 for recognition of the Canadian Proceedings and Request for related relief* and (ii) a *Motion for Provisional Relief pursuant to section 1519 of the Bankruptcy Court*, the US Bankruptcy Court for the District of Delaware issued an *Order granting Provisional Relief pursuant to Bankruptcy Code section 1519* and giving full force and effect on an interim basis to the First Day Order including, without limitation, the stay of proceedings set forth in the Initial Order, until otherwise ordered by the US Bankruptcy Court (the "**US Court Order**"), as appears from the US Court Order communicated as **Exhibit R-1**.

3. As of this day, the US Court Order is still in full force and effect pending a final decision of the *Verified Petition under Chapter 15 for recognition of the Canadian Proceedings and Request for related relief*. The hearing on said petition had been postponed by the US Court due to sanitary measures related to the Covid-19 pandemic and is now scheduled for May 27, 2020.

4. Since the issuance of the First Day Order, Spectra Group, with the assistance of the Monitor, has been in contact with its suppliers and several other stakeholders advising them of the *status quo* resulting from the First Day Order, the A&R Initial Order and of Spectra Group's continuous operations in the normal course of business.

5. The Spectra Group also started the transitions that are required to eventually emerge from these restructuring proceedings as a profitable business for the future.

6. It is to implement these transitions that Spectra Group, by the present motion, requests this Court to approve a sale of inventory outside the ordinary course of business in order to allow Spectra Group to divest from a market in which it no longer wants to operate.

7. The draft Vesting Order sought is communicated as **Exhibit R-2**.

Contemplated Transaction

8. As announced in the Initial Motion, Spectra Group has identified its US aftermarket division as one of the reasons for its overall financial difficulties and it was represented that the expected restructuring would require a reorganisation and downsizing of the US aftermarket division including the withdrawal from certain less profitable lines of products, notably the fuel pumps and cooling products.

9. At the time of the filing of the Initial Motion, Spectra Group had already started discussions with a third party regarding the potential sale of its US aftermarket division, in whole or in part.

10. To this effect, a first letter of interest by Trico Group, LLC (the "**Purchaser**") was received for all of the aftermarket activities of Spectra Group in the USA.

11. The Purchaser is the principal competitor of Spectra Group in the wholesale distribution of fuel pumps in the US aftermarket.

12. Considering Spectra Group's intention to remain present in the USA for certain lines of products in the aftermarket, the parties began discussions in March 2020 targeted only on parts of Spectra Group's US business (cooling and fuel pumps).

13. Such discussions were tainted by the Covid-19 crisis that emerged in the month of March and resulted in the economic shutdown that a large part of the society is still facing.

14. However, notwithstanding the consequences of COVID-19, the discussions between Spectra Group and the Purchaser continued and after numerous exchanges and discussions, on March 23, 2020, the Purchaser submitted a non-binding letter of intent, which was accepted by the Spectra Group on March 24, 2020 (the "**LOI**"), as appears from the LOI communicated under seal as **Exhibit R-3**.

15. The LOI essentially provides that the Purchaser is to acquire all inventory of fuel pumps and part (the "**Purchased Assets**") earmarked to the aftermarket business of Spectra Group with the exclusive right to distribute such products under the brands "Spectra" and "Spectra Premium" on the USA territory.

16. The LOI finally provides that the Purchaser will pay an amount equal to percentage of the book value of the Purchased Assets and that the transfer of the inventory and the payment of the purchase price will be completed progressively over a maximum period of six months.

17. After the acceptance of the LOI, the Purchaser completed its due diligence and the parties negotiated the terms of an Asset Purchase Agreement ("**APA**") signed on May 12, 2020, a copy of which is communicated under seal as **Exhibit R-4**.

18. Subject to adjustments, the Purchased Assets have a book value of US$15,917,676.

19. The Purchased Assets are partly owned by Spectra Premium Industries Inc. ("**Spectra Canada**") and partly by Spectra Premium (USA) Corp. ("**Spectra US**").

20. For tax purposes and practical reasons, the sale of the Purchased Assets occurs between Spectra US and the Purchaser, all Purchased Assets owned by Spectra Canada having been transferred prior to closing to Spectra US pursuant to an interco sale between Spectra Canada, as seller, and Spectra US, as purchaser (the "**Interco APA**"), a copy of which is communicated under seal as **Exhibit R-5**;

21. Both the Interco APA and the APA are subject to the Court approval sought herein.

22. Because the APA provides that the Purchased Assets will be transferred and paid for over a maximum of six months, the draft Vesting Order (R-1) provides that the Purchased Assets are vested progressively as they are paid and delivered to the Purchaser.

Security interests against the Purchased Assets

23. As described in the Initial Motion, Spectra Group's main secured creditors are Wells Fargo Capital Finance Corporation Canada, in its capacity as administrative agent for itself and Canadian Imperial Bank of Commerce (collectively: "**Wells Fargo**") and Laurentian Bank of Canada, in its capacity as administrative agent for itself and Export Development Canada (collectively: "**BLC**").

24. Spectra Group hereby files as **Exhibit R-6** an up-to-date summary of the rights registered at the RPMRR in Quebec as well as the UCC registrations in the state of Indiana and Delaware.

25. Both Wells Fargo and BLC have been consulted prior to the present motion.

Reasons justifying the approval sought

26. Spectra Group submits that it is appropriate to approve the transactions contemplated in the APA and that all conditions of sections 36 CCAA are met. The Interco APA should also be approved as being simply intercompany transaction to allow the APA to take effect.

27. As for the opportunity to sell the Purchased Assets, it is consistent with Spectra Group's willingness to downsize certain lines of products of its US aftermarket division which has been identified as a line of products that Spectra Group no longer wishes to continue.

28. Although there has been no formal solicitation process leading to the APA, it is submitted that the Court should be satisfied that the purchase price is reasonable in the circumstances.

29. Considering that the Purchased Assets are limited to inventory of different ages, the price that a purchaser would be willing to pay for the complete inventory for this line of products is mainly related to its capacity to resell such inventory on the market.

30. Considering the post-COVID-19 economic reality and the fairly limited number of purchasers that would be interested in a significant inventory of automotive aftermarket fuel pump products, it is submitted that a transaction at the set percentage of the book value for such inventory is reasonable and that a formal solicitation process would have been cash and time consuming without any reasonable expectation of a better result.

31. The proceeds of liquidation of this line of products will reduce the indebtedness towards Wells Fargo, who supports the ongoing operations of Spectra Group, and allow to focus its efforts on other elements of its restructuring plan that involves activities that are more profitable.

32. The Monitor has been kept apprised of the contemplated transaction and approves it.

33. The Monitor will file a separate report supporting the contemplated transaction as provided by the CCAA.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Motion for the issuance of an approval and vesting order* (the "**Motion**")*;*

ABRIDGE the delays of presentation of the Motion;

ISSUE a Vesting Order in accordance with the draft Vesting Order communicated as Exhibit R-2;

THE WHOLE without costs, except if contested.

MONTREAL, May 19, 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:

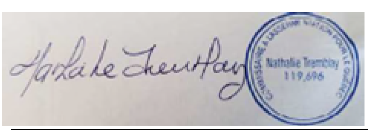
1. I am the authorized representative of the Petitioners and, as such, I have cognizance of all the facts in the present matter.

2. All the facts alleged in the *Motion for the Issuance of an Approval and Vesting Order* are true.

AND I HAVE SIGNED:

DENIS CHABOT

ASSERMENTÉ, ce 19 mai 2020, devant moi
par vidéoconférence Zoom, à Morin-Heights et
à St-Hubert m'ayant permis de reconnaître
Denis Chabot, de le voir lire l'entièreté de la
déclaration sous serment puis signer. Le document
transmis par courriel est *Motion for the Issuance of
an Approval and Vesting Order.*



Commissioner of Oaths for Province of Quebec

NOTICE OF PRESENTATION

TO: **THE SERVICE LIST**

TAKE NOTICE that the present *Motion for the Issuance of an Approval and Vesting Order* will be presented for before the Honourable Justice Louis J. Gouin, S.C.J., **on May 21, 2020** at **9:30 am** in a forum to be further announced to the Service List.

Any party wishing to object to this motion shall file a notice of objection **no later than May 20, 2020 at 5:00 pm.**

If no one objects, judgment will be rendered without a hearing on May 21, 2020. If a notice of objection is filed, the coordinates will circulate for a hearing on May 21, 2020 at 9:30 am

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, May 19, 2020

Lavery De Billy

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

Nº: 500-11-058116-209

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 AN APPROVAL AND VESTING ORDER
Section 36 and of the *Companies' Creditors Arrangement Act* ("**CCAA**")

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