

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

Nº: 500-11-058116-209

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:**

4406443 CANADA INC. (fka Spectra Premium
Industries Inc.)

-and-

**4406443 PREMIUM HOLDINGS (USA)
CORP.** (fka Spectra Premium Holdings (USA)
Corp.)

-and-

4406443 PREMIUM (USA) CORP. (fka
Spectra Premium (USA) Corp.)

-and-

**4406443 PREMIUM PROPERTIES (USA)
CORP.** (fka Spectra Premium Properties
(USA) Corp.)

Petitioners

and

ERNST & YOUNG INC.

Monitor

APPLICATION FOR A SIXTH EXTENSION OF THE STAY OF PROCEEDINGS

Section 11.02 (2) *Companies' Creditors Arrangement Act* R.S.C. (1985), c. C-36) ("CCAA")

INTRODUCTION

1. By the present *Application for a Sixth Extension of the Stay of Proceedings* (the "**Application**"), the Petitioners (the "**4406443 Group**") seek an extension of the Stay of Proceedings until December 2, 2022.

BACKGROUND

2. The 4406443 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 and an Amended and Restated Initial Order was issued on March 24, 2020 (the “**A&R Initial Order**”), as appears from the Court record.

3. The A&R Initial Order provided, *inter alia*, that all proceedings against 4406443 Group were stayed until June 6, 2020.
4. On June 5, 2020, the Court issued an Order extending the stay of proceedings until September 26, 2020.
5. On September 25, 2020, this Court issued a Second Amended and Restated Initial Order (the “**Second A&R Initial Order**”) ordering that the stay of proceedings be extended until January 30, 2021.
6. On November 19, 2020, this Court issued three (3) Approval and Vesting Orders with regards to the sale of the three (3) Spectra Premium Industries Inc.’s properties constituting the Debert plant.
7. On January 29, 2021, this Court issued a Third Order extending the stay of proceedings until May 31, 2021.
8. On May 31, 2021, this Court issued a Fourth Order extending the stay of proceedings until September 30, 2021.
9. On September 21, 2021, the Petitioners filed an *Application for i) the issuance of an Approval and Vesting Order; ii) issuance of an Assigned Contracts Order; and iii) a fifth extension of the stay of proceedings* (the “**AVO Application**”).
10. On September 28, 2021, this Court issued i) an *Approval and Vesting Order* and ii) an *Assigned Contracts Order* as well as iii) a *Fifth Order Extending the Stay of Proceedings* until April 30, 2022, communicated as **Exhibit R-1**.
11. The sale transaction contemplated in the AVO Application finally closed on November 12, 2021, and substantially all of the Sellers’ assets were transferred to the purchasers at closing (the “**Sale Transaction**”).
12. Pursuant to an order rendered on December 3, 2021, the powers of the Monitor were extended considering the resignation of all board members of the 4406443 Group and the necessity to manage some post-closing elements.

ACTIVITIES SINCE THE LAST EXTENSION

13. Since the closing of the Sale Transaction on November 12, 2021, 4406443 Group has had limited operations and limited cash inflows or outflows related to the realization of one of the assets excluded from the Sale Transaction, as well as to certain transition services resulting from the implementation of the Sale Transaction, and including the following:
 - Collection of an amount of \$21,400 from the liquidation of Spectra Shanghai (an asset excluded from the Sale Transaction);
 - Payment of the unpaid vacations (\$638,000) to former employees of 4406443 Group from the proceeds of the Sale Transaction;

- Payment of unpaid restructuring fees (\$969,121) from the proceeds of the Sale Transaction;
 - Payment of costs and fees in relation to the realization of the remaining assets and the administration of the CCAA (including the Chapter 15 proceedings) since the closing of the Sale Transaction.
14. Only two assets remained in the 4406444 Group, namely a claim in Sweden and a vacant lot property in Nova-Scotia.

Claim in Sweden

15. As already reported to this Court, 4406443 Canada Inc. is a secured creditor of its Swedish subsidiary Spectra Premium AB ("**SPAB**"), which filed for bankruptcy under Swedish insolvency and restructuring laws in May 2021.
16. The trustee appointed under the Swedish laws has undertaken to realize SPAB's assets.
17. On March 14, 2022, 4406443 Canada Inc. filed its proof of claim (in the amount of SEK 21 038 285 and CAD\$ 11 094 193) (the "**Spectra Claim**"), the whole as appears from the proof of claim communicated as **Exhibit R-2**.
18. The trustee under Swedish Laws has completed the liquidation of SPAB's assets and is actually reviewing the proofs of claim filed by SPAB's creditors, including the 4406443 Group' claim.
19. SPAB's trustee has indicated that a distribution of dividends to the creditors is expected for the fall of 2022.

Vacant lot in Debert

20. 4406443 Canada Inc. is the owner of a vacant lot in Debert, Nova-Scotia (the "**Property**") that was an excluded asset under the transaction of sale approved pursuant to the AVO Application.
21. The 4406443 Group obtained an appraisal establishing the value of the Property as of July 2020 at \$22,650.
22. The Monitor retained the services of real estate broker to put the Property on the market and recently accepted an offer for the Property for a price of \$40,000. The sale of the Property is scheduled to take place on or before May 31, 2022.
23. Since the amount of the sale is under the threshold set by the previous Orders, this Court's authorisation will not be required, and the Monitor will be able to proceed with such sale based solely on the powers already granted by this Court.

FINANCIAL SITUATION TO DATE AND PROJECTIONS

24. As the Petitioners have no more commercial activities and have liquidated all assets (except as described above) and considering that no cash inflows and outflows other than for the collection of the Spectra Claim, the sale of the Property as well as outflows related to the administration of the CCAA/Chapter 15 proceedings are expected, a dispense is

hereby requested for the Monitor not to file a report and cash-flow statements to the Court in support of the present motion.

25. Moreover, in light of the foregoing and considering the length of the extension sought, the Petitioners respectfully requests that, going forward, the Monitor be dispensed from the obligation to file further reports to this Court in accordance with section 23(1)d)(ii) CCAA, provided however that the Monitor may file a report as it deems necessary or advisable to inform this Court of any material development with respect to the remaining steps in these CCAA proceedings..

GROUND FOR THE EXTENSION OF THE STAY OF PROCEEDINGS

26. The 4406443 Group has acted in good faith and with due diligence since the issuance of the First Initial Order and continues to do so.
27. The Stay of Proceedings currently expires on April 30, 2022, and 4406443 Group seeks an extension of the Stay of Proceedings until December 2, 2022 (the “**Sixth Extension Period**”).
28. The Sixth Extension Period is necessary to allow and facilitate the collection by the Monitor of the payment of its dividend in relation to the Spectra Claim in the bankruptcy of SPAB and finalize the sale of the Property.
29. The Sixth Extension Period will also allow the Purchasers (as defined in the APA) to benefit from some services rendered by 4406443 Group per the Transition Services Agreement.
30. The Sixth Extension Period sought will not negatively impact 4406443 Group’s creditors.

CONCLUSION

31. Considering the above facts, 406443 Group submits that it is appropriate to render the Order sought herein.
32. A copy of the draft order sought is communicated as **Exhibit R-3**.
33. The Monitor has verbally announced that it supports the issuance of the order sought herein.

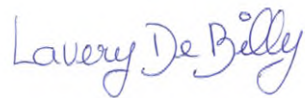
FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Application for a Sixth Extension of the Stay of Proceedings*;

EXTEND the Stay Period (as such term is defined in paragraph 8 of the Second Amended and Restated Initial Order dated September 25, 2020) until December 2, 2022, in accordance with the Draft Order filed as **Exhibit R-3**;

THE WHOLE without costs, except if contested.

MONTREAL, April 25, 2022



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

AFFIDAVIT

I, the undersigned, Éric St-Amour, Senior Vice President at Ernst & Young, having a place of business at 900, Boul de Maisonneuve West, Suite 2300, Montreal, Quebec, H3A 0A8, solemnly affirm that:

1. By Order of the Court issued on December 3, 2021, the powers of Ernst & Young Inc., acting in its capacity of Monitor to the Petitioners were expanded and includes among others the power to execute, assign, issue, endorse documents of whatever nature in respect of any of the Petitioners, whether in the Monitor's name or in the name of the Petitioners and on behalf of any of the Petitioners.
2. I am the authorized representative of the Petitioners and, as such, I have cognizance of all the facts in the present matter.
3. All the facts alleged in the *Application for a sixth extension of the stay of proceedings* are true.

AND I HAVE SIGNED:



ÉRIC ST-AMOUR

SOLEMNLY AFFIRMED before me on
April 25, 2022, by videoconference
Teams, in Montréal allowing me to
recognize Éric St-Amour, and witnessing
him having read the motion and the sworn
declaration and having signed it.



Commissioner of Oaths for Province of Quebec
Nathalie Tremblay

NOTICE OF PRESENTATION

TO: THE SERVICE LIST

TAKE NOTICE that the present *Application for a sixth extension of the stay of proceedings* will be presented for before the Honourable Justice Louis J. Gouin, S.C.J., on **April 29, 2022** at a time and 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 April 27, 2022, at 13:00 pm.**

If no one objects, judgment will be rendered without a hearing on April 29, 2022. If a notice of objection is filed, the coordinates will circulate for a hearing.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, April 25, 2022



LAVERY, DE BILLY, L.L.P.

Lawyers for Petitioners

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LIST OF EXHIBITS

[Application for a Sixth Extension of the Stay of Proceedings]

-
- Exhibit R-1:** *Approval and Vesting Order, ii) Assigned Contracts Order as well as iii) a Fifth Order Extending the Stay of Proceedings dated September 28, 2021;*
- Exhibit R-2:** Spectra Premium Industries Inc.'s Proof of Claim, dated March 14, 2022;
- Exhibit R-3:** Draft Order – Extension to December 2, 2022.

MONTREAL, April 25, 2022



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

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DISTRICT OF MONTRÉAL

**IN THE MATTER OF THE COMPROMISE OR
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-and-

ERNST & YOUNG INC.

Monitor

**APPLICATION FOR A SIXTH EXTENSION OF THE
STAY OF PROCEEDINGS, AFFIDAVIT, NOTICE OF
PRESENTATION, LIST OF EXHIBITS and EXHIBITS
R-1 to R-3**

ORIGINAL

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BL 1332

Me Jean Legault: 514 878-5561

Me Jonathan Warin: 514 878-5616

Me Ouassim Tadlaoui: 514 878-5567

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