

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-11-057985-208

SUPERIOR COURT  
(Commercial division)

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*IN THE MATTER OF THE COMPROMISE  
OR ARRANGEMENT OF:*

**STOKES INC.**

Debtor

and

**RICHTER ADVISORY GROUP INC.**

Monitor

and

**GEORGINA BOOW, JEFFREY BOOW,  
JOSHUA JEFFREY BOOW, JESSICA-LYN  
BOOW, and JACOB DONALD BOOW, A  
MINOR BY HIS LITIGATION GUARDIAN  
JEFFREY BOOW, domiciled and residing at  
590 Vandermoot Avenue, LaSalle, Ontario,  
N9J 3P7;**

Applicants

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**MOTION TO LIFT THE STAY OF PROCEEDINGS**

(Sections 11 and 11.02 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36)

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**TO THE HONOURABLE JUSTICE MICHEL A. PINSONNAULT OR TO ONE OF THE  
HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUEBEC, SITTING IN  
COMMERCIAL DIVISION, IN THE JUDICIAL DISTRICT OF MONTREAL, THE APPLICANTS  
STATE AS FOLLOWS:**

**I. INTRODUCTION**

1. By the present *Motion to Lift the Stay of Proceedings* (the "**Motion**"), the Applicants seek the issuance of an order (the "**Order**"), substantially in the form of the draft order communicated herewith as **Exhibit R-1**, lifting the stay of proceedings as of the day of the issuance of the Order, to permit the Applicants to pursue their claim against the Debtor Stokes Inc. ("**Stokes**" or the "**Debtor**") in a civil matter commenced before the Ontario Superior Court of Justice (the "**Ontario Court**"), Court file no. CV-19-27530 (the "**Ontario Civil Matter**"), for the sole purpose of enabling the Applicants to potentially access insurance proceeds under a contract of commercial general liability insurance issued by

Lloyd's to the Debtor, for which access to the insurance proceeds depends upon the Applicants being successful against the Debtor in the Ontario Civil Matter;

## II. BACKGROUND

2. On February 18, 2020, the Debtor filed a Notice of intention to make a proposal (the "NOI") under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "BIA"), and Richter Advisory Group Inc. ("Richter") was appointed as trustee thereto, the whole as appears from the Court record;
3. On March 18, 2020, April 28, 2020 and June 11, 2020, at the Debtor's request, the Court granted extensions of time under the NOI, as appears from the Court record;
4. On July 27, 2020, at the Debtor's request, the Court granted a Transition Order, continuing the Debtor's restructuring proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the "CCAA"), as appears from the Court record;
5. The Transition Order, *inter alia*:
  - a. appointed Richter as monitor of the Debtor's CCAA proceedings (the "Monitor"); and
  - b. ordered a stay of proceedings in respect of Stokes and its directors and officers until September 28, 2020 (the "Stay of Proceedings");
6. On September 25, 2020, at the Debtor's request, the Court granted an order extending the Stay of Proceedings until December 18, 2020, as appears from the Court record;

## III. GROUND FOR THE ISSUANCE OF AN ORDER LIFTING THE STAY OF PROCEEDINGS

7. The Applicants seek to lift the Stay of the Proceedings in respect of the Debtor to allow the Applicants to pursue their claim in the Ontario Civil Matter for the sole purpose of enabling them to potentially access insurance proceeds under a contract of commercial general liability insurance issued by Lloyd's to the Debtor, which insurance proceeds would only become available to the Applicants if the Applicants should be successful against the Debtor in the Ontario Civil Matter, on the following grounds;
8. In the Ontario Civil Matter, the Applicants are seeking damages further to injuries they suffered following a fire allegedly caused or contributed to by a product that was sold by the Debtor;
9. On March 11, 2019, the Applicants filed a Statement of Claim before the Ontario Court against the defendants named therein, thereby commencing the Ontario Civil Matter;

10. On February 20, 2020, the Statement of Claim in the Ontario Civil Matter was amended to add the Debtor as a defendant, as appears from a copy of the Amended Statement of Claim communicated herewith as **Exhibit R-2**;
11. It is necessary to lift the Stay of Proceedings with respect to the Ontario Civil Matter to enable the Applicants to pursue their claim against the defendants, including the Debtor;
12. The lift of the Stay of Proceedings will enable the Applicants to potentially access proceeds under a contract of commercial general liability insurance issued by Lloyd's (the "**Insurer**") to the Debtor (the "**Insurance Policy**") in the event that the Applicants are successful against the Debtor in the Ontario Civil Matter;
13. The Insurance Policy stipulates that the Insurer is required to cover the legal costs associated to the Debtor's defence in a litigation such as the one contemplated in the Ontario Civil Matter, as appears from a copy of the relevant extracts of the Insurance Policy, communicated herewith, *en liasse*, as **Exhibit R-3**;
14. The Insurance Policy stipulates that the bankruptcy or insolvency of the Debtor does not relieve the Insurer of its obligations under the policy, as appears from a copy of the relevant extracts of the Insurance Policy (**Exhibit R-3**);
15. The legal costs associated with the defence of the Debtor in the Ontario Civil Matter are therefore not born by the Debtor, but by its Insurer under the Insurance Policy;
16. The Applicants cannot pursue their claim against the Debtor, whose defence has been assumed by its Insurer, in the Ontario Civil Matter until and unless the Stay of Proceedings is lifted by the Court;
17. The Applicants are therefore prejudiced by the Stay of Proceedings and it is equitable to lift the stay in the present circumstances;
18. The continuation of the Ontario Civil Matter against the Debtor will not unduly prejudice the rights of the other creditors of the Debtor, given that the costs of the Debtor's defence will be born solely by its Insurer pursuant to the Insurance Policy;
19. The present Motion is supported by the Monitor and the Debtor, as appears from a letter dated October 8, 2020, sent by M<sup>e</sup> Joseph Reynaud, counsel to the Monitor, to Mr. Gino Paciocco, counsel to the Applicants in the Ontario Civil Matter, a copy of which is communicated herewith as **Exhibit R-4**;
20. It is consistent with the objectives of the CCAA and the interests of justice that the Stay of Proceedings be lifted in the manner described herein;

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT**                    the present *Motion to Lift the Stay of Proceedings*;

**ORDER**

that the stay of proceedings as provided for in the Transition Order of the Honourable Justice Michel A. Pinsonnault dated July 27, 2020 (the "**Transition Order**"), as it was and may be extended from time to time, be lifted to allow the continuation of the proceedings against Stokes Inc. before the Ontario Superior Court of Justice, Court file no. CV-19-27530 (the "**Ontario Civil Matter**"), solely for the purposes of seeking to potentially access the proceeds under a contract of commercial general liability insurance issued by Lloyd's to Stokes Inc., and will obtain access only if the Applicants are successful against Stokes Inc. in the Ontario Civil Matter;

**ORDER**

that, for greater certainty, unless the Court orders otherwise, the parties to the Ontario Civil Matter shall have no recourse against the present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated (including all proceeds thereof) of Stokes Inc., with any such recourse remaining stayed.

**THE WHOLE, without costs unless contested.**

**Gatineau, November 24, 2020**



**DAOUST SIROY INC.**

Attorneys for the Applicants  
(Me Alexandra Roy)  
259, Saint-Joseph Blvd., Office 210  
Gatineau, Quebec, J8Y 6T1  
Phone: (819) 317-0318  
Fax: 819-205-5580  
[aroy@dsr.legal](mailto:aroy@dsr.legal)  
Permanent code: BD 4020  
Our reference: 4456

**SWORN DECLARATION**

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I, the undersigned, Gino Paciocco, lawyer, practicing in the City of Windsor, County of Essex and Province of Ontario, solemnly declare as follows:

1. I am the Applicants' attorney in the Ontario Civil Matter, court file no: CV-19-27530;
2. All facts in the attached Motion to Lift the Stay of Proceedings are true;

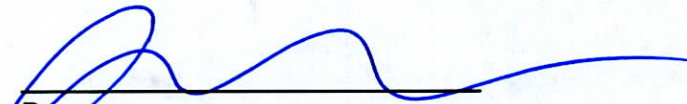
**AND I HAVE SIGNED**



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**GINO PACIOCCO**

SWORN BEFORE ME, in the city of Windsor, this 21<sup>st</sup> day of November 2020



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By:  
Commissioner of oaths

**NOTICE OF PRESENTATION**

**TO: THE SERVICE LIST (SEE ATTACHED)**

**Christina Polano**

**Rhema Kang**

Thomas Gold Pettingill LLP  
150 York Street, Suite 1800,  
Toronto, Ontario M5H 3S5  
Fax: (416) 507-1898

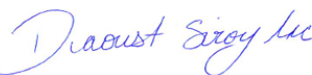
**Counsel to Stokes Inc. in the Ontario Civil Matter**

**TAKE NOTICE** that the *Motion to Lift the Stay of Proceedings* will be presented for allowance on file before the Honorable Justice Michel A. Pisonnault of the Superior Court of Quebec (Commercial Division) on December 22, 2020, at 9:00 A.M.

Any party wishing to contest the *Motion to Lift the Stay of Proceedings* must so inform the undersigned attorneys no later than December 21, 2020, at 10:00 AM and, by that date and time, provide the undersigned attorneys a written summary of the grounds of contestation.

**DO ACT ACCORDINGLY.**

**Gatineau, Decembre 14, 2020**



Attorneys for the Applicants

(Me Alexandra Roy)

259, boulevard Saint-Joseph, Suite 210

Gatineau, Quebec, J8Y 6T1

Phone: (819) 317-0318

Fax: 819-205-5580

[aroy@dsr.legal](mailto:aroy@dsr.legal)

Permanent code : BD 4020

Our reference : 4456

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
(Commercial Division)

(Sitting as a court designated pursuant to the  
*Bankruptcy and Insolvency Act*, RSC 1985, c B-3)

No.: 500-11-057985-208

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**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF:**

**STOKES INC.**

Debtor / Petitioner

-and-

**RICHTER ADVISORY GROUP INC.**

Trustee

**SERVICE LIST AS OF NOVEMBER 20, 2020**

**TO: OSLER HOSKIN & HARCOURT LLP**  
c/o Me Sandra Abitan | [sabitan@osler.com](mailto:sabitan@osler.com)  
Me Julien Morissette | [jmorissette@osler.com](mailto:jmorissette@osler.com)  
Me Ilia Kravtsov | [ikravtsov@osler.com](mailto:ikravtsov@osler.com)  
1000 De La Gauchetière Street West  
Suite 2100  
Montréal QC H3B 4W5

**AND TO: STIKEMAN ELLIOTT LLP**  
c/o Me Joseph Reynaud | [jreynaud@stikeman.com](mailto:jreynaud@stikeman.com)  
Me Vincent Lanctôt-Fortier | [vlanctotfortier@stikeman.com](mailto:vlanctotfortier@stikeman.com)  
Counsel for Richter Advisory Group Inc.  
1155 René Lévesque Blvd West  
Suite 4100  
Montréal, QC H3B 3V2

**RICHTER ADVISORY GROUP INC.**  
c/o Raymond Massi | [rmassi@richter.ca](mailto:rmassi@richter.ca)  
Olivier Benchaya | [obenchaya@richter.ca](mailto:obenchaya@richter.ca)  
Marc-Vincent Caillé | [mvcaille@richter.ca](mailto:mvcaille@richter.ca)  
Magali Dumouchel | [mdumouchel@richter.ca](mailto:mdumouchel@richter.ca)

**AND TO: BANK OF NOVA SCOTIA**  
c/o Gerry Kandestin | [gkandestin@kklex.com](mailto:gkandestin@kklex.com)  
and Jeremy Cuttler | [jcuttler@kklex.com](mailto:jcuttler@kklex.com)  
KUGLER KANDESTIN LLP  
1 Place Ville Marie  
Suite 1170  
Montréal, QC H3B 2A7

**AND TO: TIGER ASSET SOLUTIONS CANADA, ULC  
GA RETAIL CANADA ULC**  
c/o Marc-André Morin | [mamorin@fasken.com](mailto:mamorin@fasken.com)  
FASKEN, MARTINEAU DUMOULIN LLP  
800 Victoria Square  
Suite 3500  
Montreal, QC H4Z 1E9

**AND TO: BCIMC REALTY CORPORATION  
HAZELDEAN MALL LP  
WHITE OAKS MALL HOLDINGS LTD.**  
c/o Me John C. Wolf | [jwolf@blaney.com](mailto:jwolf@blaney.com)  
BLANEY MCMURTRY LLP  
2 Queen Street East, Suite 1500  
Toronto, ON M5C 3G5



**AND TO:** 7503067 CANADA INC.  
BAYSHORE SHOPPING CENTRE LTD.  
CADILLAC FAIRVIEW CORPORATION LTD.  
CANAPEN (HALTON) HOLDINGS LTD  
COMINAR REAL ESTATE INVESTMENT TRUST  
CPPIB UPPER CANADA MALL INC.  
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MARKET MALL LEASEHOLDS INC.  
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OPB (TDC) INC.  
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PLACE LAURIER HOLDINGS INC.  
QUARTIER DIX30 MANAGEMENT L.P.  
SEASONS RETAIL CORP.  
THE OUTLET COLLECTION AT WINNIPEG LTD.  
c/o Me François Viau | [francois.viau@gowlingwlq.com](mailto:francois.viau@gowlingwlq.com)  
Me Alexandre Forest | [alexandre.forest@gowlingwlq.com](mailto:alexandre.forest@gowlingwlq.com)  
GOWLING WLG (CANADA) LLP  
3700 – 1 Place Ville Marie  
Montréal, QC H3B 3P4

**AND TO:** CROMBIE DEVELOPMENTS LIMITED  
c/o Me S. Michael Citak | [mcitak@grllp.com](mailto:mcitak@grllp.com)  
GARDINER ROBERTS LLP  
Bay Adelaide Centre – East Tower  
22 Adelaide Street West, Suite 3600  
Toronto, ON M5H 4E3

**AND TO:** VAUDREUIL SHOPPING CENTRES LTD.  
c/o Me Jean-François Mallette | [l.gregoire@pfdavocats.com](mailto:l.gregoire@pfdavocats.com)  
1240 Beaumont avenue  
Bureau 210  
Montréal, QC H3P 3E5

**AND TO:** 1451945 ONTARIO LTD. AND TIMMINS SQUARE SHOPPING CENTRE INC.  
1663321 ONTARIO INC. AND 1414614 ONTARIO INC.  
2046459 ONTARIO INC.  
3934390 CANADA INC.  
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REVENUE PROPERTIES COMPANY LTD.  
RIOCAN HOLDINGS (QUÉBEC) INC.  
RIOCAN HOLDINGS INC.  
RIOCAN MANAGEMENT INC.  
RIOKIM HOLDINGS (PEI) INC.  
c/o Linda Galessiere | [lgalessiere@clegal.ca](mailto:lgalessiere@clegal.ca)  
CAMELINO GALESSIERE LLP  
6 Adelaide Street East  
Suite 220  
Toronto, ON M5C 1H6

**AND TO:** CATARAQUI HOLDINGS INC.  
LUNDY'S LANE PORTFOLIO INC.  
ORCHARD PARK SHOPPING CENTRE HOLDINGS INC.  
PETER POND SHOPPING CENTRE CORP.  
PLACE D'ORLEANS HOLDINGS INC.  
PRIMARIS MANAGEMENT INC.  
REGENT MALL HOLDINGS INC.  
ST. ALBERT CENTRE HOLDINGS INC.  
SUNRIDGE MALL HOLDINGS INC.  
c/o Me Catherine Francis | [cfrancis@mindengross.com](mailto:cfrancis@mindengross.com)  
Me Rachel Moses | [rmoses@mindengross.com](mailto:rmoses@mindengross.com)  
Karen Fox | [kfox@mindengross.com](mailto:kfox@mindengross.com)  
MINDEN GROSS LLP  
145 King Street West  
Suite 2200  
Toronto, ON M5H 4G2

- AND TO: 152810 CANADA INC.  
CARREFOUR RICHELIEU REALTIES LTD.  
CENTRE COMMERCIAL TERREBONNE LTEE  
CENTRE COMMERCIAL-MANICOUAGAN LTEE  
CENTRE VALLEYFIELD LTEE  
I.G. INVESTMENT MANAGEMENT LTD.  
NORTREE DEVELOPMENT LTD.  
PLACE VERTU NOMINEE INC.  
WESTCLIFF MANAGEMENT  
WESTCLIFF REALTIES (LÉVIS) INC.  
c/o Me Sharyn Gore | [sgore@westcliff.ca](mailto:sgore@westcliff.ca)  
WESTCLIFF MANAGEMENT INC.  
600 De Maisonneuve Boulevard West  
Suite 2600  
Montréal, QC H3A 3J2**
- AND TO: KERRY LOGISTICS (CANADA) INC.  
c/o Me Gabriel Lavery-Lepage | [glaverylepage@dwpv.com](mailto:glaverylepage@dwpv.com)  
DAVIES  
Counsel for Kerry Logistics (Canada) Inc.  
1501 McGill College Avenue  
26<sup>th</sup> Floor  
Montréal, QC H3A 3N4**
- AND TO: BODUM USA, INC.  
c/o Me Guillaume Michaud | [guillaume.michaud@nortonrosefulbright.com](mailto:guillaume.michaud@nortonrosefulbright.com)  
NORTON ROSE FULLBRIGHT CANADA LLP  
1 Place Ville-Marie  
Montréal, Quebec H3B 1R1**
- AND TO: RL Industry  
c/o Me Eli Karp | [ek@karplitigation.ca](mailto:ek@karplitigation.ca)  
FINANCIAL LITIGATION  
5000 Yonge Street, Suite 1708  
Toronto, Ontario M2N 7E9**
- AND TO: HODGE REAL ESTATE DEVELOPMENT  
c/o Me Gabriel Di Genova | [gabriel@krblaw.ca](mailto:gabriel@krblaw.ca)  
KRB LAWYERS  
240 Saint-Jacques West, Suite 300,  
Montréal, Québec H2Y 1L9**
- AND TO: CALLOWAY REIT (LAVAL E) INC.  
DÉVELOPPEMENTS PREMIÈRE CONSTANT LIMITÉE/ FIRST CONSTANT  
DEVELOPMENTS LIMITED  
c/o Cheryl Berger | [Cberger@smartcentres.com](mailto:Cberger@smartcentres.com)  
Tia Squeo | [tsqueo@smartcentres.com](mailto:tsqueo@smartcentres.com)  
3200 Highway 7, Vaughan,  
Ontario, L4K 5Z5**

## SERVICE LIST – EMAILS

[sabitan@osler.com](mailto:sabitan@osler.com); [jmorissette@osler.com](mailto:jmorissette@osler.com); [ikravtsov@osler.com](mailto:ikravtsov@osler.com);  
[jreynaud@stikeman.com](mailto:jreynaud@stikeman.com); [rmassi@richter.ca](mailto:rmassi@richter.ca); [obenchaya@richter.ca](mailto:obenchaya@richter.ca); [mvcaille@richter.ca](mailto:mvcaille@richter.ca);  
[gkandestin@kklex.com](mailto:gkandestin@kklex.com); [jcuttler@kklex.com](mailto:jcuttler@kklex.com); [mamorin@fasken.com](mailto:mamorin@fasken.com); [jwolf@blaney.com](mailto:jwolf@blaney.com);  
[francois.viau@gowlingwlq.com](mailto:francois.viau@gowlingwlq.com); [alexandre.forest@gowlingwlq.com](mailto:alexandre.forest@gowlingwlq.com); [mcitak@grllp.com](mailto:mcitak@grllp.com);  
[lgalessiere@clegal.ca](mailto:lgalessiere@clegal.ca); [cfrancis@mindengross.com](mailto:cfrancis@mindengross.com); [rmoses@mindengross.com](mailto:rmoses@mindengross.com);  
[kfox@mindengross.com](mailto:kfox@mindengross.com); [sgore@westcliff.ca](mailto:sgore@westcliff.ca); [l.gregoire@pfdavocats.com](mailto:l.gregoire@pfdavocats.com);  
[glaverylepage@dwpv.com](mailto:glaverylepage@dwpv.com); [guillaume.michaud@nortonrosefulbright.com](mailto:guillaume.michaud@nortonrosefulbright.com);  
[mdumouchel@richter.ca](mailto:mdumouchel@richter.ca); [vlanctotfortier@stikeman.com](mailto:vlanctotfortier@stikeman.com); [ek@karplitigation.ca](mailto:ek@karplitigation.ca);  
[gabriel@krblaw.ca](mailto:gabriel@krblaw.ca); [tsqueo@smartcentres.com](mailto:tsqueo@smartcentres.com); [Cberger@smartcentres.com](mailto:Cberger@smartcentres.com)

## LIST

1. [sabitan@osler.com](mailto:sabitan@osler.com)
2. [jmorissette@osler.com](mailto:jmorissette@osler.com)
3. [ikravtsov@osler.com](mailto:ikravtsov@osler.com)
4. [jreynaud@stikeman.com](mailto:jreynaud@stikeman.com)
5. [rmassi@richter.ca](mailto:rmassi@richter.ca)
6. [obenchaya@richter.ca](mailto:obenchaya@richter.ca)
7. [mvcaille@richter.ca](mailto:mvcaille@richter.ca)
8. [gkandestin@kklex.com](mailto:gkandestin@kklex.com)
9. [jcuttler@kklex.com](mailto:jcuttler@kklex.com)
10. [mamorin@fasken.com](mailto:mamorin@fasken.com)
11. [jwolf@blaney.com](mailto:jwolf@blaney.com)
12. [francois.viau@gowlingwlq.com](mailto:francois.viau@gowlingwlq.com)
13. [alexandre.forest@gowlingwlq.com](mailto:alexandre.forest@gowlingwlq.com)
14. [mcitak@grllp.com](mailto:mcitak@grllp.com)
15. [lgalessiere@clegal.ca](mailto:lgalessiere@clegal.ca)
16. [cfrancis@mindengross.com](mailto:cfrancis@mindengross.com)
17. [rmoses@mindengross.com](mailto:rmoses@mindengross.com)
18. [kfox@mindengross.com](mailto:kfox@mindengross.com)

19. [sgore@westcliff.ca](mailto:sgore@westcliff.ca)
20. [l.gregoire@pfdavocats.com](mailto:l.gregoire@pfdavocats.com)
21. [glaverylepage@dwpv.com](mailto:glaverylepage@dwpv.com)
22. [guillaume.michaud@nortonrosefulbright.com](mailto:guillaume.michaud@nortonrosefulbright.com)
23. [mdumouchel@richter.ca](mailto:mdumouchel@richter.ca)
24. [vlanctotfortier@stikeman.com](mailto:vlanctotfortier@stikeman.com)
25. [ek@karplitigation.ca](mailto:ek@karplitigation.ca)
26. [gabriel@krblaw.ca](mailto:gabriel@krblaw.ca)
27. [tsqueo@smartcentres.com](mailto:tsqueo@smartcentres.com)
28. [Cberger@smartcentres.com](mailto:Cberger@smartcentres.com)

**CANADA  
SUPERIOR COURT  
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DISTRICT OF MONTREAL  
NO: 500-11-057985-208**

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OF ARRANGEMENT OF:*

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Debtor

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**RICHER ADVISORY GROUP INC.**

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**GEORGINA BOOW, JEFFREY BOOW, JOSHUA  
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JACOB DONALD BOOW, A MINOR BY  
HIS LITIGATION GUARDIAN JEFFREY BOOW**

Applicants

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**MOTION TO LIFT THE STAY OF  
PROCEEDINGS  
(sec. 11 and 11.02 or CCAA)**

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BD 4020

O/File : 4456

**M<sup>e</sup> Alexandra Roy**

RESPONSIBLE FOR THE FILE

**DAOUST SIROY INC.**

*259, boulevard Saint-Joseph, office 210*

*Gatineau (Quebec) J8Y 6T1*

*Telephone : 819.317.0318 / Fax : 819.205.5580*

[aroy@dsr.legal](mailto:aroy@dsr.legal)