

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T  
(Commercial Division)

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No. 500-11-047847-146

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

MEXX CANADA COMPANY

Debtor/Petitioner

and

RICHTER ADVISORY GROUP INC.

Trustee

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MOTION FOR THE APPROVAL OF A PROPOSAL  
(Art. 58 and seq. of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c.B-3, ("BIA"))

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TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, DISTRICT OF MONTRÉAL, SITTING IN AND FOR THE COMMERCIAL DIVISION, MEXX CANADA COMPANY RESPECTFULLY SUBMITS THE FOLLOWING:

I. INTRODUCTION

1. By the present *Motion for the Approval of a Proposal* (the "**Motion**"), Mexx Canada Company (the "**Debtor**" or "**MCC**") seeks the approval of a proposal filed on June 1, 2015 as amended on June 19, 2015 (the "**Proposal**").
2. Capitalized terms not otherwise defined in the Motion shall have the meaning ascribed to them in the Proposal.

II. FACTUAL & PROCEDURAL BACKGROUND

3. MCC had its domicile at 905 Hodge Street, in the City and District of Montréal, Province of Québec, H4N 2B3.
4. MCC was part of the Mexx Group. The Mexx Group was an international fashion group that designs clothes and accessories for men, women and children. All the

entities forming part of the Mexx Group, including MCC, were owned, directly or indirectly, by a Netherlands holding company named Mexx Lifestyle B.V. Certain of these entities filed for bankruptcy in the Netherlands on December 3, 2014 and a trustee has been appointed pursuant to the laws of the Netherlands.

5. MCC used to operate 95 stores in eight different provinces, namely Nova Scotia, New Brunswick, Québec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia.
6. On December 3, 2014, MCC was forced to file a *Notice of Intention to File a Proposal* pursuant to section 50.4 *BIA* with the Official Receiver, as it appears from this Court's record.
7. On December 18, 2014, MCC obtained an order authorizing it to enter into a Consulting Agreement with Merchant Retail Solutions ULC and Gordon Brothers Canada ULC (collectively the "**Consultant**") whereby the Consultant would assist MCC in the liquidation of all inventory (located primarily in its retail locations) as well as in disposing of its furniture, fixtures and equipment, the whole to enable it to generate sufficient funds to allow MCC to file a proposal to its creditors.
8. On the same day, this Court issued a first order extending the time for filing a proposal to January 30, 2015.
9. On January 26, 2015, this Court issued a second order extending the time for the filing of a proposal to March 12, 2015.
10. On March 12, 2015, this Court issued a third order extending the time for the filing of a proposal to April 24, 2015.
11. On April 16, 2015, this Court issued a fourth order extending the time for the filing of a proposal to June 1, 2015.
12. On June 1, 2015, MCC filed a proposal to its creditors with the Official Receiver, as it appears from a copy of said proposal produced herewith as **Exhibit R-1**.
13. On or around June 8, 2015, Richter Advisory Group Inc. (the "**Trustee**") sent its report on the proposal to MCC's creditors, as it appears from a copy of such report produced herewith as **Exhibit R-2**.
14. On June 19, 2015, the meeting of the creditors was held at the Superintendent Office located at 1155 Metcalfe Street, Montréal (the "**Meeting**"), as it appears from a copy of the *Notice of Proposal to Creditors* produced herewith as **Exhibit R-3** (the "**Notice to Creditors**").
15. At the Meeting, MCC amended its proposal (Exhibit R-1) to clarify the definition of Landlord Claim, as it appears from a copy of the Proposal produced herewith as **Exhibit R-4**.

16. At the Meeting of creditors, the creditors voted by a majority of 99.54% in number representing 92.74% of the value of all unsecured claims to accept the Proposal.
17. The table below summarizes the result of the vote:

	Number		Value	
	Number	%	\$	%
<b>For</b>	1409	99.5	38,246,597.08	92.74
<b>Against</b>	7	0.5	2,993,519.34	7.26

18. The Trustee sent a notice of the hearing of this motion, within the prescribed delay to the Debtor, to the Official Receiver and to every known creditor, as it appears from a copy of the Notice to Creditors.
19. The Trustee is of the view that the terms of the Proposal (Exhibit R-4) are reasonable and will benefit the general body of the creditors, as appears from a copy of its report produced herewith as **Exhibit R-5**.

### **III. THE TERMS OF THE PROPOSAL**

20. The Proposal (Exhibit R-4) provides, *inter alia*, for the following:
- (a.) MCC will remit to the Trustee all the cash on hand (including collection of receivables and deposits) which shall be used to create a Settlement Fund (which is estimated to be no less than \$4.7 million) which will be used for distribution to the Subsequent Creditors, the Secured Creditors (if any), the Preferred Creditors and then the Unsecured Creditors in full and final settlement of their Claims against MCC.
  - (b.) A further \$0.6 million, the Gores Contribution, shall be remitted to the Trustee for payment to Employee Creditors no later than ten (10) days after the Approval;
  - (c.) The Settlement Fund will be distributed in the following order:
    - (i) in payment of the Subsequent Claims, if any;
    - (ii) in payment of the Secured Claims, if any;
    - (iii) in payment of all Proven Claims of the Preferred Claims;
    - (iv) in payment of the Unsecured Claims, without interest, as follows:
      - i. the lessor of a) the amount of the Proven Claim of each such Unsecured Creditor and b) \$1,800 (the "**First Level Distribution**") which amount (subject to any required reserves for disputed claims) shall be received within thirty (30) days after Approval for all

Unsecured Creditors other than Employee Creditors and fifteen (15) days after receipt by the Trustee of the required governmental confirmation with respect of Employee Creditors;

- ii. an amount equal to each Unsecured Creditor's pro rata share of any amount remaining in the Settlement Fund after distribution of the First Level Distribution amounts (subject to any required reserves for disputed claims) (the "**Second Level Distribution**"), paid as follows:
  - a. 80% of the Second Level Distribution within thirty (30) days after Approval for all Unsecured Creditors other than Employee Creditors and fifteen (15) days after receipt by the Trustee of the required governmental confirmation in respect of Employee Creditors only;
  - b. 20% of the Second Level Distribution, within ninety (90) days after Approval.

21. The present motion is well founded in fact and in law.

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

- [1] **GRANT** the present *Motion for the Approval of a Proposal*;
- [2] **APPROVE** the Proposal (Exhibit R-4) filed on June 1, 2015 and amended on June 19, 2015;
- [3] **ORDER** that upon delivery of a certificate of full performance in accordance with section 65.3 of the *Bankruptcy and Insolvency Act* (the "*BIA*") that all Claims (as such term is defined in the Proposal), shall, as against Mexx Company Canada ("**MCC**") be deemed to be fully and finally satisfied, settled, discharged and released and that from and after this date: (i) no Creditor (as such term is defined in the Proposal) shall have further right, remedy or claim against MCC in respect of all or any portion of a Claim; and (b) subject to section 50.13 *BIA*, no Creditor shall have any further right, remedy or claim in respect of a Claim against the director of MCC
- [4] **REQUEST** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;
- [5] **ORDER** the provisional execution of the Order to be rendered notwithstanding any appeal;

THE WHOLE, without costs.

MONTRÉAL, June 23, 2015

*Davies Ward Phillips & Vineberg LLP*  
**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for the Debtor Mexx Canada Company

## NOTICE OF PRESENTATION

TO: THE SERVICE LIST

TAKE NOTICE that the *Motion for the Approval of a Proposal* will be presented for hearing and allowance on June 26, 2015 at 9:15 AM in a room to be determined of the Montréal Courthouse, located at 1 Notre-Dame Street East, in the City of Montréal, Province of Québec, to be indicated by the Court.

DO GOVERN YOURSELF ACCORDINGLY.

MONTREAL, June 23, 2015

*Davies Ward Phillips & Vineberg LLP*  

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**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for the Debtor, Mexx Canada Company

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**LIST OF EXHIBITS**

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- EXHIBIT R-1 Copy of the Proposal filed on June 1, 2015;
- EXHIBIT R-2 Copy of the Trustee's report on the proposal;
- EXHIBIT R-3 Copy of the *Notice of Proposal to Creditors*;
- EXHIBIT R-4 Copy of the Amended Proposal filed on June 19, 2015;
- EXHIBIT R-5 Copy of the Trustee's report.

MONTRÉAL, June 23, 2015

*Davies Ward Phillips & Vineberg LLP*

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for the Debtor, Mexx Canada Company

No. 500-11-047847-146

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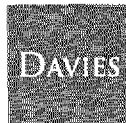
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**ORIGINAL**

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Attorneys for Mexx Canada Company  
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