

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Commercial Division)  
(Sitting as a court designated pursuant to the  
*Bankruptcy and Insolvency Act* (the “*BLA*”),  
R.S.C. 1985, c. B-3)

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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

---

**FIRST MOTION FOR AN EXTENSION OF TIME TO FILE A PROPOSAL**  
**(Section 50.4(9) of the *Bankruptcy and Insolvency Act* (the )**

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TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OR THE REGISTRAR, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE DEBTOR RESPECTFULLY SUBMITS THE FOLLOWING:

**I. INTRODUCTION**

1. By the present motion, Mexx Canada Company (the “**Debtor**” or “**MCC**”) seeks a first extension of time for filing a proposal of forty-five (45) days, for the reasons more fully explained below.

**II. FACTUAL BACKGROUND**

2. MCC has its domicile at 905 Hodge Street, in the City and District of Montréal, Province of Québec, H4N 2B3, the whole as appears from extracts of the corporate registry (CIDREQ) communicated herewith as **Exhibit R-1**.
3. MCC is part of the Mexx Group. The Mexx Group is 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, are owned, directly or indirectly, by a Netherlands holding company named Mexx Lifestyle B.V. (“**Lifestyle**”). Certain of these entities filed for bankruptcy in the Netherlands on December 3, 2014 and a Trustee (the “**Dutch Trustee**”) has been appointed.

4. MCC has the control of the MEXX brand in Canada and is in charge of selling and distributing the brand across the country. MCC's operations are being conducted from its head office and distribution center located in Montreal.
5. MCC is currently operating over 95 stores in 8 different provinces, namely Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British-Columbia.
6. MCC is also selling goods directly from its website and has several points of sales across Canada, including in certain of The Bay's stores.
7. Since May 2011, MCC has taken significant steps to streamline its operations and improve its profitability. Its efforts consisted mostly of right-sizing the operations. For instance:
  - a) MCC reduced the number of its employees at its head office from 225 to approximately 85 with increasing support services for MCC provided by the group's European operations while realizing significant synergies;
  - b) MCC has exited a few unprofitable stores; and
  - c) MCC has retained consultants to complete market, customer and profitability analysis.
8. Notwithstanding its efforts to improve its profitability, MCC is facing a significant liquidity crisis resulting, *inter alia*, from:
  - (i) a significant number of retail stores are operating at a loss;
  - (ii) an inability to reduce head office and distribution center costs in line with the current level of operations; and
  - (iii) an extremely competitive market place, including as a result of the arrival of new competitors.
9. Given the foregoing, MCC was forced to file on December 3, 2014 a *Notice of Intention to File a Proposal* (the "**Notice**") pursuant to section 50.4 of the *BIA* with the Official Receiver, and Richter Advisory Group Inc. (the "**Trustee**") was appointed trustee, the whole as appears from the Court record.
10. As of the filing, MCC is employing approximately 1,700 persons in its various stores across Canada and 85 persons at its head office and distribution center.
11. Within ten (10) days after filing the Notice, MCC filed a statement of projected cash-flow, reviewed by the Trustee, thus completing, in the prescribed form, the report on the reasonableness of MCC's cash-flow statement, the whole as appears from a copy of the cash-flow statement and of the Trustee's Report communicated herewith *en liasse* as **Exhibit R-2**.

### **III. MCC'S CREDITORS**

12. On November 1, 2011, MCC entered into a Credit Agreement with GE Canada Finance Holding Company ("**GE**") for a maximum amount of \$30,000,000 (the "**GE Loan**"). MCC

currently owes an amount of approximately \$4,000,000 to GE under said agreement. GE's indebtedness is expected to be repaid in full shortly and may be as early as of December 19, 2014.

13. On December 19, 2011, MCC entered into a Credit Agreement with Crystal Financial LLC ("Crystal") for a maximum amount of \$13,000,000 (the "Crystal Loan"). MCC currently owes an amount of approximately \$13,000,000 under said agreement.
14. The GE Loan and the Crystal Loan are secured by moveable hypothecs and general security on the universality of the movable assets of MCC. In addition, Crystal obtained the pledge of some intellectual property rights belonging to Mexx Europe B.V. ("Mexx Europe") and Mexx Holding GmbH to secure its loan.
15. GE's indebtedness is senior to Crystal's indebtedness.
16. One of MCC's most important unsecured creditors is Mexx Europe. An amount of approximately \$38,600,000 is owed by MCC to Mexx Europe.
17. Another significant unsecured creditor of MCC is Lifestyle. An amount of approximately \$42,700,000 is owed to Lifestyle, including pursuant to the advance under a €10,000,000 Loan Agreement dated February 26, 2014.
18. In summary, as of December 3, 2014, MCC owed its creditors approximately \$113,400,000 summarized as follows:
  - a) Secured lenders (namely GE and Crystal): \$17.7 million;
  - b) Related parties (namely Mexx Europe and Lifestyle): \$91.3 million; and
  - c) Unsecured trade creditors (numbering approximately 225): \$4.4 million.
19. The above-noted amount does not include any amount that may be claimed by landlords for damages resulting from any lease disclaimers.

#### **IV. EXTENSION OF TIME**

20. Since the filing of the Notice, MCC, with the assistance of its advisors and the Trustee, have been working hard to determine MCC's options.
21. Therefore, MCC together with its advisors are in the process of preparing a plan which will include the following:
  - a) reducing indebtedness;
  - b) termination of various agreements, including several leases;
  - c) reducing financial costs;
  - d) the engagement of a liquidator to sell some or all of MCC's inventory;

- e) the potential sale of parts of MCC's operations as part of a global sale of the Mexx Group by the Dutch Trustee; and
- f) the potential assignment of certain of MCC's leases. In this respect, MCC intends to engage a leasing consultant to assist it.

22. In addition, MCC has been working together with GE and Crystal, its principal secured creditors.

23. MCC seeks this extension in order to allow it to file a proposal in due course.

24. MCC and the Trustee consider that an extension is in the very best interest of all stakeholders.

25. GE and Crystal are supportive of this Motion and of the extension sought.

26. A copy of MCC's cash-flow statement and a copy of the report on the state of MCC's business and financial affairs are communicated herewith *en liasse* as **Exhibit R-3**.

#### V. CONCLUSIONS

27. If the extension is granted, MCC as well as the Trustee are not aware that any creditor will be materially prejudiced. On the contrary, if the extension is not granted and MCC becomes bankrupt, a significant prejudice will be suffered by all of MCC's stakeholders, including creditors and employees.

28. The MCC has acted and is acting in good faith and with due diligence.

29. The present motion is urgent given that it needs to be heard concurrently with the *Motion Seeking Authorization to Enter into an Agreement for the Liquidation of the Debtor's Inventory* which is urgent for the reasons more fully explained therein.

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

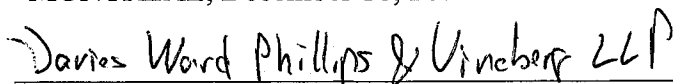
#### **FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT** the present First Motion for an extension of time to file a Proposal;

**EXTEND** until January 30, 2015 the delay granted to Mexx Canada Company to file its proposal with the Official Receiver.

**THE WHOLE**, with costs to follow.

MONTREAL, December 16, 2014



**DAVIES WARD PHILLIPS & VINEBERG LLP**

Attorneys for the Debtor  
Mexx Canada Company

## NOTICE OF PRESENTATION

**TO:** Mr. Gilles Benchaya and Mr.  
Andrew A. Adessky  
**Richter Advisory Group Inc.**  
1981 McGill College Avenue  
11th Floor  
Montréal (Québec) H3A 0G6

**AND:** Mtre. Sandra Abitan  
**Osler, Hoskin & Harcourt LLP**  
1000 De la Gauchetière St. West  
Suite 2100  
Montréal (Québec) H3B 4W5

### Trustee

**AND:** Mtre. Jocelyn Perreault  
**McCarthy Tétrault LLP**  
1000 De la Gauchetière St. West  
Suite 2500  
Montréal (Québec) H3B 4W5

### Counsel for GE Canada Finance Holding Company

**AND :** Mtre. Pierre-Luc Beauschene and Mtre.  
François Viau  
**GOWLING LAFLEUR HENDERSON LLP**  
1 Place Ville Marie  
Suite 3700  
Montréal (Québec) H3B 3P4

### Counsel for the Trustee

**AND:** Mtre. Bernard Boucher  
**Blake, Cassel & Graydon LLP**  
600 de Maisonneuve Blvd. West  
Suite 2200  
Montréal (Québec) H3A 3J2

### Counsel for Crystal Financial LLC

**TAKE NOTICE** that the *First Motion for an extension of time to file a Proposal* will be presented for hearing and allowance in room 2.07 at 2:15 p.m. on December 18, 2014 at the Montréal Courthouse, located at 1 Notre-Dame Street East, in the City of Montréal, Province of Québec, or so soon thereafter as Counsel may be heard.

**DO GOVERN YOURSELF ACCORDINGLY.**

MONTREAL, December 16, 2014

*Davies Ward Phillips & Vineberg LLP*

**DAVIES WARD PHILLIPS & VINEBERG LLP**

Attorneys for the Debtor

Mexx Canada Company.

CANADA  
PROVINCE OF QUEBEC  
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**Trustee**

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**LIST OF EXHIBITS**

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- EXHIBIT R-1** Extracts of the corporate registry (CIDREQ).
- EXHIBIT R-2** Copy of the cash-flow statement and of the Trustee's report, *en liasse*.
- EXHIBIT R-3** Copy of the cash-flow statement and of the Trustee's report on the state of the Debtor's business and financial affairs, *en liasse*.

MONTREAL, December 16, 2014

*Davies Ward Phillips & Vineberg LLP*

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**DAVIES WARD PHILLIPS & VINEBERG LLP**

Attorneys for the Debtor

Mexx Canada Company

No. 500-11-047847-146

**S U P E R I O R C O U R T**  
District of Montréal

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TIME TO FILE A PROPOSAL**

**(Section 50.4(9) of the *Bankruptcy and Insolvency  
Act (the )***

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**ORIGINAL**

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Attorneys for Mexx Canada Company  
Per: Me Christian Lachance  
Dir 514 841 6576

O/F 249060



**DAVIES WARD PHILLIPS & VINEBERG LLP**

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BP-0181

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N° 500-11-047847-146

SUPERIOR COURT

IN THE MATTER OF THE INTENTION  
TO MAKE A PROPOSAL OF

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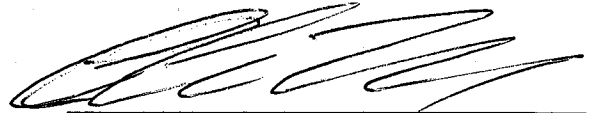
Trustee

ATTESTATION OF AUTHENTICITY

I, the undersigned, Christian Lachance, attorney, practicing my profession with the law firm of Davies Ward Phillips & Vineberg LLP, having its principal place of business at 1501 McGill College Avenue, 26<sup>th</sup> Floor, in the City of Montréal, Province of Québec, solemnly affirm that:

1. On December 16, 2014, at 12:57 p.m., Davies Ward Phillips & Vineberg LLP received by fax an Affidavit signed by Robbie Reynders dated December 16, 2014, a copy of such Affidavit is attached to this Attestation of Authenticity;
2. All the facts alleged herein are true.

AND I HAVE SIGNED:



CHRISTIAN LACHANCE

SOLEMNLY AFFIRMED BEFORE ME,  
at Montréal, on December 16, 2014



Commissioner for Oaths





**AFFIDAVIT**

I, the undersigned, Robbie Reynders, President and director of Mexx Canada Company, having a place of business at 905 Hodge Street, in the City of Montréal, Quebec, solemnly declare the following:

1. I am the President and Director of the Debtor/Petitioner herein and I am duly authorized for the purposes hereof;
2. I have taken cognizance of the attached *First Motion for an extension of time to file a Proposal*;
3. All the facts alleged in the said motion are true.

AND I HAVE SIGNED



ROBBIE REYNDERS

Solemnly affirmed before me in High Wycombe, United Kingdom  
on the 16th day of December, 2014



HELEN SELBY

SOLICITOR OF ENGLAND & WALES

SRA NUMBER: 396348

No. 500-11-047847-146

**S U P E R I O R C O U R T**

District of Montréal

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**ATTESTATION OF AUTHENTICITY**

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Attorneys for Mexx Canada Company

Per: Me Christian Lachance

Dir 514 841 6576

O/F 249060



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