

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
(Commercial Division)  
(Sitting as a court designated pursuant to the  
*Bankruptcy and Insolvency Act (the "BIA")*,  
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**

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**SECOND 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 second extension of time for filing a proposal of forty-five (45) days, for the reasons more fully explained below.

**II. FACTUAL & PROCEDURAL 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 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 Montréal.
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 19, 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").
7. 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").
8. The GE Loan and the Crystal Loan are secured by moveable hypothecs and general security on the universality of the movable assets of MCC.
9. On December 3, 2014, MCC was forced to file 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. 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**.
11. 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, all to enable it to potentially generate sufficient funds to enable MCC to file a proposal to its creditors (the "Consulting Order").
12. On the same day, this Court issued a first order extending the time for filing the proposal to January 30, 2015 (the "First Extension").

### **III. RESTRUCTURING INITIATIVES & DEVELOPMENTS SINCE THE FIRST EXTENSION**

13. Following the issuance of the First Extension and the Consulting Order, MCC, *inter alia*:
  - (i) executed the Consulting Agreement with the Consultant on December 19, 2014;
  - (ii) commenced the liquidation sales which so far have far exceeded the forecast;

- (iii) repaid in full the GE Loan (approximately \$4,000,000) on December 19, 2014;
  - (iv) closed approximately one-third of its 95 stores with the balance to be either closed or assigned by the end of February or early March 2015. To this date, no landlord has formally contested any of the lease disclaimer.;
  - (v) filed on January 5, 2015 a *Motion to Declare a Seizure Unenforceable and to Enforce the Stay of Proceedings or Alternatively to Grant a Safeguard Order*, as it appears from this Court's records and more fully discussed in the Trustee's Report;
  - (vi) repaid approximately \$7,750,000 of the Crystal Loan which was at approximately \$13,000,000 on the day of the First Extension. As at January 14, 2015, the balance of the Crystal Loan was approximately \$5,250,000; and
  - (vii) negotiated the early termination of the lease for its head office and distribution center which will result in the vacating of these premises by March 31, 2015, as well as allow for reduced rent for the premises for February, and March 2015 and the likely return of a security deposit held by the landlord.
14. On or about January 14, 2015, MCC was notified by Crystal that it had assigned the Crystal Loan to Gores Capital Partners (Alternative) III, L.P. and Gores Co-Invest Partnership (Alternative) L.P. (collectively "Gores") in exchange for a payment of approximately \$5,250,000. Said assignment is in the best interest of MCC since Gores fully support the present proceedings.

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

15. Since the First Extension, MCC, with the assistance of its advisors and the Trustee, have been working hard to determine MCC's options.
16. MCC seeks this extension in order to allow it to continue with the liquidation of its inventory as well as pursue its other restructuring initiatives, the whole to maximize realization for all stakeholders and permit it to file a proposal to its creditors.
17. MCC and the Trustee consider that an extension is in the very best interest of all stakeholders.
18. Gores is supportive of this Motion and of the extension sought.
19. The Trustee is supportive of this motion and the extension sought. A copy of MCC's cash-flow statement and a copy of the Trustee's report on the state of MCC's business and financial affairs are communicated herewith *en liasse* as **Exhibit R-3**.
20. The process undertaken is by far the best alternative for the benefit of all stakeholders. MCC and the Trustee are still working with a view of filing a proposal.

V. CONCLUSIONS

21. 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, the likelihood of MCC being in a position to pay a dividend to the unsecured creditors will significantly reduce.
22. The MCC has acted and is acting in good faith and with due diligence.
23. The present motion is well founded in fact and in law.

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

**GRANT** the present Second Motion for an extension of time to file a Proposal:

**EXTEND** until March 12, 2015 the delay granted to Mexx Canada Company to file its proposal with the Official Receiver.

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

MONTRÉAL, January 21, 2015

*Dave Ward*

*Phillips & Vineberg*

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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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**SECOND MOTION FOR AN EXTENSION OF  
TIME TO FILE A PROPOSAL, AFFIDAVIT OF  
ROBBIE REYNDERS, NOTICE OF  
PRESENTATION, LIST OF EXHIBITS AND  
EXHIBITS**

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**ORIGINAL**

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