

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No.: 500-11-033234-085

**S U P E R I O R C O U R T**  
(Commercial Division)  
(Sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*,  
R.S.C. 1985, c. C-36)

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

**SHERMAG INC.**

and

**JAYMAR FURNITURE CORP.**

and

**SCIERIE MONTAUBAN INC.**

and

**MÉGABOIS (1989) INC.**

and

**SHERMAG CORPORATION**

and

**JAYMAR SALES CORPORATION**

Petitioners

and

**RSM RICHTER INC;**

Monitor

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**SIXTH MOTION FOR AN ORDER EXTENDING THE STAY PERIOD  
AND OTHER REQUESTED RELIEFS**

(Sections 9 and 11 of the *Companies' Creditors Arrangement Act*, R.S.C. (1985), c. C-36 ) (the "CCAA")

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**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT SITTING IN  
COMMERCIAL DIVISION IN AND FOR THE DISTRICT OF MONTRÉAL, THE  
PETITIONERS RESPECTFULLY SUBMIT:**

**I. INTRODUCTION**

1. By the present Sixth Motion for an Order Extending the Stay Period and Other Requested Reliefs (the “**Motion**”), Shermag Inc. (“**Shermag**”), Jaymar Furniture Corp. (“**Jaymar**”), Scierie Montauban Inc., Mégaboïs (1989) Inc., Shermag Corporation and Jaymar Sales Corporation (collectively the “**Petitioners**”) seek: (i) the extension of the Stay Period up to and including July 31, 2009; and (ii) an amendment to the Claims Process Order rendered by this Court on July 18, 2008 (the “**Claims Process Order**”), in order to allow a holder of a Restructuring Claim to file a proof of claim after the Claims Bar Dated (as these terms are defined in the Claim Process Order), the whole in accordance with the Order sought;
2. The Petitioners will file in support of this Motion the seventh report of the Monitor RSM Richter Inc. (the “**Monitor’s Seventh Report**”) which contains a more detailed overview of the various issues mentioned in this Motion. A copy of said Monitor’s Seventh Report will be communicated as **Exhibit R-1**;
3. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Initial Order issued on May 5, 2008 (the “**Initial Order**”), as subsequently amended or extended;
4. This Court extended the Stay Termination Date of the Stay Period on several occasions and the last time to July 24, 2009, the whole as more fully appears from the Court record;

**II. EVENTS SINCE THE EXTENSION AND RESTRUCTURING EFFORTS TO DATE**

5. On June 2, 2009, the Petitioners filed a motion entitled *Motion for an Order Authorizing a Call for Tenders Process* (the “**Auction Process**”), the whole as more fully appears from the Court record;
6. In connection with the Auction Process, the Petitioners, along with the Monitor, solicited offers from a wide variety of entities which would be interested in purchasing the assets belonging to the Petitioners. The Auction Process divided the sale of the Petitioners’ property into three (3) distinct categories:

- (i) the non-core assets of the Petitioners (the “**Non-Core Assets**”), which included ten (10) land and facility lots, finished inventory, raw material, work-in-progress and machinery and equipment;
- (ii) the sale of Jaymar which is a wholly-owned subsidiary of Shermag. The Auction Process provided that Jaymar could be acquired through an asset or share deal so as to allow the sale of Jaymar “as a going concern”; and
- (iii) the sale of Shermag’s core business of importing and distributing furniture products (the “**Shermag Business**”). The Auction Process allowed for the sale of the Shermag Business “as a going concern” through an asset deal;

7. When this Court approved the Auction Process, it also approved the following timetable (the “**Timetable**”):

<u>Steps</u>	<u>Description</u>	<u>Deadline</u>
1.	Execution of the confidentiality and the non-disclosure agreement by the interested parties	June 26, 2009
2.	End of the due diligence period and access to the virtual data room	July 10, 2009
3.	Filing of the offers	July 10, 2009
4.	Opening of the offers	July 10, 2009
5.	Clarification and improvement of the offers, if needed	July 17, 2009
6.	Approbation of the offers by the Petitioners	July 17, 2009
7.	Approval by the Court of the various offers accepted	July 24, 2009

- 8. On July 10, 2009, the Petitioners filed the *Fifth Motion for an Order Extending the Stay Period* given that the Stay Termination Date was then July 13, 2009, the whole as more fully appears from the Court record;
- 9. According to the Timetable, the Petitioners had to come back before this Court on July 24, 2009 so as to obtain its approval of the offer(s) accepted;

10. On July 13, 2009, this Court extended the Stay Termination Date to July 24, 2009 so as to allow the Petitioners to come before this Court to obtain its approval of the offer(s) accepted;
11. On July 15, 2009, in accordance with the terms of paragraph 3 of the Order rendered on June 4, 2009, the Petitioners and the Monitor extended the delay to approve the offers from July 17, 2009 to July 22, 2009;
12. On July 21, 2009, the independent committee of Shermag's board of directors (the "**Independent Committee**") met to discuss the offers received in connection with the Auction Process undertaken by the Petitioners. Two offers were identified as having the potential of providing the best consideration to the Petitioners' stakeholders. However, none of the offers received was satisfactory to the Independent Committee;
13. The Independent Committee instructed the Monitor and the Petitioners' counsel to meet with both offerors in order to seek further clarifications and improvements of their respective offers;
14. The discussions in that respect are still ongoing, and a further extension is necessary in order to allow the Petitioners to negotiate a transaction satisfactory to Shermag's Independent Committee and board of directors. Given the financial situation of the Petitioners, the Independent Committee has determined that it is in the best interest of the Petitioners and their creditors that a transaction be agreed upon and submitted to the Court no later than July 31, 2009;

### **III. EXTENSION OF THE STAY PERIOD**

15. Since the issuance of the Initial Order, the Petitioners have acted, and continue to act, in good faith and with due diligence;
16. The extension of the Stay Period is necessary to allow the Monitor and the Petitioners sufficient time to (i) approve an offer and come back before this Court to obtain its approval by July 31, 2009 at the latest, (ii) provide stability to the Petitioners' businesses; and (iii) present a plan of arrangement to the Petitioners' creditors;

17. In addition, discussions with the Petitioners' lender are progressing with respect to the extension of the Forbearance Agreement. The Petitioners are confident that an agreement will be executed before the hearing of this Motion, which will assure that the Petitioners have the funds available up to the extension sought;
18. The extension of the Stay Period sought is supported by the Monitor;
19. The Petitioners' lender supports the request for extension and the present motion;
20. Therefore, Petitioners respectfully submit that the circumstances are such that extending the Stay Period is appropriate;
21. Based on the foregoing, the Petitioners pray this Court to extend the Stay Period up to and including July 31, 2009, which date shall then be the new Stay Termination Date, the whole subject to all the other terms of the Initial Order;
22. The Petitioners will file in support hereof their cash flow projections, which were prepared in conjunction with the Monitor and the support of their lender;

**IV. OTHER RELIEFS REQUESTED**

23. Petitioners further respectfully request this Court an Order amending the Claim Process Order so as to allow a holder of a Restructuring Claim to file a claim after the Claims Bar Date, the whole in accordance with the Order sought;
24. The Claims Process Order includes in its definition of "Claim" being compromised by the plan of arrangement any Restructuring Claim, the whole as appears from subparagraph 3 (g) of the Claims Process Order:

**"Claim"** means any right or claim of any Person against the Petitioners, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of the Petitioners owed to such person and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or

commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts existing prior to the Determination Date, or which would have been claims provable in bankruptcy had the Petitioners become bankrupt on the Determination Date, and, without limitation, shall include (i) any Unaffected Claim, or (ii) any Restructuring Claim, provided however, that in no case shall a Claim include an Excluded Claim;

[our emphasis]

25. The Claims Bar Date is defined in the Claims Process Order as 5:00 p.m. (Montréal time) on September 5, 2008;
26. The Petitioners are still in the process of completing their restructuring, with the result that some Restructuring Claims may occur after the Claims Bar Date;
27. In order to allow a person having a Restructuring Claim that has materialized after the Claims Bar Date to file a proof of claim, the Petitioners hereby seek to amend as follows the definition of “Claims Bar Date” in the Claims Process Order:

“Claims Bar Date” means:

- (a) with respect to any Claim other than a Restructuring Claim, 5:00 p.m. (Montréal time) on September 5, 2008; or
- (b) with respect to a Restructuring Claim, the latter of (A) 5:00 p.m. (Montréal time) on September 5, 2008 or (B) twenty (20) days after the date of receipt by the Creditor of a notice advising the Creditor to file a Proof of Claim as a result of the restructuring, repudiation, or termination of the contract, lease, employment agreement or other agreement;”

V. **GENERAL**

28. The Petitioners respectfully submit that the notices given of the presentation of the Motion are proper and sufficient;
29. The Motion is well founded both in fact and in law;

**WHEREFORE, MAY IT PLEASE THIS COURT TO:**

- [1] **GRANT** the present Motion;

- [2] **DECLARE** that all capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Initial Order issued on May 5, 2008 as subsequently amended or extended;
- [3] **EXTEND** the Stay Period and the Stay Termination Date up to and including July 31, 2009, the whole subject to all other terms and conditions of the Initial Order;
- [4] **RENEW**, in full but with the necessary adaptations, if need be, the Initial Order, until July 31, 2009;
- [5] **AMEND** the definition of Claims Bar Date in the Claims Process Order as follows:
- “Claims Bar Date” means:
- (a) with respect to any Claim other than a Restructuring Claim, 5:00 p.m. (Montréal time) on September 5, 2008; or
  - (b) with respect to a Restructuring Claim, the latter of (A) 5:00 p.m. (Montréal time) on September 5, 2008 or (B) twenty (20) days after the date of receipt by the Creditor of a notice advising the Creditor to file a Proof of Claim as a result of the restructuring, repudiation, or termination of the contract, lease, employment agreement or other agreement;”
- [6] **APPROVE** the Monitor’s activities, as described in the Monitor’s Seventh Report (Exhibit R-1);
- [7] **DECLARE** that notices given of the presentation of the Motion are proper and sufficient;
- [8] **ORDER** the provisional execution of the Order to be rendered notwithstanding any appeal and without the necessity of furnishing any security;
- [9] **THE WHOLE** without costs, except if contested, and then with costs against each opposing party;

**MONTREAL**, July 23, 2009

*Davies Ward Phillips & Vineberg LLP*

**DAVIES WARD PHILLIPS & VINEBERG LLP**

Attorneys for Petitioners Shermag Inc., Jaymar Furniture Corp., Scierie Montauban Inc., Mégabois (1989) Inc., Shermag Corporation and Jaymar Sales Corporation



## NOTICE OF PRESENTATION

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AND TO: Me Louis Gouin  
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AND TO: Mr. Yves Vincent, CA  
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Attorneys for Bermex Group Inc;

**TAKE NOTICE** that the present “Sixth Motion for an Order Extending the Stay Period and Other Requested Reliefs” will be presented for adjudication before one of the judges of the Superior Court, sitting in the Commercial Division, in and for the judicial district of Montréal, on July 24, 2009, at 9:30 a.m., in room 16.12 of 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 YOURSELVES ACCORDING;**

MONTRÉAL, July 23, 2009

*Davies Ward Phillips & Vineberg LLP*

**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for Petitioners Shermag Inc., Jaymar Furniture Corp., Scierie Montauban Inc., Mégaboïs (1989) Inc., Shermag Corporation and Jaymar Sales Corporation

jNo. 500-11-033234-085

**S U P E R I O R C O U R T**  
**(Commercial Division)**  
District of Montréal

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

**SHERMAG INC. ET ALS.**

Petitioners

and

**RSM RICHTER INC.**

Monitor

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**SIXTH MOTION FOR AN ORDER  
EXTENDING THE STAY PERIOD AND  
OTHER REQUESTED RELIEFS**

(Sections 9 and 11 *CCAA* and Section 133 *CBCA*)

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**ORIGINAL**

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**DAVIES**

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