

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. : 500-11-050409-164

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C., c. C-36, as amended)

IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, AS AMENDED:

7098961 CANADA INC.

Petitioner

-and-

RICHTER ADVISORY GROUP INC.

Monitor

MOTION FOR THE ISSUANCE OF AN ORDER EXTENDING THE STAY OF
PROCEEDINGS

(Section 11.02 of the Companies' Creditors Arrangement Act)

TO ONE OF THE JUDGES OF THE SUPERIOR COURT SITTING IN
COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL, THE
APPLICANT RESPECTFULLY SUBMITS THE FOLLOWING:

I. INTRODUCTION

1. On March 24, 2016, the Honourable Justice Martin Castonguay, J.S.C., issued an initial order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") in respect of 7098961 Canada Inc. (formerly known as Beyond the Rack Enterprises Inc., the "**Company**") as appears from the Court record.
2. Pursuant to the Initial Order, Richter Advisory Group Inc. (the "**Monitor**") was

appointed as Monitor to the Company and a stay of proceedings (the "**Stay of Proceedings**") was issued from the date of the Initial Order until April 22, 2016 (the "**Stay Period**").

3. On April 20, 2016, the Stay of Proceedings was extended temporarily to April 25, 2016, and was extended again on several occasions throughout the hearing on the Application for Directions (as defined hereinafter), and most recently, until May 13, 2016, as appears from the Court record.
4. The Company hereby seeks an order from this Court extending the Stay Period until May 20, 2016.

II. RECENT DEVELOPMENTS

A. The Legal Proceedings

5. Following an expedited sale and solicitation process, which culminated in the acceptance by the Company of an offer for the restructuring of the Company's business and assets, on or around April 21, 2016, the Company filed a motion entitled *Application for the Issuance of (i) a Claims and Meeting Procedure Order (ii) an Order Approving an Asset Purchase Agreement and (iii) an Order Approving an Increase of the DIP Facility* (the "**Application for the Approval of the Sale and Other Relief**"), pursuant to which it sought to obtain:
 - a) an order establishing a process for the treatment of claims against the Company and setting out the procedure for the calling and holding of a meeting of creditors to consider, and if deemed acceptable, approve a CCAA plan of arrangement;
 - b) an approval and vesting order in connection with the sale of all or substantially all of the assets of the Company; and
 - c) an order approving an increase of the existing DIP Facility (as defined in the Initial Order) from \$1,150,000 to \$3,150,000.
6. On or around April 22, 2016, the Monitor filed an *Application for Directions Pertaining to the Unauthorized Compensation of Cancelled Pre-Filing Orders by the Mis-en-Cause Credit Cards Settling Institutions* (as amended, the "**Application for Directions**"), relating to the compensation by the Payment Processors (as defined in the Initial Order) between (a) remittances owed to the Company of credit card payments relating to credit card sales made after the date of the Initial Order, and (b) amounts owed to the Payment Processors relating to cancelled credit card sales made before the date of the Initial Order, the whole as appears from the Court record.
7. On April 25, 2016, the Court heard evidence in connection with the Application for the Approval of the Sale and Other Relief, however reserved judgment on

said application until the hearing on the Application for Directions, which took place on April 27 and 28, 2016.

8. On May 6, 2016, the Honourable Justice Pinsonnault issued a judgment on both the Application for the Approval of the Sale and Other Relief and on the Application for Directions (the "**Judgment**"), in which it dismissed the Application for the Approval of the Sale and Other Relief, as well as the Application for Directions, while extending the Stay Period to May 13, 2016, so as to allow the Company to properly react to the implications of the Judgment.

B. Negotiations Between the Company, the DIP Lender and Paysafe

9. Following the issuance of the Judgment, the Company, 9523669 Canada Inc. (the "**DIP Lender**") and the Company's primary payment processor, Paysafe Merchant Services Inc. and Paysafe Merchant Service Corp. (collectively, "**Paysafe**"), initiated discussions so as to reach an agreement in connection with the operations of the Company going-forward.
10. These negotiations are ongoing, and the parties are not in a position to finalize a settlement nor a plan for the restructuring of the Company by May 13, 2016, being the expiry of the Stay Period.
11. As such, the extension of the Stay Period is necessary in order to provide the Company with the necessary delays to finalize the current negotiations with the DIP Lender and Paysafe, and emerge with a proposed restructuring of its business and operations that is in the best interest of the Company and its stakeholders.
12. The Company is requesting a short extension of the Stay Period, and in this regard, no creditor will suffer any undue prejudice by the extension of the Stay Period.
13. As such, the Company respectfully submits that it is appropriate, in the circumstances, to grant the present Motion and order the extension of the Stay Period to May 20, 2016.
14. The present Motion is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

GRANT the present *Motion for the Issuance of an Order Extending the Stay of Proceedings* (the "**Motion**");

DECLARE that the notices given for the presentation of the Motion are proper and sufficient;

EXTEND the Stay Period (as defined in the Motion) until May 20, 2016;

ORDER the provisional execution of this Order to be rendered notwithstanding any appeal and without the necessity of furnishing any security.

THE WHOLE WITHOUT COSTS, save and except in case of contestation.

MONTREAL, May 12, 2016

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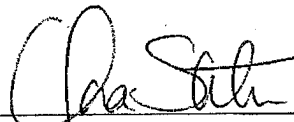
Attorneys for the Petitioner

AFFIDAVIT

I, the undersigned, Yona Shtern, business person, having my principal place of business at 905 Hodge, in the city and district of Montréal, Province of Quebec, solemnly declare the following:

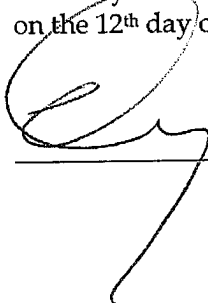
1. I am a the Chief Executive Officer of 7098961 Canada Inc. (formerly known as Beyond the Rack Enterprises Inc.); and
2. All the factual allegations contained in the *Motion for the Issuance of an Order Extending the Stay of Proceedings* are true.

AND I HAVE SIGNED:



Yona Shtern

Solemnly declared before me in Montreal,
on the 12th day of May, 2016



Avacat - Adesky
190037-4.

NOTICE OF PRESENTATION

To: Service List

TAKE NOTICE that the *Motion for the Issuance of an Order Extending the Stay of Proceedings* will be presented for adjudication before one of the Honourable Judges of the Superior Court, sitting Commercial Division in and for the District of Montréal, at the Montréal Court House, 1 Notre-Dame Street East, Montréal, Quebec on **May 13, 2016** at **2:15 pm**, room **16.12**.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, May 12, 2016

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SUPERIOR COURT
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BS0350 File: 137950-1006

MOTION FOR THE ISSUANCE OF AN ORDER
EXTENDING THE STAY OF PROCEEDINGS,
AFFIDAVIT AND NOTICE OF PRESENTATION

ORIGINAL

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