

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL
No.: 500-11-035903-091

SUPERIOR COURT
(Commercial Division)
The Companies' Creditors Arrangement Act

IN THE MATTER OF THE PLAN OF
ARRANGEMENT AND COMPROMISE OF:

BLUE MOUNTAIN WALLCOVERINGS
GROUP INC.

-and-

BLUE MOUNTAIN WALLCOVERINGS
INC.

-and-

BLUE MOUNTAIN WALLCOVERINGS
CANADA INC.

-and-

BLUE MOUNTAIN WALLCOVERINGS
USA INC.

Petitioners

-and-

RSM RICHTER INC.

Monitor

PETITION TO SANCTION AN AMENDED PLAN OF ARRANGEMENT
(Section 6 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA"))

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING
IN THE COMMERCIAL CHAMBER, IN AND FOR THE JUDICIAL DISTRICT OF
MONTREAL, PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

I- OVERVIEW OF THE PETITION¹

1. By the present "*Petition to Sanction an Amended Plan of Arrangement*"
(the "**Petition**"), Blue Mountain Wallcoverings Group Inc., Blue Mountain

¹ In this section of the Petition, unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Amended Plan (as hereinafter defined).

Wallcoverings Inc., Blue Mountain Wallcoverings Canada Inc. and Blue Mountain Wallcoverings USA Inc. (collectively, the “**Petitioners**”) request this Honourable Court to issue an order with a view of, *inter alia*:

- a) Sanctioning the Petitioners’ amended plan of arrangement dated February 3, 2011 (the “**Amended Plan**”);
- b) Declaring that the payment terms established by the Amended Plan are approved, binding and effective upon all Option 2 Creditors (as hereinafter defined), and declaring that all Claims are irrevocably extinguished save only for the right of Option 2 Creditors (as hereinafter defined) to receive the consideration provided for in the Amended Plan; and
- c) Releasing and discharging the Petitioners, their directors and other representatives from any and all indebtedness, obligations and liabilities, to the extent further provided in the Amended Plan;

II- SUMMARY OF THE CCAA PROCEEDINGS

2. On March 20, 2009, the Honourable Jean-François Buffoni, S.C.J., rendered the Initial Order declaring and/or ordering, *inter alia*:
 - a) that Petitioners were companies to which the CCAA applies;
 - b) a stay of proceedings in respect of the Petitioners up to April 20, 2009; and
 - c) that RSM Richter Inc. be appointed to act as monitor (the “**Monitor**”);the whole as more fully appears from Court record;
3. Since the Initial Order, the stay of proceedings has been successively extended until May 4, 2011, as appears from the Court record;
4. On November 10, 2009, the Petitioners filed a first plan of arrangement (the “**Plan**”) under the CCAA, which was sanctioned by the Honorable Jean Yves Lalonde, S.C.J., on January 11, 2010, as appears from the Court record;
5. Pursuant to the Plan, the Unsecured Creditors had the option to receive payment in the amount of the lesser of their Unsecured Claim and CDN \$1,500, in full and final settlement of all of their Claims (the “**Option 1 Distribution**”);
6. Alternatively, Unsecured Creditors who had not elected for the Option 1 Distribution were set to receive in two 50% distributions their *pro rata* share of the balance of a \$3 million basket, after payment to the Unsecured Creditors who elected for the Option 1 Distribution (the “**Option 2 Distributions**”);
7. On March 1, 2010, the Plan became effective and the Petitioners remitted to the Monitor the necessary funds to cover the Option 1 Distribution;

8. In accordance with the terms of the Plan, the remaining two Option 2 Distributions were scheduled to be made on or before May 3, 2010 (first 50%) and July 30, 2010 (second 50%);
9. On May 25, 2010, the Honorable Justice Tingley, S.C.J. approved an amended plan of arrangement dated May 7, 2010, and postponed by three (3) months the distributions dates provided for in Section 3.3.3. of the Plan relating to the Option 2 Distributions, as appears from the Court record;
10. On October 28, 2010, the Honorable Daniele Mayrand, S.C.J. approved an amended plan of arrangement dated October 8, 2010, modifying again the distribution dates with regard to the Option 2 Distributions, as follows:
 - a) First distribution of 50% on February 3, 2011; and
 - b) Second distribution of 50% on May 3, 2011;the whole as more fully appears from Court record;
11. As of February 3, 2011, the Petitioners had not secured sufficient financing to enable them to fund the Option 2 Distributions;
12. On February 3, 2011, the Monitor issued a report (the "**Monitor's Report**") outlining the reasons why the Petitioners were, and would remain unable to make the Option 2 Distributions, as appears from a copy of same communicated herewith as **Exhibit R-1**;
13. The Monitor's Report outlines, among others, the following facts:
 - a) The Petitioners paid the Option 1 Distribution through their operational cash flow;
 - b) The wallpaper market in which the Petitioners operate is still very affected by the current economic conditions, especially with respect to the housing market and the return to prosperity will be slower than originally anticipated; and
 - c) The Petitioners have not been able to secure sufficient financing to make the Option 2 Distributions, which are too onerous for the Petitioners' current financial position;
14. In an effort to protect their operations from bankruptcy, a scenario that would be detrimental to all stakeholders, including post-filing creditors and employees, the Petitioners filed an amended plan of arrangement dated February 3, 2011 (the "**Amended Plan**"), as appears from a copy of same, communicated herewith as **Exhibit R-2**;

15. Pursuant to and as set out in greater details in the Amended Plan, the Unsecured Creditors eligible for Option 2 Distributions (the "Option 2 Creditors") will receive an amount of 1% of their Unsecured Claims, and the distribution will be made by the Monitor within twenty (20) days following the sanction of the Amended Plan by this Honorable Court;
16. On or about February 7, 2011, the Monitor sent a notice (and posted it on its website) to all Option 2 Creditors informing them that a meeting would be held on March 7, 2011 (the "Meeting"), to consider and to vote upon the Amended Plan, as appears from the notice of Meeting and other documents, including the Amended Plan, sent to the Option 2 Creditors (the "Meeting Materials"), communicated herewith *en liasse* as **Exhibit R-3**;
17. On March 7, 2011, the Meeting was held in accordance with the Initial Order and with the Claims Process Order;
18. The Monitor recommended the acceptance of the Amended Plan since the only realistic alternative is bankruptcy, which would result in a significant shortfall to the Secured Creditors and in no recovery to the Option 2 Creditors, as appears from the Monitor's Report and from the minutes of the Meeting (the "Minutes"), communicated herewith as **Exhibit R-4**;
19. The Amended Plan was then submitted to a vote of the Option 2 Creditors that were either present or represented by proxy;
20. At the outcome of the vote, the Amended Plan was approved by the following majorities:

<u>Number of votes</u>	<u>Number of votes in favor</u>	<u>Percentage of votes in favor</u>
29	22	76%
<u>Dollar value of votes</u>	<u>Dollar value of votes in favor</u>	<u>Percentage of votes in favor</u>
\$26,119,345	\$21,357,395	82%

as appears from the Minutes;

21. On March 15, 2011, the Monitor sent (and posted on its website) a notice to all Option 2 Creditors notifying them of the hearing date of the present Petition, as appears from the notice communicated herewith as **Exhibit R-5**;

III- SANCTION OF THE AMENDED PLAN

22. Nothing in the Amended Plan violates the provisions of the CCAA or any order of this Court;

23. The Petitioners have fully complied with the provisions of the CCAA and with the orders of this Court, including *inter alia* the requirements of the Claims Process Order. Petitioners have also acted at all times in good faith and in the best interest of the parties involved in the proposed arrangement;
24. Considering that the Amended Plan was duly approved by the required majorities in number and in value, the Petitioners request this Honorable Court to sanction the Amended Plan pursuant to Section 6 of the CCAA;
25. As indicated above, should the Amended Plan not be sanctioned, the only realistic alternative is bankruptcy;
26. The Petitioners also request that this Honorable Court extend the Stay Termination Date, the Stay Period and the Initial Order (as amended), up until the date of the filing with this Court of the Monitor's Certificate, in order to allow the Petitioners and the Monitor to complete the implementation of the Amended Plan;

WHEREFORE, MAY IT PLEASE THIS COURT TO:

- [1] **GRANT** Blue Mountain Wallcoverings Group Inc., Blue Mountain Wallcoverings Inc., Blue Mountain Wallcoverings Canada Inc. and Blue Mountain Wallcoverings USA Inc.'s (collectively, the "**Petitioners**") "*Petition to Sanction an Amended Plan of Arrangement*" (the "**Petition**") pursuant to Section 6 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**");

Definitions

- [2] **ORDER** that any capitalized terms not otherwise defined in this Order shall have the meaning ascribed thereto in the Petitioners' amended plan of arrangement dated February 3, 2011 (the "**Amended Plan**") or the order rendered by the Honourable Clément Gascon, S.C.J., on September 2, 2009 (the "**Claims and Meeting Order**"), as the case may be;

Service and Meeting

- [3] **DECLARE** that the notice of presentation of the Petition is proper and sufficient, and that it was sent in accordance with the Claims and Meeting Order;
- [4] **DECLARE** that there has been proper and sufficient service and notice to all Option 2 Creditors of the Meeting Materials, and that the Meeting was duly called, held and conducted in conformity with the CCAA and the orders of the Court;

Plan Sanction

- [5] **DECLARE** that:
 - a) The Amended Plan has been approved by the required majorities of Option 2 Creditors of the Petitioners in conformity with the CCAA;

- b) The Petitioners has complied with the provisions of the CCAA and Orders of the Court;
 - c) The Court is satisfied that the Petitioners has neither done nor purported to do anything that is not authorized by the CCAA;
 - d) The Amended Plan is fair and reasonable, and in the best interests of the Petitioners, the Creditors and the other stakeholders of the Petitioners;
- [6] **ORDER** that the Amended Plan and the payment terms established by the Amended Plan are sanctioned and approved pursuant to Section 6 of the CCAA and binding upon all Option 2 Creditors and, as at the Effective Date, will be effective and will enure to the benefit of and be binding upon the Petitioners, the Creditors and all other Persons stipulated in the Amended Plan;
- [7] **ORDER** that the Petitioners and the Monitor are authorized and directed to take all steps and actions necessary or appropriate, as determined by the Petitioners to implement the Amended Plan, and such steps and actions are approved;
- [8] **ORDER** that, as at the Effective Date, all Claims of any nature against the Petitioners, their directors and other representatives or the Property (as defined in the Initial Order) are hereby forever discharged, released and irrevocably extinguished and all proceedings with respect thereto or in connection therewith are permanently stayed, subject only to the right of the Option 2 Creditors to receive the distributions in respect of such Claims in accordance with the Amended Plan and the Claims Process Order;
- [9] **DECLARE** that all Proven Claims determined in accordance with the Claims Process Order and the Amended Plan are final and binding on the Petitioners and all Creditors;
- [10] **ORDER** that, from and after the Effective Date, all Persons shall be deemed to have waived any and all defaults of the Petitioners then existing or previously committed by the Petitioners or caused by the Petitioners, directly or indirectly, or non-compliance with any covenant, positive or negative pledge, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Petitioners arising from the filing by the Petitioners under the CCAA or the transactions contemplated by the Amended Plan, and any and all notices of default and demands for payment under any instrument, including any guarantee arising from such default, shall be deemed to have been rescinded;
- [11] **DECLARE** that, subject to the performance by the Petitioners of their obligations under the Amended Plan, all contracts, leases, agreements and other arrangements to which the Petitioners are a party and that have not been

terminated or repudiated pursuant to the Initial Order will be and remain in full force and effect, unamended, as at the Effective Date, and no Person who is a party to any such contract, lease, agreement or other arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of dilution or other remedy) or make any demand under or in respect of any such contract, lease, agreement or other arrangement and no automatic termination will have any validity or effect, by reason of:

- a) any event that occurred on or prior to the Effective Date and is not continuing that would have entitled such Person to enforce those rights or remedies;
- b) the insolvency of the Petitioners or the fact that the Petitioners sought or obtained relief under the CCAA; or
- c) any compromises or arrangements effected pursuant to the Amended Plan or any action taken or transaction effected pursuant to the Amended Plan;

Stay Extension

- [12] **DECLARE** that the stay of proceedings under the Initial Order continues until the filing with this Court of the Monitor's Certificate (the date of such filing to be the Stay Termination Date (as such term is defined in the Initial Order));
- [13] **ORDER** that all other Orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by, or inconsistent with this Order;

Monitor

- [14] **ORDER** that, until its discharge as provided in this Order, the appointment of RSM Richter Inc. as Monitor and as an officer of this Court pursuant to the terms of the Initial Order, and the protections afforded to it pursuant to Orders made in the CCAA Proceedings, shall not expire or terminate on the Effective Date and shall be effective and in full force and effect until the completion by the Monitor of all of its duties in relation to the claims procedure and all matters for which it is responsible under the Amended Plan or pursuant to the Orders of this Court made in the CCAA Proceedings;
- [15] **ORDER** that the Monitor shall be discharged of its duties and obligations pursuant to the Amended Plan, this Order and all other Orders made in the CCAA Proceedings, upon the filing with this Court of a certificate of the Monitor certifying that the matters set out in the preceding paragraph are completed to the best of the Monitor's knowledge;

[16] THE WHOLE without costs.

MONTREAL, this 15th day of March 2011


STIKEMAN ELLIOTT LLP
Attorneys for the Petitioners

AFFIDAVIT

I, the undersigned, **MICHEL MEGELAS**, Vice-President, General Counsel and Corporate Secretary of Blue Mountain Wallcoverings Group Inc., doing business at 1010 Sherbrooke Street West, in the City and District of Montreal, Province of Québec, do solemnly declare as follows:

1. I am duly authorized by the Petitioners to sign the present affidavit;
2. All the facts contained in the attached Petition to Sanction an Amended Plan of Arrangement dated March 15, 2011, are true.

AND I HAVE SIGNED:



MICHEL MEGELAS

SOLEMNLY DECLARED before me at Montreal,
this 15th day of March 2011



**COMMISSIONER OF OATHS
FOR THE DISTRICT OF MONTREAL**



NOTICE OF PRESENTATION

TO: Mr. Robert M. Zedaker, CFO
GRAFIKA COMMERCIAL PRINTING INC.
710 Johnston Street
Sinking Spring, PA 19608

TO: Mtre Edward J. Druker
DRUKER, NAVEY, GREEN, SCHWARTZ
1255 Phillips Square, Suite 605
Montreal, Quebec, H3B 3G5

TO: Mtre Xavier Lafontaine
DE GRANDPRÉ CHAIT LLP
1000 de la Gauchetière Street West, Suite 2900
Montreal, Quebec, H3B 4W5

TAKE NOTICE that the foregoing "*Motion to sanction an Amended Plan of Arrangement*" shall be presented before one of the Honorable judges of the Superior Court, sitting in Commercial Division, in and for the District of Montreal, on March 21, 2011, in room 16.10 of the Montreal Courthouse.

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, this 15th day of March 2011



STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

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CANADA INC.

-and-

BLUE MOUNTAIN WALLCOVERINGS
USA INC.

Petitioners

-and-

RSM RICHTER INC.

Monitor

LIST OF EXHIBITS

- Exhibit R-1 :** Monitor's report dated February 3, 2011;
- Exhibit R-2 :** Amended plan of arrangement dated February 3, 2011;
- Exhibit R-3 :** Notice of Meeting and other documents, including the Amended Plan, sent to the Option 2 Creditors on or about February 7, 2011;
- Exhibit R-4 :** Minutes of the Meeting held on March 7, 2011;
- Exhibit R-5 :** Notice sent on March 15, 2011 to all Option 2 Creditors notifying them of the hearing date of the present Petition.

Montreal, this 15th day of March 2011



STIKEMAN ELLIOTT LLP
Attorneys for Petitioners