

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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**THIRD 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 third 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.
3. MCC was part of the Mexx Group. The Mexx Group was 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, were 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 pursuant to the laws of the Netherlands.

4. MCC used to operate 95 stores in eight different provinces, namely Nova Scotia, New Brunswick, Québec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia.
5. 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**”).
6. 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**”).
7. The GE Loan and the Crystal Loan are secured by moveable hypothecs and general security on the universality of the movable assets of MCC.
8. 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 this Court’s record.
9. 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, the whole to enable it to potentially generate sufficient funds to allow MCC to file a proposal to its creditors (the “**Consulting Order**”).
10. On the same day, this Court issued a first order extending the time for filing the proposal to January 30, 2015 (the “**First Extension**”).
11. Following the issuance of the First Extension and of the Consulting Order, MCC, *inter alia*:
  - (i) executed the Consulting Agreement with the Consultant on December 19, 2014;
  - (ii) commenced the liquidation of its inventory;
  - (iii) repaid in full the GE Loan (approximately \$4,000,000) on December 19, 2014;
  - (iv) closed the majority of its stores in January and February 2015;
  - (v) was served with a copy of a warrant of arrest issued by the Federal Court of Canada (the “**FCC**”) on December 23, 2014 (the “**Arrest**”) allowing LF Centennial PTE Ltd. (“**LF**”) to arrest several containers containing a significant number of garments belonging to MCC (the “**Garments**”)
  - (vi) filed on January 5, 2015 a motion seeking either a declaration that the Arrest by LF is unenforceable or alternatively the issuance of a Safeguard Order allowing MCC to sell the Garments;
  - (vii) obtained from this Court on January 6, 2015 a Safeguard Order allowing MCC to ship the Garments to its stores and sell them and forcing MCC to deposit into an

escrow account the proceeds of the sale of the Garments less certain amounts up to a maximum of \$1,100,000 (the “**Escrow Arrangement**”).

- (viii) filed with the FCC on January 8, 2015 a *Notice of Motion* for an order, *inter alia*, quashing the Arrest;
  - (ix) repaid approximately \$7,750,000 of the Crystal Loan which was at approximately \$13,000,000 on the day of the First Extension;
  - (x) 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.
12. 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 was in the best interest of MCC since Gores fully support the present proceedings.
13. On January 26, 2015, this Court issued a second order extending of time for the filing of the proposal to March 12, 2015 (the “**Second Extension**”).

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

14. Following the issuance of the Second Extension, MCC, *inter alia*:
- (i) obtained a judgment from Prothonotary Morneau of the FCC on February 3, 2015 quashing the Arrest and the Escrow Arrangement, as appears from a copy of said judgment communicated herewith as **Exhibit R-1** (the “**Prothonotary Judgment**”);
  - (ii) successfully contested an appeal from the Prothonotary Judgment by LF, which was dismissed by Justice de Montigny of the FCC, as appears from a copy of said judgment communicated herewith as **Exhibit R-2**;
  - (iii) completed the liquidation sales;
  - (iv) closed all the remaining stores. No landlord has contested any of the lease disclaimers;
  - (v) repaid almost entirely the Crystal Loan.

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

15. Pursuant to the completion of the liquidation sales and the issuance of the Prothonotary Judgment quashing the Arrest and the Escrow Arrangement, MCC will be in a position to present a proposal to its creditors.
16. MCC seeks this extension in order to:

- (i) reconcile, with the assistance of the Trustee and the Consultant, the proceeds stemming from the liquidation sales and the collapse of the Escrow Arrangement;
  - (ii) complete the closure of its head office;
  - (iii) collect certain receivables from the sale of its furniture, fixtures and equipment;
  - (iv) complete ongoing discussions with third parties with respect to the proposal to be filed by MCC;
  - (v) finalize the terms of the proposal to be presented to MCC's creditors.
17. MCC and the Trustee consider that an extension is in the very best interest of all stakeholders given that it will allow the filing of a proposal.
18. 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**.
19. The process undertaken is by far the best alternative for the benefit of all stakeholders. MCC and the Trustee are actively working at finalizing the proposal which will be presented to MCC's creditors.

V. **CONCLUSIONS**

20. To MCC's and the Trustee's knowledge, the extension sought will not materially prejudice any creditors.
21. Gores is supporting the present motion.
22. MCC has acted and continues to act diligently and in good faith.
23. The present motion is well founded in fact and in law.

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

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

**EXTEND** until April 24, 2015 the delay granted to Mexx Canada Company to file its proposal with the Official Receiver.

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

MONTREAL, March 9, 2015

*Darwin Ward Phillips & Vineberg*

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**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for the Debtor  
Mexx Canada Company

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N° 500-11-047847-146

SUPERIOR COURT  
(Commercial Division)

IN THE MATTER OF THE INTENTION  
TO MAKE A PROPOSAL OF

MEXX CANADA COMPANY

Debtor/Petitioner

and

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Trustee

---

**ATTESTATION OF AUTHENTICITY**

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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 March 9, 2015 at 12:47 p.m., Davies Ward Phillips & Vineberg LLP received by fax an Affidavit signed by Robbie Reynders dated March 9, 2015, a copy of such Affidavit is attached to this Attestation of Authenticity;
2. All the facts alleged herein are true.

**AND I HAVE SIGNED:**



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CHRISTIAN LACHANCE

**SOLEMNLY AFFIRMED BEFORE ME,**  
at Montréal, on March 9, 2015



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Commissioner for Oaths



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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, Québec, solemnly declare the following:

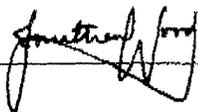
1. I am the President and Director of the Debtor/Petitioner herein and I am duly authorized for the purposes hereof;
2. I have taken cognizance of the attached *Third Motion for an extension of time to file a Proposal*;
3. All the facts alleged in the said motion are true.

AND I HAVE SIGNED



ROBBIE REYNDERS

Solemnly affirmed before me in London  
on the 9<sup>th</sup> day of March, 2015



JONATHAN WOOD

WEIL, GOTSMAL &amp; MANGES

110 FETER LANE

LONDON

ECLA 1AY

**NOTICE OF PRESENTATION**

**DISTRIBUTION LIST:**

**TAKE NOTICE** that the *Third Motion for an extension of time to file a Proposal* will be presented for hearing and allowance in room and at a time to be determined on March 12, 2015 at the Longueil Courthouse, located at 1111 Jacques-Cartier East Boulevard, in the City of Longueil, Province of Québec, or so soon thereafter as Counsel may be heard.

**DO GOVERN YOURSELF ACCORDINGLY.**

MONTREAL, March 9, 2015

*Daniel Ward*  
*D Phillips & Vineberg*

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**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for the Debtor  
Mexx Canada Company.

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

SUPERIOR COURT  
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**LIST OF EXHIBITS**

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- EXHIBIT R-1** Judgment dated February 3, 2015;
- EXHIBIT R-2** Judgment dated February 19, 2015;
- EXHIBIT R-3** Cash-flow statement and Trustee's report.

MONTRÉAL, March 9, 2015

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

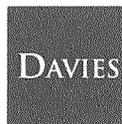
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**ORIGINAL**

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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**

1501 McGill College Avenue  
26<sup>th</sup> Floor  
Montréal Canada H3A 3N9

Tel 514 841 6400  
Fax 514 841 6499  
BP-0181