

**ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BARZEL INDUSTRIES CANADA INC.

Applicant

**MOTION RECORD OF THE APPLICANT
(Returnable November 23, 2010)**

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INDEX

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Applicant

TABLE OF CONTENTS

Tab No.	Document	Page #
1.	Notice of Motion dated November 17, 2010	1 - 10
2.	Draft Order	11 - 13

TAB 1

Court File No. 09-8363-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST**

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AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF BARZEL INDUSTRIES
CANADA INC.

Applicant

NOTICE OF MOTION

The Applicant will make a motion to a Judge presiding over the Commercial List on November 23, 2010 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. an Order, if necessary, abridging the time for service of this Notice of Motion and the Motion Record and that the Notice of Motion is properly returnable on November 23, 2010 and that further service of the Notice of Motion on any interested party, other than those served, may be dispensed with;
2. an Order that the Stay Period, as defined in paragraph 15 of the Order of this Court made in these proceedings on September 15, 2009 (the "**Initial Order**"), be extended to and including February 28, 2011;

3. an Order approving of the activities of Deloitte & Touche Inc., in its capacity as the monitor appointed by this Court in these proceedings (the "**Monitor**") as set out in the Report (defined below);

4. an Order approving the fees and disbursements of the Monitor and its counsel as set out in the Report; and

5. such further and other Orders as counsel may request and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Stay Extension

1. The current Stay Period as defined in the Initial Order expires on November 30, 2010;

2. The continuation of the Applicant under these proceedings remains beneficial to resolving certain outstanding tax issues and will facilitate the ongoing collection by the Monitor of the Applicant's outstanding accounts receivable;

3. Resolving such matters as final federal income tax and excise tax audits and provincial retail sales tax and payroll audits to determine any claims which may invoke the Director's Charge (as defined in the Initial Order) may take until the end of February 2011 or longer;

4. Before these proceedings are terminated, all amounts subject to the Charges (as defined in the Initial Order) should be adequately dealt with or otherwise provided for;

5. The Applicant has acted, and is acting, in good faith and with due diligence;

6. The Applicant has sufficient cash to continue to cover its ongoing costs to and including February 28, 2011;

7. The Monitor is supportive of the Applicant's request for an extension of the Stay Period to and including February 28, 2011;

Monitor's Activities and Fees

8. The Monitor has complied with all Orders of this Court and its activities to date have assisted this Court and the Applicant in implementing its restructuring initiative;

9. The fees and disbursements of the Monitor and its counsel are reasonable under the circumstances at rates that are consistent with those of other Toronto accounting and law firms providing insolvency and restructuring services;

10. The Applicant and the Secured Lenders support the approval of the Monitor's activities, fees and the fees of its counsel;

Miscellaneous

11. paragraphs 31 and 49 of the Initial Order;

12. Rules 3.02 and 37.02(1) of the *Rules of Civil Procedure*; and

13. such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the Tenth Report of the Monitor and all exhibits and appendices thereto (the "**Report**"), to be filed separately; and
2. such further and other materials as counsel may advise and this Court may permit.

Date: November 17, 2010

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TO: ATTACHED SERVICE LIST

Court File No. 09-8363-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST**

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR
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Applicant

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BARZEL INDUSTRIES CANADA INC.

Court File No. 09-83663-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST
Proceeding Commenced at Toronto

NOTICE OF MOTION
(Returnable November 23, 2010)

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Lawyers for the Applicant

TAB 2

Court File No. 09-8363-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE – COMMERCIAL LIST

THE HONOURABLE ■)	TUESDAY, THE 23 RD DAY
)	
JUSTICE ■)	OF NOVEMBER, 2010.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF BARZEL INDUSTRIES CANADA INC.

Applicant

ORDER
(Stay Extension)

THIS MOTION, made by the Applicant for an order extending the Stay Period as defined in paragraph 15 of the Order of this Court made in these proceedings on September 15, 2009 (the "**Initial Order**"), approving the activities of Deloitte & Touche Inc., in its capacity as the monitor appointed by this Court in these proceedings (the "**Monitor**") as set out in the Tenth Report of the Monitor dated November ■, 2010 (the "**Report**"), and approving the fees and disbursements of the Monitor and its counsel as set out in the Report was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Applicant, the Monitor, and JPMorgan Chase Bank, N.A. and CIBC World Markets Corp. (collectively, the "**Secured Lenders**"), no one appearing for any other person on the service list, although properly served as appears from the Affidavits of Service filed:

DRAFT

1. THIS COURT ORDERS that the time for service of the Notice of Motion, the Report and the Motion Record is hereby validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that the Stay Period, as defined in paragraph 15 of the Initial Order, be and is hereby extended to and including February 28, 2011.
3. THIS COURT ORDERS that the activities of the Monitor as set out in the Report be and are hereby approved.
4. THIS COURT ORDERS that the fees and disbursements of the Monitor and its counsel as set out in the Report be and are hereby approved.
5. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
6. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

DRAFT

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DRAFT

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Proceeding Commenced at Toronto

**ORDER
(Stay Extension)**

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