

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Commercial Division)

No. : 500-11-053313-173

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

JAVA-U GROUP INC.

- and -

JAVA-U FOOD SERVICES INC.

- and -

CAFÉ JAVA-U INC.

- and -

JAVA-U RTA INC.

Applicants/Debtors

- and -

RAYMOND CHABOT INC.

Monitor

**APPLICATION FOR THE ISSUANCE OF AN ORDER
EXTENDING THE STAY OF PROCEEDINGS AND
AMENDING THE INITIAL ORDER**
(Section 11 & 11.02 of the *Companies' Creditors Arrangement Act*)

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

1. INTRODUCTION

1. On October 6, 2017, the Honourable Louis J. Gouin, J.S.C., issued an initial order (the "**Initial Order**") and a claims procedure order (the "**Claims Procedure Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**"), in respect of Java-U Group Inc. ("**Java-U Group**"), Java-U Food Services Inc. ("**Java-U Food**"), Café Java-U Inc. ("**Café Java-U**") and Java-U RTA Inc. ("**Java-U RTA**", together with Java-U Group and Java-U Food, the "**Company**"), as appears from the Court record.

2. Pursuant to the Initial Order, Raymond Chabot Inc. (the "**Monitor**") was appointed as Monitor to the Company and a stay of proceedings (the "**Stay of Proceedings**") was ordered from the date of the Initial Order until November 6, 2017 (the "**Stay Period**").
3. For the reasons further described below, the Company hereby seeks from this Court the issuance of an order:
 - (a) extending the Stay Period to December 22, 2017; and
 - (b) amending the Initial Order so as to authorize the Company to increase the amount which it can borrow from 3070352 Canada Inc. (the "**DIP Lender**"), from time to time, by an additional amount of \$100,000, and to increase the DIP Charge already approved by this Court in the Initial Order accordingly.

2. **RECENT DEVELOPMENTS**

2.1. **Restructuring Efforts**

4. Since the issuance of the Initial Order, the Company has acted, and continues to act, in good faith and with due diligence.
5. In particular, the Company has begun implementing certain costs-cutting measures, notably by right-sizing its expenses and streamlining its business operations, including by reducing the number of corporate-owned Locations and therefore reducing its workforce accordingly.
6. As mentioned in the Company's initial application filed with this Court, the Company's intention at that time was to close down its corporate-owned stores so that all Java-U coffee shops be operated by franchisees.
7. As such, concurrently with or prior to the preparation and filing of these proceedings, the Company closed two (2) of its corporate-owned coffee shops situated at the following locations in the greater Montreal area:
 - (a) Carrefour Laval; and
 - (b) Sainte-Catherine street.
8. In addition, on or about October 10, 2017, the Company also issued a *Notice to Disclaim or Resiliate an Agreement of Lease* in connection with its two (2) other corporate-owned coffee shops situated at the following locations in Montreal and in Toronto:
 - (a) Notre-Dame Street West, Montreal; and
 - (b) Queen Street West, Toronto.

9. Also, on October 24, 2017, the Company also issued a notice of default and termination to one of its franchisee in Montreal, in respect of a coffee shop located on McGill street, as a result of the latter's multiple defaults under its franchise agreement, its sublease agreement and its agreement with Java-U Food for the purchase of various food products, reserving its rights, however, against such franchisee.
10. On October 27, 2017, the Company was advised that the above-mentioned franchisee had vacated the leased premises, such that the Company is now contemplating either the assignment of the lease in connection with this location, or the termination of same.
11. The Company will continue explore further cost-cutting measures, while, at the same time, ensuring that all amounts owing to the Company are collected.

2.2. The Solicitation Process

12. Pursuant to the Initial Order, the Company was authorized by this Court to conduct a solicitation process (the "**Solicitation Process**") in order to secure one or several offer(s) to either finance the operations of the Company going forward or purchase its assets, as a going concern, substantially in accordance with the process described below:

<u>Milestones</u>	<u>Expected Timing</u>
A. Finalization of a list of prospective investors and purchasers:	Within 1 week of the issuance of an Initial Order
B. Transmission of a "teaser", a confidential information memorandum and non-disclosure agreement to each prospective investors and purchasers:	Within 2 week of the issuance of an Initial Order
C. Establishment of an electronic data room:	Within 2 week of the issuance of an Initial Order
D. Due Diligence Period:	Within 8 week of the issuance of an Initial Order
E. Deadline for the filing of the offers:	Within 8 week of the issuance of an Initial Order
F. Determination of successful offer(s) (if any), and negotiation with potential purchaser(s)	Within 9 week of the issuance of an Initial Order
G. Filing and presentation of a motion seeking the	Within 10 week of the

<u>Milestones</u>	<u>Expected Timing</u>
approval of the selected offer(s):	issuance of an Initial Order
H. Closing of the transaction contemplated in the selected offer(s)	Within 11 week of the issuance of an Initial Order

13. By October 13, 2017, the Monitor, with the assistance of the Company, prepared a list of approximately forty-eight (48) prospective investors and/or purchasers (collectively, the "**Prospective Investors and Purchasers**").
14. On October 20, 2017, the Solicitation Process was officially launched, when the Monitor sent to all Prospective Investors and Purchasers a copy of the "*teaser*" (the "**Teaser**"). A copy of the documents sent to all Prospective Investors and Purchasers will be appended to the report of the Monitor to be filed with this court in advance of the hearing on this Application..
15. On October 23, 2017, the Teaser was also transmitted by email to 3,894 potential interested parties, all of whom were found on Raymond Chabot Inc.'s standard list of potential purchasers.
16. As appears from the Teaser, all Prospective Investor or Purchaser must submit an offer in respect of the financing of the operations of the Company or the purchase of its assets by no later than December 1, 2017 (the "**Bid Deadline**").
17. As at the date hereof, several parties have contacted the Monitor in connection with the Solicitation Process, some of which have, by now, signed non-disclosure agreements and have been provided with access to an electronic data room, set up by the Monitor.

2.3. The Claims Procedure

18. On October 6, 2017, this Court issued the Claims Procedure Order establishing a procedure for the purpose of identifying, establishing and adjudicating all claims of any person against the Company, and their directors and officers, as appears from the Court record. The Claims Procedure Order was published on the website of the Monitor on October 6, 2017.
19. On October 13, 2017, the Monitor published, on its website, the notices, instructions and forms relating to the Claims Procedure Order, in addition to sending these to all known creditors, which established a claims bar date of November 15, 2017 (the "**Claims Bar Date**"), as appears from the Court record.
20. On October 14, 2017, the Monitor published in The Globe and Mail the notices relating to the Initial Order and the Claims Procedure Order.
21. Once all claims against the Company will have been filed by the Claims Bar Date, the Monitor, in consultation with the Company, will proceed with review and analyze each of these claims, and assess the validity and quantum thereof.

2.4. Increase of the DIP

22. As a result of the closure of the aforementioned corporate-owned and franchised coffee shops, a portion of the revenues which the Company had initially expected to collect within the following weeks, including those prior to the holidays, will no longer be available to finance its operations.
23. In addition, a significant amount which the Company had initially contemplated on receiving following the transfer of one of its corporate-owned store to a franchisee concurrently with the commencement of the present proceedings will not be payable once, but rather by monthly instalments, which will also affect the Company's weekly cash-flow going forward.
24. Moreover, certain other adjustments were required to be made to the Company's cash-flow forecast as a result of lower projected sales and corrections to some of its assumptions.
25. Accordingly, in consultation with the Monitor, the Company revised these initial assumptions, made certain corrections to its cash-flow forecast, and has prepared a new one which reflects its actual needs for liquidities between now and the end of December, 2017.
26. Based on this revised cash-flow forecast which will also be appended to the Monitor's report, the Company will need to increase the amount available under the Interim Facility (as defined in the Initial Order) by \$100,000, between now and the end of December 2017, which the Interim Lender has agreed to advance, subject to this Court's authorization.
27. Unless such authorization is granted, the Company may run out of cash before an investment or purchase offer may be presented to the Court.

3. CONCLUSION

28. In light of the foregoing, the Company submits that the reliefs sought herein are reasonable under the circumstances, as such reliefs will allow the Company to:
 - (a) Complete the Claims Procedure;
 - (b) Complete the Solicitation Process; and
 - (c) Potentially present to the Court, for approval, one or more investment or purchase offers in respect of the Company or the Company's assets.
29. Once the Claims Procedure and the Solicitation Process will have been completed, the Company, in consultation with the Monitor, will be better able to determine whether it is feasible, under the circumstances, to submit a viable plan of arrangement and compromise to the Company's creditors.
30. In that regard, the Company expects to be able to provide this Court with a more detailed update on or prior to December 22, 2017.

31. The Company is the view that no creditor will suffer any undue and material prejudice from the reliefs sought herein, which, the Company submits, are appropriate in the circumstances.
32. The present Application is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

GRANT the present *Application for the Issuance of an Order Extending the Stay of Proceedings and Amending the Initial Order* (the "**Application**");

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

EXTEND the Stay Period (as defined in the Application) until December 22, 2017;

AMEND paragraphs 20 and 23 of the Initial Order rendered by this Court on October 6, 2017 as follows:

20. ORDERS that Applicants be and are hereby authorized to borrow, repay and reborrow from 3070352 Canada Inc. (the "Interim Lender") such amounts from time to time as the Applicants may consider necessary or desirable, up to a maximum principal amount of \$400,000 outstanding at any time, on the terms and conditions as set forth in the Interim Financing Term Sheet filed as Exhibit R-12 to the Application (the "Interim Financing Term Sheet") and in the Interim Financing Documents (as defined hereinafter), to fund the ongoing expenditures of the Applicants and to pay such other amounts as are permitted by the terms of the Order and the Interim Financing Documents (as defined hereinafter) (the "Interim Facility");

[...]

23. DECLARES that all of the Property of Applicants is hereby subject to a charge and security for an aggregate amount of \$480,000 (such charge and security is referred to herein as the "Interim Lender Charge") in favour of the Interim Lender as security for all obligations of the Applicants to the Interim Lender with respect to all amounts owing (including principal, interest and the Interim Lender Expenses) under or in connection with the Interim Financing Term Sheet and the Interim Financing Documents. The Interim Lender Charge shall have the priority established by paragraphs 43 and 44 of this Order;

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, November 2, 2017

Stikeman Elliott LLP

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Attorneys for the Applicants

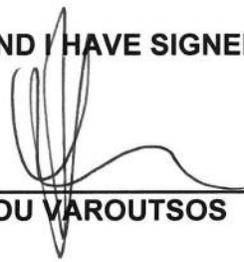
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AFFIDAVIT

I, the undersigned, **LOU VAROUTSOS**, having my principal place of business at 4098 Sainte-Catherine Street West, Suite 400, Montreal, Québec H3Z 1P2;, solemnly declare the following:

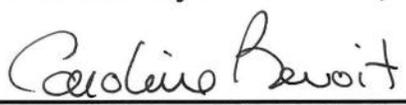
1. I am the President and Chief Executive Officer of Java-U Global;
2. All the facts alleged in the *Demand for the Issuance of an Order Extending the Stay of Proceedings* are true.

AND I HAVE SIGNED



LOU VAROUTSOS

**Solemnly declared before me at Montreal,
on the 2nd day of November, 2017**



**Commissioner of Oaths for the Province
of Quebec**



NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Application for the Issuance of an Order Extending the Stay of Proceedings and Amending the Initial Order* will be presented for adjudication before one of the Honourable Judges of the Superior Court, sitting in practice in and for the District of Montreal, in the Montreal Courthouse, 1 Rue Notre-Dame Est, Montréal, QC H2Y 1B6, on **November 6, 2017**, at **9:00**, in **room 16.12**.

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, November 2, 2017



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ORIGINAL

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