



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED (the “Act”)**

- and -

IN THE MATTER OF MAGNA INTERNATIONAL INC.

- and -

**IN THE MATTER OF THE STRONACH TRUST
AND 446 HOLDINGS INC.**

**STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) allege as follows:

1. Magna International Inc. (“Magna”) is a reporting issuer under the Act and is a corporation existing under the *Business Corporations Act* (Ontario).
2. The authorized share capital of Magna consists of an unlimited number of Class A subordinate voting shares (the “Subordinate Voting Shares”), 776,961 Class B shares (the “Class B Shares”) and 99,760,000 preference shares, issuable in series, all with no par value. As of May 31, 2010, there are 112,072,348 Subordinate Voting Shares, 726,829 Class B Shares and no preference shares issued and outstanding.
3. The Subordinate Voting Shares are listed on the Toronto Stock Exchange and the New York Stock Exchange (“NYSE”).
4. The Subordinate Voting Shares are entitled to one vote per share and the Class B Shares are entitled to 300 votes per share. The Class B Shares and the Subordinate Voting Shares have the same rights to dividends and the same rights to the property and assets of Magna on liquidation, dissolution, or winding up. Holders of the Class B Shares may convert the Class B Shares into Subordinate Voting Shares on a one-for-one basis.
5. The Class B Shares do not contain any “coat-tail” protections for the holders of Subordinate Voting Shares in the event of a change of control transaction

- involving the purchase of the Class B Shares, and do not contain any “sunset” provision pursuant to which the Class B Shares would terminate or convert into another class of shares as of a specified date.
6. The Stronach Trust is a trust existing under the laws of the Province of Ontario. Mr. Frank Stronach, the founder and Chairman of Magna, and certain members of his immediate family are the trustees of the Stronach Trust and are members of the class of potential beneficiaries of the Stronach Trust.
 7. 447 Holdings Inc. (“447”), a corporation existing under the laws of the Province of Ontario, is the sole registered and beneficial holder of all the Class B Shares. 446 Holdings Inc. (“446”), a corporation existing under the laws of the Province of Ontario, is the sole registered and beneficial holder of all the outstanding securities of 447. 446 is a subsidiary of the Stronach Trust.
 8. The Stronach Trust has legal and effective control of Magna through its indirect ownership of all the Class B Shares. Although the Stronach Trust owns only 0.6% of the total equity of Magna, the Stronach Trust holds 66% of Magna’s voting rights.
 9. Mr. Stronach provides services to Magna and its subsidiaries personally and through his associated entities, Stronach Consulting Corp. and Stronach & Co., pursuant to four consulting, business development and business services agreements (the “Consulting Agreements”). The fees payable under the Consulting Agreements are \$2,300,000 plus 3% of Magna’s Pre-Tax Profits Before Profit Sharing (as defined in Magna’s corporate constitution contained in Magna’s Restated Articles of Incorporation dated August 28, 2008 (the “Corporate Constitution”)), provided that the aggregate of such fees will not be greater than 3% of Magna’s Pre-Tax Profits Before Profit Sharing. In the event the Consulting Agreements, which have one-year terms and are subject to extension, are terminated early, Magna is required to pay the fees payable under the Consulting Agreements for the balance of the one-year term. The aggregate fees paid to Mr. Stronach pursuant to the Consulting Agreements were \$37,783,000 in 2007, \$8,152,000 in 2008 and nothing in 2009 (Magna’s Pre-Tax Profits Before Profit Sharing in 2009 were NIL).
 10. Magna’s management information circular dated May 31, 2010 (the “Circular”) states that:
 - (i) In March and April 2010, Mr. Stronach had discussions with executive management of Magna as to whether Mr. Stronach would consider a transaction to eliminate Magna’s dual class share structure as part of an overall reorganization of Magna. Mr. Stronach indicated that he would be willing to consider such a transaction provided the transaction was supported by the holders of the Subordinate Voting Shares and did not jeopardize Magna’s entrepreneurial culture or the key operating principles embodied in its Corporate Constitution. Mr. Stronach also communicated:

- (A) his desire for the Stronach Trust to have a continuing equity interest in Magna; and
 - (B) his desire to have a direct and controlling interest in Magna's vehicle electrification business.
- (ii) On April 8, 2010, executive management of Magna informed the board of directors of Magna (the "Board") of a proposed transaction which included the following elements (the "Proposal"):
- (A) Magna purchasing for cancellation all of the outstanding Class B Shares for consideration comprising 9,000,000 newly issued Subordinate Voting Shares and US\$300,000,000 in cash;
 - (B) amendments to the Consulting Agreements to extend the agreements for a five-year, non-renewable term and fixed, aggregate annual fees; and
 - (C) the reorganization of Magna's vehicle electrification business by transferring Magna's e-car operating group and related assets and liabilities into a limited partnership in exchange for an ownership interest in the limited partnership with the partnership to be effectively controlled by an entity associated with the Stronach Trust.
- (iii) On April, 8, 2010, the Board established a special committee of independent directors of Magna (the "Special Committee") comprising Michael Harris (Chair), Louis Lataif and Donald Resnick. The mandate of the Special Committee was to review and consider the Proposal, as it was developed, for submission initially to the Stronach Trust and, if acceptable to the Stronach Trust, to report to the Board as to whether the Proposal should be submitted to the holders of Subordinate Voting Shares for their consideration.
- (iv) The Special Committee engaged CIBC World Markets Inc. ("CIBC") as its independent financial advisor. Pursuant to the terms of its engagement, CIBC did not provide a fairness opinion, adequacy opinion or formal valuation of the Class B Shares. The Special Committee engaged Fasken Martineau DuMoulin LLP as its independent legal advisor and PricewaterhouseCoopers LLP ("PwC") as an independent financial advisor to prepare a valuation of Magna's vehicle electrification business.
- (v) CIBC advised the Special Committee that, if Magna's potential purchase for cancellation of all of the outstanding Class B Shares in consideration for a combination of 9,000,000 newly-issued Subordinate Voting Shares and US\$300,000,000 in cash were implemented, the dilution to the holders of Subordinate Voting Shares

(disregarding the impact of any potential change in the trading multiple for the Subordinate Voting Shares as a result of the change in the capital structure) would be significantly greater than was the case for other historical transactions in which dual class share structures were collapsed.

(vi) The Special Committee and its advisors determined that if the Proposal were to be submitted to Shareholders for their consideration, the Proposal should be:

(A) approved by a majority of the votes cast at a special meeting by disinterested holders of Subordinate Voting Shares; and

(B) carried out as a plan of arrangement which would be subject to review by a court that would consider the fairness and reasonableness of the Proposal.

(vii) On May 5, 2010, the Special Committee delivered its report to the Board in which it concluded that the Board should:

(A) submit a special resolution approving a plan of arrangement to a vote of the shareholders at a special meeting of shareholders of Magna (the “Arrangement Resolution”) and, in furtherance thereof, authorize Magna to enter into a transaction agreement with the Stronach Trust and 446; and

(B) make no recommendation to shareholders of Magna as to how they should vote in respect of the Arrangement Resolution.

(viii) The Board determined it is in the best interests of Magna to submit the Arrangement Resolution to a vote of Magna shareholders. The Board has made no recommendation to shareholders as to how they should vote in respect of the Arrangement Resolution.

11. At the special meeting of shareholders of Magna to be held on June 28, 2010, shareholders will be asked to approve the Arrangement Resolution giving effect to the following (the “Arrangement”):

(i) Magna purchasing for cancellation all 726,829 Class B Shares and the Stronach Trust indirectly receiving consideration comprising 9,000,000 newly issued Subordinate Voting Shares and US\$300,000,000 million in cash;

(ii) Amendments to the Consulting Agreements to extend the agreements for a five-year, non-renewable term and fixed, aggregate annual fees based on Magna’s Pre-Tax Profits Before Profit Sharing of

- 2.75% in 2011
- 2.5% in 2012
- 2.25% in 2013
- 2.0% in 2014; and

(iii) Formation of a limited partnership between Magna and the Stronach Trust (the “Partnership”) with Magna contributing US\$220,000,000 (to be satisfied by the transfer of the net assets of Magna’s recently established e-car operating group and certain other vehicle electrification assets and the balance in cash) for a 73.33% interest in the Partnership. The Stronach Trust would indirectly invest US\$80,000,000 in cash for a 26.67% interest and would have effective control of the Partnership through the right to appoint three of the five members of the management committee of general partners, with Magna having the right to appoint the remaining two members. Magna would also have effective veto rights in respect of certain fundamental changes and specified business decisions.

12. The Circular states that, in the event the Partnership is reorganized into a corporation, such reorganization would be effected on the following basis:

- (i) the corporation would have a share capital structure which comprises two classes of shares with the same economic rights and entitlements on a per share basis, and with one class of shares carrying 20 votes per share and the other class carrying a single vote per share;
- (ii) the Stronach Trust would indirectly hold 100% of the multiple voting shares;
- (iii) Magna would hold all the subordinate voting shares;
- (iv) there would be coat-tail protection for the benefit of the holders of the subordinate voting shares in the event of a take-over bid;
- (v) any such reorganization would, to the extent possible, be structured on a tax-deferred basis; and
- (vi) the governance arrangements and share transfer restrictions applicable to the Partnership would terminate upon the completion of an initial public offering, but the corporation which succeeds the Partnership would be required to adopt a corporate constitution similar to Magna’s Corporate Constitution.

13. The Circular further states that the aggregate value of 11(i) and (iii) above, based on the closing price of the Subordinate Voting Shares on the NYSE on May 5, 2010, is US\$943,000,000.

14. Approval of the Arrangement Resolution will require the affirmative vote of:
 - (i) at least a simple majority of the votes cast by the minority holders of the Subordinate Voting Shares voting separately as a class;
 - (ii) at least two-thirds of the votes cast by the holders of Subordinate Voting Shares and Class B Shares, voting together as a class; and
 - (iii) at least two-thirds of the votes cast by the holder of Class B Shares, voting separately as a class.
15. The Circular does not contain the financial information obtained by the Special Committee in either the reports prepared for it by CIBC as its financial adviser or the valuation report prepared by PwC in respect of Magna's vehicle electrification business.
16. Holders of the Subordinate Voting Shares, as opposed to a third-party purchaser, are being asked to pay to Magna's controlling shareholder a premium, unprecedented in amount, to collapse Magna's dual class structure. The Circular fails to provide sufficient information concerning the desirability or fairness of the Arrangement and the Board has not made useful recommendations regarding the Arrangement in the Circular. The Circular should contain more information to assist holders of the Subordinate Voting Shares, including
 - (i) a valuation of the subject matter of the Arrangement;
 - (ii) a detailed discussion of the fairness of the Arrangement;
 - (iii) an opinion as to the fairness of the Arrangement, from a financial point of view, to holders of the Subordinate Voting Shares; and
 - (iv) adequate disclosure concerning the background to, and negotiations surrounding, the Arrangement.
17. The issuance of the Subordinate Voting Shares by Magna as part of the purchase of the Class B Shares pursuant to the Arrangement is, in these novel and unprecedented circumstances, contrary to the public interest and should be cease traded because:
 - (i) the holders of the Subordinate Voting Shares are being asked by the Board to approve the Arrangement Resolution without a recommendation by the Board and without sufficient information to form a reasoned judgment concerning the Arrangement; and
 - (ii) the approval and review process followed by the Board in negotiating the Arrangement and proposing it to the holders of the Subordinate Voting Shares was inadequate.

Conduct Contrary to the Public Interest

18. The respondents' conduct, as described above, was contrary to the public interest and harmful to the integrity of the Ontario capital markets.
19. Staff reserve the right to make such other allegations as Staff may advise and the Ontario Securities Commission may permit.

DATED at Toronto, Ontario, this 15th day of June, 2010.