

**IN THE MATTER OF THE BANKRUPTCY OF  
NMC CANADA, INC.  
OF THE TOWN OF MILTON, IN THE PROVINCE OF ONTARIO**

**- and -**

**IN THE MATTER OF THE BANKRUPTCY OF  
2515080 NOVA SCOTIA COMPANY  
OF THE TOWN OF MILTON, IN THE PROVINCE OF ONTARIO**

**REPORT OF TRUSTEE'S PRELIMINARY ADMINISTRATION**

## **1. BACKGROUND**

NMC Canada, Inc. ("NMC") and 2515080 Nova Scotia Company ("2515 Nova Scotia") are the general partners of SKD Company ("SKD") (NMC and 2515 Nova Scotia are jointly referred to as the "Partners" and the Partners and SKD are collectively referred to as the "Company"). NMC and 2515 Nova Scotia own 1% and 99% of SKD, respectively.

SKD was primarily a tier-one supplier of stampings and welded assemblies to the North American automotive industry. In addition to SKD's Canadian manufacturing operations, automotive parts manufacturing was carried on by SKD L.P. in the US and SKD de Mexico, S. de R.L. de C.V. in Mexico.

The Company operated from two leased facilities in Mississauga, Ontario and from owned facilities in Milton and Brampton, Ontario.

The only known business of the Partners is their holdings of SKD.

## **2. INSOLVENCY PROCEEDINGS**

The following is a chronology of the Company's insolvency proceedings leading up to these bankruptcy proceedings in respect of the Partners:

- January 21, 2009 - The Ontario Superior Court of Justice (the "Court") issued an order (the "Initial Order") granting the Company protection pursuant to the *Companies' Creditors Arrangement Act* ("CCAA"). Pursuant to the terms of the Initial Order, RSM Richter Inc. ("Richter") was appointed as the monitor ("Monitor") in the CCAA proceedings.

A marketing and sale process was undertaken by the Monitor at the commencement of the CCAA proceedings.

- April 3, 2009 - The Court approved three transactions (“Sale Transactions”) for the sale of substantially all of the SKD’s business and assets related to programs for Honda of America Mfg., Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, “Honda”) (“Honda Transaction”), Ford Motor Company (“Ford”) (“Ford Transaction”) and Chrysler Canada Inc. and Chrysler LLC (jointly, “Chrysler”) (“Chrysler Transaction”).
- April 3, 2009 - The Honda and Ford Transactions closed.
- April 9, 2009 - The Chrysler Transaction closed.
- May, 2009 - Active business operations at SKD ceased.
- June 11, 2009 – An order was made by the Court appointing Richter as receiver (“Receiver”) of the Company’s property, assets and undertakings.
- June 11, 2009 – The Court approved an Asset Purchase and Liquidation Services Agreement between Maynards Industries Inc. (“Maynards”) and the Receiver. Maynards paid a net minimum guarantee of \$3.1 million for substantially all of SKD’s remaining assets, excluding real estate. Auctions were conducted by Maynards from the Company’s premises on October 14 and 15, 2009. The transaction with Maynards also generated approximately another \$100,000 through commission sales.
- November 4, 2009 – An order was made by the Court approving the directors’ and officers’ claims process (“D&O Claims Process”) to allow the Receiver to determine whether claims existed against a \$3 million charge created pursuant to the Initial Order in favour of the Company’s directors and officers.
- December 17, 2009 – All of the assets were removed and Maynards vacated the Company’s premises.
- April 29, 2010 – An order was made by the Court authorizing, among other things, the Receiver to assign the Company into bankruptcy at such time as the Receiver deemed appropriate.
- April 29, 2010 – An order was made by the Court approving the sale of SKD’s real estate located at 40 Holtby Avenue, Brampton (“Brampton Transaction”).
- April 30, 2010 - The Brampton Transaction closed.

- June 7, 2010 – An order (“Distribution Order”) was made by the Court authorizing the Receiver to distribute the proceeds of the Sale Transactions, the Brampton Transaction, and other realizations to Comerica Bank (“Comerica”), the Company’s primary secured creditor (“Distribution”), to repay in full the participations funded by Ford, Chrysler and Honda (collectively, the “Customers”). See Section 3 below for additional information related to secured creditors.
- August 19, 2010 – An order was made by the Court approving the sale of the SKD’s real estate located at 375 Wheelabrator Way, Milton (“Milton Transaction”).
- September 24, 2010 – The Milton Transaction closed.
- January 11, 2011 - The Receiver filed an assignment in bankruptcy on SKD’s behalf and Richter was appointed as Trustee of SKD’s bankrupt estate by the Office of the Superintendent of Bankruptcy, Canada, subject to affirmation by the creditors at the first meeting of creditors.
- January 31, 2011 – The SKD first meeting of creditors was held. At the meeting, Richter was affirmed as Trustee, Inspectors were appointed and the Inspectors approved the Trustee’s engagement of Goodmans LLP (“Goodmans”) as its legal counsel in the SKD bankruptcy proceedings. A copy of the preliminary report of the Trustee tabled at the SKD first meeting is attached as Appendix “A”.
- May 26, 2011 – The Receiver filed an assignment in bankruptcy on behalf of each of the Partners and was appointed as Trustee of each of the Partners’ bankrupt estates by the Office of the Superintendent of Bankruptcy of Canada, subject to affirmation by the creditors at the first meeting of creditors.

Copies of all Court materials filed in the Company’s CCAA, receivership and bankruptcy proceedings are available on Richter’s website at [www.rsmrichter.com](http://www.rsmrichter.com).

### **3. SECURED CREDITORS**

At the outset of the CCAA proceedings the Customers agreed to purchase from Comerica, for cash, subordinated interests (“Customer Participations”) in Comerica’s loans to SKD Automotive Group, Limited Partnership and the Company pursuant to an Amended and Restated Subordinated Participation Agreement dated January 21, 2009, as amended. It was through these participations that the Customers funded the Company’s operations during the CCAA proceedings.

Prior to its appointment as Monitor, Richter engaged Goodmans to provide an opinion on the validity and enforceability of the security held by Comerica in the Province of Ontario. Subject to the standard assumptions and qualifications contained in the opinion, Goodmans opined that the security granted by the Company in favour of Comerica created a valid and perfected security interest in the Company’s business and assets located in Ontario.

Pursuant to the terms of the Distribution Order, the Receiver was authorized and directed to distribute the Canadian dollar equivalent of approximately US\$12 million to Comerica to repay in full (inclusive of interest) the Customer Participations. The Distribution was made on June 10, 2010. The direct advances made by Comerica to the Company had been repaid prior to the receivership proceedings.

There are no other known secured claims against SKD or the Partners.

#### **4. ASSETS OF THE BANKRUPT**

As of the date of this report, there is approximately \$25,000<sup>1</sup> on deposit in the NMC bankruptcy estate trust account, approximately \$10 million on deposit in the SKD bankruptcy estate trust account and approximately \$796,000 on deposit in the Company's receivership trust account. There are no funds on deposit in the 2515 Nova Scotia estate.

On May 30, 2011, the Trustee brought a motion before the Court ("May 30<sup>th</sup> Motion") requesting approval to transfer \$52,545 and approximately \$3.26 million from the SKD bankruptcy estate account to the NMC and 2515 Nova Scotia bankruptcy estate accounts, respectively, as those funds represent tax refunds related to NMC and 2515 Nova Scotia (collectively, the "Tax Refunds"). The Tax Refunds were received by the Receiver prior to the bankruptcies of SKD, NMC and 2515 Nova Scotia and were deposited into the general receivership trust account. Upon the bankruptcy of SKD, as part of the general transfer of funds to the SKD bankruptcy estate bank account, the Tax Refunds were transferred to the SKD bankruptcy estate account. Since the Tax Refunds relate to the estates of the Partners (as they are responsible for the tax obligations of SKD, the partnership), the Trustee recommended that the Tax Refunds be transferred to the Partners.

At the May 30<sup>th</sup> Motion, the Customers' counsel opposed the transfer of the Tax Refunds pending further consideration and the motion related to the transfer of the Tax Refunds was adjourned. Accordingly, as of this date, the Tax Refunds have not been transferred to the bankruptcy estate bank accounts of the Partners. The Trustee does, however, believe that the proposed transfers are appropriate and will continue to pursue this matter with Customers' counsel in the hope that the motion to authorize the transfers can proceed in due course.

The funds remaining in the Company's receivership trust account relate to reserves held in respect of professional fees, disbursements and sundry expenses related to the receivership proceedings, as well as a portion which relates to a charge in favour of the directors and officers of the Company to address claims advanced against them in the D&O Claims Process (which claims have now been resolved). Once the administration of the receivership has been completed, any surplus in the receivership trust account will be transferred to the SKD bankruptcy estate bank account, net of professional fees and disbursements.

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<sup>1</sup> These funds relate to provincial tax refunds received by the Trustee after the bankruptcy of NMC.

## **4.2 Realization of Assets**

As at the date of bankruptcy there are no further assets to be realized upon. All assets have been monetized.

## **4.3 Property of the Bankrupt Not Divisible Amongst Creditors by Virtue of Section 67 of the *Bankruptcy and Insolvency Act* (the “BIA”)**

With the exception of approximately \$829,000 held in a separate trust account by the Receiver on behalf of Chrysler (the “Chrysler Trust”), there do not appear to be any assets subject to a trust or similar claim that would not be available to the creditors of SKD. The monies in the Chrysler Trust were paid to Richter by Chrysler pending resolution of certain items in dispute between Chrysler and SKD. The issues remain outstanding and the Receiver is working with Chrysler’s counsel in the hopes of bringing this matter forward.

## **5. BOOKS AND RECORDS**

The Trustee has possession of the Company’s books and records. Based on the documents reviewed by the Trustee, the Company’s books and records appear to have been adequately maintained by the Company and were posted to the completion of the CCAA proceedings. Pursuant to an order of the Court made on August 19, 2010, the Receiver was authorized to destroy certain books and records that are not required for the administration of the estate. The remaining books and records are in the possession of the Trustee and are at a storage facility operated by DDI Group Ltd. (“DDI”). Servers and electronic records are also stored at DDI.

## **6. PROVABLE CLAIMS**

Based on the Partners books and records, there are no known claims directly against the Partners; however, there is a possibility that the Partners have tax obligations in amounts to be determined. Additionally, as a matter of law, NMC and 2515 Nova Scotia, as general partners of SKD, are responsible for their pro rata share of the unsatisfied obligations of SKD.

The question of whether there will be distributions to creditors of the Partners and the timing of distributions to creditors of the Partners remains uncertain at this time given that the Trustee has been advised that potential claims related to SKD’s pension plan, in an unknown amount, may be advanced by the administrator of certain of SKD’s pension plans (see Section 6.1 below for a discussion of these potential claims). Such claims, if advanced and substantiated, could constitute priority claims against the Company that could impact if and when a distribution is made to unsecured creditors of the Company.

Subject to the potential claims related to SKD's pension plans and any necessary court applications, and based on claims filed against SKD as at the date of this report, the estimated unsecured obligations of SKD total approximately \$55.6 million and there is estimated to be approximately \$6.7 million available for distribution to unsecured creditors of the SKD estate (which amount excludes the Tax Refunds referred to in Section 4 above). The remaining unsecured obligations of SKD net of the estimated distribution from the SKD estate would be the responsibility of the Partners in their pro rata share.

## **6.1 Potential Claims Related to SKD's Pension Plan**

On April 7, 2011, the Ontario Court of Appeal issued a decision in a case regarding Indalex Limited ("Indalex Decision"), an insolvent company, which considered issues related to the priority to be afforded to a deficit in a wound-up defined benefit pension plan. The implication of the Indalex Decision is that, in certain circumstances, pension plan beneficiaries or their representatives may be able to assert deemed trust claims or constructive trust claims in respect of deficits arising upon the wind-up of a defined benefit pension plan, which claims can be priority claims in the insolvent estate.

As at the commencement of the Company's insolvency proceedings, SKD had a number of active defined benefit pension plans, and one which had been wound up in 1997. After the various asset sales in the Company's CCAA proceedings, all of the remaining pension plans were put into wind-up by the Financial Services Commission of Ontario ("FSCO"). PricewaterhouseCoopers LLP ("PwC") was appointed by FSCO to administer certain of SKD's pension plans ("Pension Plans"). On April 12, 2011, the Trustee of SKD was advised by PwC that it is in the process of reviewing the Indalex Decision to determine whether to file claims in the SKD estate on behalf of certain of the Pension Plans on the basis that the assets of SKD are subject to a constructive trust in favour of one or more of the Pension Plans. As discussed above, these claims, if advanced and substantiated, could constitute priority claims against the SKD estate and could ultimately impact the quantum of funds, if any, available for distribution to the unsecured creditors of NMC. The quantum of such potential claims is unknown.

The Trustee met with PwC on June 7, 2011 and is in the process of responding to certain information requests made by PwC at the June 7<sup>th</sup> meeting. The Trustee will keep creditors apprised of developments in this matter.

## **7. ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION**

All of the assets of the Company have been realized upon.

As discussed above, the question of whether there will be distributions to creditors of the Partners and the timing of such distributions remains uncertain at this time. Subject to the potential claims related to the Pension Plans and any necessary court applications, and based on claims filed against SKD as at the date of this report, the Trustee estimates that net of costs there will be funds available for distribution to NMC's and 2515 Nova Scotia's unsecured creditors in the range of \$67,500 and \$3.24 million, respectively, assuming also that the transfer of the Tax Refunds discussed in Section 4 above are ultimately authorized by the Court.

## **8. TRANSFERS AT UNDERVALUE AND PREFERENCES**

From the commencement of the CCAA proceedings on January 21, 2009, the Company's disbursements were reviewed in accordance with the Initial Order. All expenses incurred during the receivership proceedings were funded from monies in the receivership trust account.

Based on the above, there do not appear to have been any transfers at undervalue or preferences during the year preceding the date of bankruptcy.

## **9. THIRD PARTY GUARANTEE**

The Trustee and the Receiver have entered into a Third Party Guarantee Agreement, pursuant to which the Receiver has agreed, if necessary, to fund the Trustee's fees and expenses in connection with its administration from the proceeds remaining in the receivership trust account.

## **10. FIRST MEETING OF CREDITORS**

Further to Rule 109 of the BIA if a partnership is bankrupt the first meeting of creditors of each bankrupt partner is to be convened collectively/jointly. Accordingly, the Trustee will convene the creditors' meeting for NMC and 2515 Nova Scotia on the 16<sup>th</sup> day of June, 2011, at 11:00 a.m., at the offices of the Trustee, RSM Richter Inc., 200 King Street West, Suite 1100, Toronto, Ontario.

The Trustee intends to seek inspector approval to engage Goodmans as its legal counsel in the Partners' bankruptcy proceedings.

\* \* \*

DATED at Toronto, Ontario, this 16<sup>th</sup> day of June, 2011.

*Ray Richter Inc.*

**RSM RICHTER INC.  
IN ITS CAPACITY AS TRUSTEE IN BANKRUPTCY OF  
NMC CANADA, INC. AND OF 2515080 NOVA SCOTIA COMPANY  
AND NOT IN ITS PERSONAL CAPACITY**

# **Appendix “A”**

**IN THE MATTER OF THE BANKRUPTCY OF  
SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC. AND  
2515080 NOVA SCOTIA COMPANY,  
OF THE TOWN OF MILTON, IN THE PROVINCE OF ONTARIO**

**REPORT OF TRUSTEE'S PRELIMINARY ADMINISTRATION**

## 1. BACKGROUND

NMC Canada Inc ("NMC") and 2515080 Nova Scotia Company ("2515 Nova Scotia") are the general partners of SKD Company ("SKD") (collectively, NMC, 2515 Nova Scotia and SKD are referred to as the "Company"). The only assets and liabilities of NMC and 2515 Nova Scotia relate to SKD. NMC and 2515 Nova Scotia own 1% and 99% of SKD, respectively.

SKD was primarily a tier-one supplier of stampings and welded assemblies to the North American automotive industry. In addition to SKD's Canadian manufacturing operations, automotive parts manufacturing was carried on by SKD L.P. in the US and SKD de Mexico, S. de R.L. de C.V. in Mexico.

The Company operated from two leased facilities in Mississauga, Ontario, as well as owned facilities in each of Milton and Brampton, Ontario.

## 2. INSOLVENCY PROCEEDINGS

The following is a chronology of the Company's insolvency proceedings leading up to these bankruptcy proceedings:

- January 21, 2009 - The Ontario Superior Court of Justice (the "Court") issued an order (the "Initial Order") granting the Company protection pursuant to the *Companies' Creditors Arrangement Act* ("CCAA"). Pursuant to the terms of the Initial Order, RSM Richter Inc. ("Richter") was appointed as the monitor ("Monitor") in the CCAA proceedings.

A marketing and sale process was undertaken by the Monitor at the commencement of the CCAA proceedings.

- April 3, 2009 - The Court approved three sale transactions ("Sale Transactions") for the sale of substantially all of the Company's business and assets related to programs for Honda of America Mfg., Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "Honda") ("Honda Transaction"), Ford Motor Company ("Ford") ("Ford Transaction") and Chrysler Canada Inc. and Chrysler LLC (jointly, "Chrysler") ("Chrysler Transaction").
- April 3, 2009 - The Honda and Ford Transactions closed.
- April 9, 2009 - The Chrysler Transaction closed.
- May, 2009 - Active business operations at the Company ceased.
- June 11, 2009 - An order was made by the Court appointing Richter as receiver ("Receiver") of the Company's property, assets and undertakings.
- June 11, 2009 - The Court approved an Asset Purchase and Liquidation Services Agreement between Maynards Industries Inc. ("Maynards") and the Receiver. Maynards paid a net minimum guarantee of \$3.1 million in exchange for substantially all of the Company's remaining assets, excluding real estate. Auctions were conducted by Maynards from the Company's premises on October 14 and 15, 2009. The transaction with Maynards also generated approximately another \$100,000 through certain commission sales.
- November 4, 2009 - An order was made by the Court approving the directors' and officers' claims process ("D&O Claims Process") to allow the Receiver to determine whether claims existed against a \$3 million charge created pursuant to the Initial Order in favour of the Company's directors and officers. As of the date of this report three claims remain unresolved.
- December 17, 2009 - All of the assets were removed and Maynards vacated the Company's premises.
- April 29, 2010 - An order was made by the Court authorizing, among other things, the Receiver to assign the Company into bankruptcy at such time as the Receiver deemed appropriate ("April 29<sup>th</sup> Order").
- April 29, 2010 - An order was made by the Court approving the sale of the Company's real estate located at 40 Holtby Avenue, Brampton ("Brampton Property") ("Brampton Transaction").
- April 30, 2010 - The Brampton Transaction closed.

- June 7, 2010 – Pursuant to an order (“Distribution Order”) issued on June 7, 2010, the Receiver distributed the proceeds of the Sale Transactions, the Brampton Transaction, and other realizations to Comerica Bank (“Comerica”), the Company’s primary secured creditor (“Distribution”), to repay in full the participations funded by Ford, Chrysler and Honda (collectively, the “Customers”) (“Distribution Order”). See Section 3 below for additional information related to secured creditors.
- August 19, 2010 – An order was made by the Court approving the sale of the Company’s real estate located at 375 Wheelabrator Way, Milton (“Milton Transaction”).
- September 24, 2010 – The Milton Transaction closed.
- January 11, 2011 - The Receiver filed an assignment in bankruptcy on the Company’s behalf and was appointed as Trustee of the Company’s bankrupt estate (“Trustee”) by the Office of the Superintendent of Bankruptcy Canada, subject to affirmation by the creditors at the First Meeting of Creditors.

Copies of all Court materials filed in the Company’s CCAA and receivership proceedings are available on Richter’s website at [www.rsmrichter.com](http://www.rsmrichter.com).

### **3. SECURED CREDITORS**

During the CCAA proceedings the Company’s operations were partially funded by the Customers.

At the outset of the CCAA proceedings the Customers agreed to purchase from Comerica, for cash, undivided subordinated interests (“Customer Participations”) in Comerica’s loans to SKD Automotive Group, Limited Partnership and the Company pursuant to an Amended and Restated Subordinated Participation Agreement dated January 21, 2009, as amended.

Prior to its appointment as Monitor, Richter engaged Goodmans LLP (“Goodmans”) to provide an opinion on the validity and enforceability of the security held by Comerica in the Province of Ontario. Subject to the standard assumptions and qualifications contained in the opinion, Goodmans opined that the security granted by the Company in favour of Comerica created a valid and perfected security interest in the Company’s business and assets located in Ontario.

Pursuant to the terms of the Distribution Order, the Receiver was authorized and directed to distribute the Canadian dollar equivalent of approximately US\$12 million to Comerica to repay in full (inclusive of interest) the Customer Participations. The Distribution was made on June 10, 2010. The direct advances made by Comerica to the Company were repaid prior to the receivership proceedings.

With the exception of three unresolved claims in the D&O Claims Process, totalling approximately \$140,000, including a provision for costs, an outstanding construction lien related to the Brampton Property (claiming approximately \$132,000) and the administrative charge related to fees and disbursements of the Receiver and its legal counsel, there are no other known secured claims.

#### **4. ASSETS OF THE BANKRUPT**

As of the date of this report, there is approximately \$10 million on deposit in the bankruptcy estate trust account and approximately \$500,000 on deposit in the receivership account. The funds remaining in the receivership trust account relate to the potential secured claims related to the D&O Claims Process, the construction lien referenced above, and professional fees and disbursements and sundry expenses related to the receivership proceedings. Once the Receiver is discharged, any surplus in the receivership account will be transferred to the bankrupt estate.

In addition to the cash on hand, Conway Mackenzie Inc. ("Conway"), the Company's former financial advisor and McMillan LLP ("McMillan") (formerly Lang Michener LLP), counsel to the Company's former directors and officers, hold deposits of \$64,000 and \$430,000, respectively. The Receiver has requested that, with the exception of \$15,000 and \$50,000 ("Retainers"), to be retained by Conway and McMillan respectively, the balance be returned to the estate. The Receiver has consented to the Retainers in the event that future services are required by either of the parties to deal with outstanding receivership matters. Should the full amount of the Retainers not be required by Conway and/or McMillan, the remaining funds would be returned to the Receiver and transferred to the bankrupt estate.

##### **4.1 Realization of Assets**

As at the date of bankruptcy there are no further assets to be realized upon. There will be funds available for distribution to the Company's unsecured creditors.

##### **4.2 Property of the Bankrupt Not Divisible Amongst Creditors by Virtue of Section 67(b) of the *Bankruptcy and Insolvency Act* (the "BIA")**

With the exception of funds held in a separate trust account by the Receiver on behalf of Chrysler, there do not appear to be any assets subject to a trust or similar claim that would not be available to the creditors. The monies in the trust account were paid to Richter by Chrysler pending resolution of certain items in dispute between Chrysler and the Company. The Receiver continues to work with Chrysler to resolve the outstanding issues.

## **5. BOOKS AND RECORDS**

The Trustee has possession of the Company's books and records. Based on the documents reviewed by the Trustee, the Company's books and records appear to have been adequately maintained by the Company and were posted to the completion of the CCAA proceedings. Pursuant to an order of the Court made on August 19, 2010, the Receiver was authorized to destroy certain books and records that are not required for the administration of the estate. All of the remaining books and records are in the possession of the Trustee and are at a storage facility operated by DDI Group Ltd. ("DDI"). All servers and electronic records are also stored at DDI.

## **6. PROVABLE CLAIMS**

Based on the Company's books and records, it appears that the known unsecured obligations of the Company total approximately \$44 million.

## **7. TRANSFERS UNDER VALUE AND PREFERENCES**

From the commencement of the CCAA proceedings on January 21, 2009, the Monitor reviewed, in advance, all of the Company's disbursements in accordance with the Initial Order. All expenses incurred during the receivership proceedings were paid by the Receiver.

Based on this review, there do not appear to have been any transfers under value or preferences during the year preceding the date of bankruptcy.

## **8. ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION**

All of the assets have been realized upon. The Trustee estimates that net of costs there will be funds available for distribution to the Company's unsecured creditors in the range of \$9.5 million to \$10 million.

## **9. FIRST MEETING OF CREDITORS**

The Trustee will convene the creditors' meeting for the Company's estate on January 31, 2011 at 11:00 am (Toronto time) at Hyatt Regency on King.

The Trustee intends to seek inspector approval to engage Goodmans as its legal counsel in these bankruptcy proceedings.

**10. OTHER MATTERS**

There are no other matters to discuss at this time.

\* \* \*

DATED at Toronto, Ontario, this 28<sup>th</sup> day of January, 2011.

*RSM Richter Inc.*

**RSM RICHTER INC.  
IN ITS CAPACITY AS TRUSTEE IN BANKRUPTCY  
OF SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC.  
AND 2515080 NOVA SCOTIA COMPANY  
AND NOT IN ITS PERSONAL CAPACITY**