

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	WEDNESDAY, THE 31 <sup>ST</sup> DAY
	)	
JUSTICE MORAWETZ	)	OF MARCH, 2010

BETWEEN:

SA CAPITAL GROWTH CORP.

Applicant

- and -



CHRISTINE BROOKS AS EXECUTOR OF THE ESTATE OF ROBERT MANDER,  
DECEASED AND E.M.B. ASSET GROUP INC.

Respondents

**APPLICATION UNDER** Rule 14.05(3)(g) of the *Rules of Civil Procedure* and section 101 of the *Courts of Justice Act*, R.S.O. 1990. c. C.43, as amended

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by RSM Richter Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of the estate of Robert J. Mander (the "Debtor") and others for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Rita Bates (the "Purchaser") made as of March 25, 2010 and appended to the Supplement to the First Report of the Receiver dated March 30, 2010 (the "Report"), and vesting in the Purchaser the Debtor's right,

title and interest in and to the real property described in the Sale Agreement (the "Real Property"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and upon being advised that no party on the Service List advised that it objected to the requested Order:

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved. The execution of the Sale Agreement by the Receiver is hereby ratified, authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Real Property to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Real Property and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Second Amended Order of the Honourable Justice Morawetz dated March 19, 2010; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or

any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include permitted encumbrances, easements and restrictive covenants) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Real Property are hereby expunged and discharged as against the Real Property.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Halton (No. 20) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Real Property in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds ("Proceeds") from the sale of the Real Property shall stand in the place and stead of the Real Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. THIS COURT ORDERS that the Receiver be and is hereby authorized and directed to distribute from the Proceeds, the amount of \$1,978,906.30 to HSBC Bank Canada (the "Bank"), subject to any adjustments, including legal fees, in respect of amounts owing to the Bank.

7. THIS COURT ORDERS that the Receiver shall hold the remaining Proceeds, after distribution to the Bank in accordance with this Order, separate and apart from any other assets or proceeds in this Proceeding until further order of this Court.

8. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

9. THIS COURT ORDERS that, notwithstanding:


- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Real Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, preference, assignment, fraudulent conveyance or other challengeable or voidable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. 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 Receiver and its 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 Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

APR 01 2010



**Schedule A – Form of Receiver's Certificate**

Court File No. 10-8619-00CL

B E T W E E N:

SA CAPITAL GROWTH CORP.

Applicant

- and -

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**RECEIVER'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Morawetz of the Ontario Superior Court of Justice (the "Court") dated March 17, 2010, RSM Richter Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of Robert Mander (the "Debtor") and EMB Asset Group Inc.

B. Pursuant to an Order of the Court dated March 31, 2010, the Court approved the agreement of purchase and sale made as of March 25, 2010 (the "Sale Agreement") between the Receiver and Rita Bates (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Real Property; (ii) that the conditions to Closing as set out in

the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Real Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**RSM Richter Inc., in its capacity as Receiver of the undertaking, property and assets of the Estate of Robert Mander and EMB Asset Group Inc., and not in its personal capacity**

Per \_\_\_\_\_

Name: ■

Title: ■

**Schedule B – Real Property**

Property Identifier No. 24796-0025(LT)

Lot 1, Plan 466

Town of Oakville

Regional Municipality of Halton.

Being the whole of the said PIN.

Land Titles Division of Halton (No. 20).

**Schedule C – Claims to be deleted and expunged from title to Real Property**

Charge registered on October 7, 2009 as Instrument No. HR790786 given by Robert John Mander in favour of HSBC Bank Canada, securing the original principal amount of \$2,000,000.



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<div>ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST</div> <div>Proceeding commenced at Toronto</div>	
<div>APPROVAL AND VESTING ORDER (RETURNABLE March 31, 2010)</div>	
<div>DAVIES WARD PHILLIPS &amp; VINEBERG LLP 44th Floor, 1 First Canadian Place Toronto, ON M5X 1B1  Matthew Gottlieb (LSUC #32268B) Tel: 416.863.5516 Fax: 416.863.0971  Lawyers for the Receiver, RSM Richter Inc.</div>	