

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	THURSDAY, THE 12th DAY
)	
JUSTICE MORAWETZ)	OF AUGUST, 2010

B E T W E E N:

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

ORDER

THIS MOTION, made by RSM Richter Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, properties and assets of E.M.B. Asset Group Inc. ("EMB"), the Estate of Robert Mander and the Related Entities (collectively, the "Debtors") for (i) an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and Richard Mark McCulloch and Petra McCulloch (the "Purchasers") made as of July 14, 2010 and appended as Appendix B to the Fifth Report of the Receiver dated July 21, 2010 (the "Fifth Report"), and vesting in the

Purchasers all of EMB's right, title and interest in and to the real property known as 223 Church Street, Oakville and described in Schedule B attached (the "Real Property"), and (ii) an order approving the settlement (the "Settlement") between the Receiver and Ms. Christine Brooks, as guardian of Ethan G. Mander-Brooks, described in the supplemental report of the Receiver dated August 10, 2010 (the "Supplemental Report") and authorizing and directing the Receiver to enter into a settlement agreement in respect of the Settlement, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fourth, Fifth, Sixth and Supplemental Reports 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 Purchasers.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchasers substantially in the form attached as Schedule A attached (the "Receiver's Certificate"), all of EMB's right, title and interest in and to the Real Property listed on Schedule B attached shall vest absolutely in the Purchasers, 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 any Orders of this Court in this Proceeding including the Second Amended Order made March 19, 2010 and the Fresh as Amended Order made March 31, 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 Purchasers as the owners 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 approximately \$612,000.00 to Home Trust Company (the "Trust Company"), subject to any adjustments, including interest and legal fees, in respect of amounts owing to the Trust Company.

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

8. THIS COURT ORDERS that, notwithstanding:

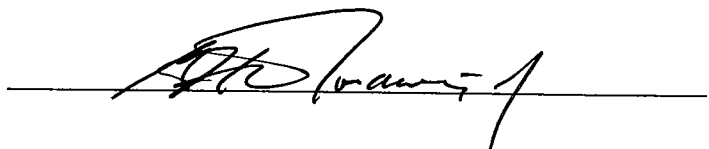
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of EMB and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect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

the vesting of the Real Property in the Purchasers 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, 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.

RECEIVER'S REPORT

9. THIS COURT ORDERS that the Supplemental Report and the activities of the Receiver referred therein be and are hereby approved.

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.

A handwritten signature in black ink, appearing to read "A. Brown", is written over a horizontal line.

Schedule A – Form of Receiver's Certificate

Court File No. 10-8619-00CL

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RECEIVER'S CERTIFICATE
(223 Church Street, Oakville)

RECITALS

A. Pursuant to an Order of Ontario Superior Court of Justice (the "Court") dated March 31, 2010, RSM Richter Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of E.M.B. Asset Group Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated August 12, 2010, the Court approved the agreement of purchase and sale made as of July 14, 2010 (the "Sale Agreement") between the Receiver and Richard Mark McCulloch and Petra McCulloch (the "Purchasers") and provided for the vesting in the Purchasers 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 Purchasers of a certificate confirming (i) the payment by the Purchasers 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 Purchasers; 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 Purchasers have 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 Purchasers; 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 E.M.B. Asset Group Inc. and not in its personal capacity

Per _____

Name: ■

Title: ■

Schedule B – Real Property

Property Identifier No. 24813-0327(LT)

PT LT E, BLK 3, PL 1, PTS 9 & 27, 20R12967, PTS 2 & 4, 20R12968 ; OAKVILLE. S/T EASEMENTS H763368, H763369, H763779 & H763780 OVER PT 27, 20R12967 & PT 4, 20R12968. S/T EASE H769480 OVER PT 27, 20R12967 & PT 4, 20R12968 FOR PTS 1-8, 11-26, 29-36, 20R12967 & PTS 1 & 3, 20R12968. T/W EASE H769480 OVER PTS 19-26, 29-36, 20R12967 & PT 3, 20R12968. S/T RIGHT H769480. SUBJECT TO AN EASEMENT IN GROSS AS IN HR799933.

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

1. Charge registered on October 7, 2009 as Instrument No. HR790630 in favour of Home Trust Company, securing the original principal amount of \$612,000.00.
2. Application for Court Order registered on March 17, 2010 as Instrument No. HR826794.

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Court File No: 10-8619-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER
(Returnable August 12, 2010)**

DAVIES WARD PHILLIPS & VINEBERG LLP
44th Floor, 1 First Canadian Place
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Matthew Gottlieb (LSUC #32268B)
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Lawyers for the Receiver, RSM Richter Inc.