

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 6th DAY  
 )  
MR. JUSTICE MORAWETZ ) OF JANUARY, 2011  
 )

**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 an order approving the settlement (the "Settlement") as set out in the Settlement Agreement attached to this Order as Schedule "A" between the Receiver, the Children's Lawyer (the "Children's Lawyer"), in its capacity as litigation guardian of the Child (as defined below), and Christine Brooks, in her personal capacity, as mother of Ethan G. Mander-Brooks (born March 29, 2000) (the "Child") and in her capacity as trustee of the Mander Policies (as defined in the Settlement Agreement) proceeds for the Child under the policy beneficiary designations and described in the Supplemental Report to the Fourth, Fifth and Sixth Reports of the Receiver

dated August 10, 2010 and the Tenth Report (the "Reports") and approving and ratifying the Receiver's execution of a settlement agreement in respect of the Settlement, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Reports and the Affidavit of Linda Waxman, Deputy Legal Director, Property Rights, Office of the Children's Lawyer, and on hearing the submissions of counsel for the Receiver, counsel for the Children's Lawyer for the Province of Ontario as litigation guardian for the Child, and upon being advised that no party on the Service List advised that it objected to the requested Order:

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 that the Settlement is hereby approved and ratified, 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 Settlement.
3. THIS COURT ORDERS that the Settlement is approved on behalf of the Child, a minor child, under Rule 7.08 of the *Rules of Civil Procedure*.
4. THIS COURT ORDERS AND DIRECTS London Life Insurance Company ("London Life") to make payment in respect of the Mander Policies in accordance with the Settlement as follows:
  - (i) to the Receiver the sum of \$178,537.97CAD plus 50% of any accrued interest in accordance with the instructions provided by the Receiver or its counsel; and
  - (ii) to the Accountant of the Superior Court of Justice ("ASCJ") to the credit of the Child, the sum of \$178,537.96CAD plus 50% of any accrued interest.
5. THIS COURT ORDERS that the ASCJ shall hold the funds to the Child's credit and pay out the funds including accrued interest to the Child upon the Child attaining the age of 18 years, subject to any order the court may in the meantime make.

6. THIS COURT ORDERS that Christine Brooks may make use of the Office of the Children's Lawyer's fiat system to obtain payment out of court for the Child's support while he is a minor child under the age of 18 years.

7. THIS COURT ORDERS that, upon payment by London Life, in accordance with paragraph 4 of this Order, the Receiver shall release any interest in the Child Policy (as defined in the Settlement Agreement) and Christine Brooks shall retain full ownership of the Child Policy.

8. THIS COURT ORDERS that, upon payment by London Life, in accordance with paragraph 4 of this Order, the Receiver and its officers, directors, partners, employees, advisors, counsel and agents and London Life and its officers, directors, partners, employees, advisors, counsel and agents be and are hereby released and forever discharged of and from any and all claims, demands, causes and manners of action, proceedings, liabilities and obligations whatsoever of any nature and kind howsoever arising, both at law and in equity, in respect of or relating or incidental to:

- (i) the Mander Policies in the case of London Life and its officers, directors, partners, employees, advisors, counsel and agents; and
- (ii) the Policies (as defined in the Settlement Agreement) in the case of the Receiver and its officers, directors, partners, employees, advisors, counsel and agents;

or otherwise which may be brought, directly or indirectly, at any time by the Child, Christine Brooks in her personal capacity, in her capacity as mother of the Child or in her capacity as trustee of the Mander Policies proceeds for the Child under the policy beneficiary designations or the Children's Lawyer.

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

10. THIS COURT ORDERS that, notwithstanding:

- (i) the pendency of these proceedings;

- (ii) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (iii) any assignment in bankruptcy made in respect of the Debtors;

the Settlement approved pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors 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.

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



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JAN 6 - 2011

PER / PAR:



**SCHEDULE "A"**  
**FORM OF SETTLEMENT AGREEMENT**

SETTLEMENT AGREEMENT between:

**CHRISTINE BROOKS**  
in her Personal Capacity, in her capacity as trustee of the Policies  
proceeds for Ethan G. Mander-Brooks, and in her Capacity as  
Mother of Ethan G. Mander-Brooks

– and –

**RSM RICHTER INC.**  
in its Capacity as Receiver (the "Receiver") of the estate of Robert John  
Mander and those entities listed in Schedule "A"  
(collectively, the "Debtors")

– and –

**THE CHILDREN'S LAWYER FOR THE PROVINCE OF ONTARIO**  
in its Capacity as Litigation Guardian for  
Ethan G. Mander-Brooks (the "Children's Lawyer")

WHEREAS Christine Brooks ("Brooks") on her own behalf, in her capacity as mother of Ethan G. Mander-Brooks (the "Child") and in her capacity as trustee of the Policies (as defined below) proceeds for the Child, the Children's Lawyer (the "Children's Lawyer") for the Province Of Ontario, in her capacity as litigation guardian for the Child, and RSM Richter Inc., in its capacity as Receiver of the Debtors, and on behalf of all related entities, directors, officers, agents and employees ("RSM Richter") agree to settle all disputes that exist or may exist (now or in the future), in respect of the insurance policies (Policy B171606-3, Policy B239696-9 and Policy B291578-2, together the "Mander Policies"; Policy B171605-1, the "Child Policy"; and the Mander Policies and the Child Policy together, the "Policies") listed in Schedule "B" on the following terms:

1. London Life Insurance Company ("London Life") shall pay to the Accountant of the Superior Court of Justice to the credit of the Child, the lump sum of \$178,537.96CAD, plus 50% of any accrued interest, inclusive of all claims, interest and costs in respect of the Mander Policies. This payment shall include:

- (a) 50% of the proceeds of London Life Policy number B171606-3 dated November 17, 2001, totalling \$59,925.65CAD;
- (b) 50% of the proceeds of London Life Policy number B239696-9 dated October 10, 2002, totalling \$34,965.56CAD; and
- (c) 50% of the proceeds of London Life Policy number B291578-2 dated June 12, 2003, totalling \$83,646.75CAD.

2. London Life shall pay to the Receiver the lump sum of \$178,537.97CAD, plus 50% of any accrued interest in respect of the Mander Policies. This payment shall include:

- (a) 50% of the proceeds of London Life Policy number B171606-3 dated November 17, 2001, totalling \$59,925.66CAD;
- (b) 50% of the proceeds of London Life Policy number B239696-9 dated October 10, 2002, totalling \$34,965.55CAD; and
- (c) 50% of the proceeds of London Life Policy number B291578-2 dated June 12, 2003, totalling \$83,646.76CAD.

3. Brooks shall retain full ownership of the Child Policy dated November 27, 2001, and the Receiver shall release any interest in the Child Policy.

4. The Children's Lawyer and Brooks confirm that the payments and transfers referred to in paragraphs 1 and 2 shall be the only payment of any kind that either the Child, or Brooks, in her personal capacity, as mother of the Child or as trustee of the Mander Policies proceeds for the Child under the policy beneficiary designations, shall be entitled to receive in respect of the Mander Policies from RSM Richter, the Debtors or London Life.

5. This settlement is conditional on and subject to Court approval under Rule 7.08 of the *Rules of Civil Procedure* on behalf of the Child and the issuance of an Order in substantially the form as attached hereto as Schedule "C".

6. The parties agree that this Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

7. The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

8. Brooks declares that she has read this Agreement and fully understands the terms of this settlement, and that she has obtained legal advice in relation to this settlement.

AGREED TO at Toronto on this       day of December, 2010.

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**CHRISTINE BROOKS**

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**CHRISTINE BROOKS in her capacity as  
mother of ETHAN G. MANDER-BROOKS**

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**CHRISTINE BROOKS in her capacity as  
trustee of the Mander Policies proceeds  
for the Child**

**RSM RICHTER INC. in its Capacity as  
Receiver of the estate of Robert John  
Mander and those entities listed on  
Schedule "A"**

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**Per:**

**I have authority to bind the Corporation.**

**THE CHILDREN'S LAWYER FOR THE  
PROVINCE OF ONTARIO. litigation  
guardian for ETHAN G. MANDER-BROOKS**

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**Per: Susan J. Stamm, Counsel, Office of  
the Children's Lawyer**



## **SCHEDULE "A"**

- E.M.B. Asset Group Inc.,
- Mand Asset Inc.;
- Dunn Street Gallery Inc.;
- Trafalgar Capital Growth Inc.;
- Mander Group Inc.;
- Stonebury Inc.; and .
- entities associated with, related to or controlled by Robert John Mander or E.M.B. Asset Group Inc.

**SCHEDULE "B"**

**INSURANCE POLICIES**

<b>Policy Number</b>	B171606-3	B239696-9	B291578-2	B171605-1
<b>Insurance Company</b>	London Life	London Life	London Life	London Life
<b>Life Insured</b>	Robert J Mander	Robert J Mander	Robert J Mander	Ethan G Mander-Brooks
<b>Policyowner</b>	Robert J Mander	Robert J Mander	Robert J Mander	Christine Brooks
<b>Beneficiary</b>	Ethan G Mander-Brooks	Ethan G Mander-Brooks	Ethan G Mander-Brooks	Christine Brooks
<b>Policy Date</b>	November 17, 2001	October 10, 2002	June 12, 2003	November 27, 2001

**SCHEDULE "C"**  
**FORM OF DRAFT ORDER**

Court File No. 10-8619-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

THE HONOURABLE	)	THURSDAY, THE 6th DAY
	)	
MR. JUSTICE MORAWETZ	)	OF JANUARY, 2011

B E T W E E N:

SA CAPITAL GROWTH CORP.

Applicant

- and -

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described in the Supplemental Report to the Fourth, Fifth and Sixth Reports of the Receiver dated August 10, 2010 and the Tenth Report (the "Reports") and approving and ratifying the Receiver's execution of a settlement agreement in respect of the Settlement, was heard this day at 330 University Avenue, Toronto, Ontario.

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SA CAPITAL GROWTH CORP. and	CHRISTINE BROOKS AS EXECUTOR OF THE ESTATE OF ROBERT MANDER, DECEASED AND E.M.B. ASSET GROUP INC.
Applicant	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**

<b>ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST</b>  Proceeding commenced at Toronto	
<b>ORDER</b>  (Returnable January 6, 2011)	
  DAVIES WARD PHILLIPS & VINEBERG LLP 44th Floor, 1 First Canadian Place Toronto, ON M5X 1B1  Natasha MacParland (LSUC #42383G) Kirsten Mercer (LSUC #55074J) Tel: 416.863.0900 Fax: 416.863.0971  Lawyers for the Receiver, RSM Richter Inc.	