



Court File No. 08-CL-7840

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

THE HONOURABLE MR.) THURSDAY, THE 18th DAY
JUSTICE MORAWETZ) OF DECEMBER, 2008

**IN THE MATTER OF AN APPLICATION UNDER SECTION
47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C.
1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF SECTION 101 OF THE *COURTS
OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**BANK OF MONTREAL, AS AGENT FOR
BANK OF MONTREAL, THE BANK OF NOVA SCOTIA
AND ALBERTA TREASURY BRANCHES**

Applicant

- and -

**GRAFIKOM LIMITED PARTNERSHIP,
GRAFIKOM GENERAL PARTNER INC.,
GRAFIKOM.SPEEDFAST LIMITED
AND GRAFIKOM.GRENVILLE LIMITED**

Respondents

**APPROVAL AND VESTING ORDER
(RRD Transaction)**

THIS MOTION, made by RSM Richter Inc. in its capacity as the Court-appointed interim receiver under section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3,

as amended, and receiver and manager under section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended (collectively, the "**Receiver**") of all of the assets, undertakings and properties of Grafikom Limited Partnership, Grafikom General Partner Inc., Grafikom.Speedfast Limited and Grafikom.Grenville Limited ("**Grafikom**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver and Moore Canada, an RR Donnelley, Moore Wallace Partnership ("**RRD**") dated December 10, 2008 and appended to the First Report of the Receiver dated December 11, 2008 (together with all appendices, the "**First Report**") as Appendix "F", as amended by an amendment dated December 17, 2008 between the Receiver and RRD (collectively, the "**Sale Agreement**"), filed separately with the court on the date of this Motion, the Access Agreement among the Receiver, RRD and 635609 Ontario Limited, cob Bond Business Centre dated December 10, 2008 appended as Appendix "G" to the First Report (the "**Access Agreement**"), and vesting in RRD, the Receiver's and Grafikom's right, title and interest, if any, in and to the assets of Grafikom described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated December 11, 2008, the First Report and on hearing the submissions of counsel for the Receiver, CIT Financial Ltd. ("**CIT**"), 635609 Ontario Limited, Bank of Montreal, as Agent for Bank of Montreal, The Bank of Nova Scotia and Alberta Treasury Branches (the "**Secured Lenders**"), and Steve Morrison, no one appearing for any other person on the service list, although properly served as appears from the affidavits of Martin Fagnant sworn on December 12, 2008 and Andrea Amaral-LeBlanc sworn on December 15, 2008, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and it is hereby abridged, if necessary, that the motion is properly returnable today, that further service thereof be and is hereby dispensed with and that all parties entitled to receive service of the Notice of Motion have been duly served.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. Each of the Sale Agreement and the Access Agreement are hereby approved, and execution thereof by the Receiver is hereby 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 Purchased Assets to RRD.

3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of Receiver's certificate to RRD substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Receiver's and Grafikom's right, title and interest, if any, in and to the Purchased Assets described in the Sale Agreement (which for greater certainty and without limiting the generality of the foregoing, shall include the equipment leased to Grafikom by CIT as described in Schedule "B" hereto) shall vest absolutely in RRD, 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, leases 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 Order of the Honourable Mr. Justice Wilton-Siegel dated November 10, 2008; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) and *Personal Property Security Act* (Alberta) or any other applicable personal property registry system.
4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds received by the Receiver from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims shall attach to such net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.
6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to RRD all human resources and payroll information in Grafikom's records pertaining to Grafikom's past and current employees. RRD shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Grafikom.
7. **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 Grafikom and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of Grafikom;

the vesting of the Purchased Assets in RRD pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Grafikom and shall not be void or voidable by creditors of Grafikom, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable 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.
8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any similar legislation in any other jurisdiction.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order and, in particular, in vesting title to the Purchased Assets in RRD free and clear of all Claims. 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.
10. **THIS COURT ORDERS** that this Order is without prejudice to any right of Stephen Morrison ("**Lien Claimant**") to argue that for determining entitlement to Proceeds, that "Purchased Assets" include the lease that will be terminated by the Receiver pursuant to s. 9.7 of the Sale Agreement, and for that purpose, the construction lien of the Lien Claimant ("**Morrison Lien**") shall be deemed to be a charge upon the sum of \$87,530.29 plus 25% for costs for a total of \$109,412.86 (the "**Funds**"), from the Proceeds, in the same manner as if such Funds had been posted with the Court pursuant to section 44 of the *Construction Lien Act*, without prejudice (i) to the rights of any party to dispute the validity of the Morrison Lien or the priority of the Morrison Lien, or (ii) the rights of the Secured Lenders under their security against the Funds.



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ON / BOOK NO:
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Schedule "A"

Form of Receiver's Certificate

Court File No. 08-CL-7840

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AND GRAFIKOM.GRENVILLE LIMITED**

Respondents

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Wilton-Siegel of the Ontario Superior Court of Justice (the "Court") dated November 10, 2008, RSM Richter Inc. was appointed as the interim receiver and receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Grafikom Limited Partnership, Grafikom General Partner Inc., Grafikom.Speedfast Limited and Grafikom.Grenville Limited ("Grafikom").

B. Pursuant to an Order of the Court dated ●, the Court approved the agreement of purchase and sale dated ● (the "Sale Agreement") between the Receiver and Moore Canada, an RR Donnelley, Moore Wallace Partnership (the "Purchaser") and provided for the vesting in the Purchaser of Grafikom's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets 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 Purchased Assets; (ii) that the conditions to Closing as set out in section ● of 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 Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections ● of 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 interim receiver and receiver and manager of Grafikom Limited Partnership, Grafikom General Partner Inc., Grafikom.Speedfast Limited and Grafikom.Grenville Limited and not in its personal capacity

By: _____

Name: ●

Title: ●

Schedule "B"

Equipment Leased to Grafikom by CIT

Bond Avenue and Scarsdale Road Assets

Machinery & Equipment	Year	Leased/Owned	Location
Saddle Stitcher (STAHL 270 8 POCKET)		Leased	Bind Finishing
STAHLFOLDERS TH-78	1999	Leased	Bond Finishing
STAHLFOLDERS TH-52	1999	Leased	Bond Finishing
STAHLFOLDERS TI- 36/4-FI	1999	Leased	Bond Finishing
Polar Cutter 137 Auto Trim	1999	Leased	Bond Finishing
Polar Lift LW 1000-6	1999	Leased	Bond Finishing
Polar Jogger RA-4	1999	Leased	Bond Finishing
Polar Stacker TR 130 ER- 4	1999	Leased	Bond Finishing
Kama 40 inch Die Cutter TS 105	2005	Leased	Bond Finishing
Heidelberg Gluer ECO 80		Leased	Bond Finishing

Presses	Year	Serial Number	Owned/Leased
Heidelberg-12 colour SM102	2008	102-12p ... 547-434	Leased
Heidelberg-6 colour CD 102	2005	102-CDSI...546-309	Leased
Heidelberg 6 colour SM 52	2005	SM-52-6L...207575	Leased

Edmonton Assets

Type of Equipment	Location	Date	Serial Number
Heidelberg XL-105-6+L 6 colour sheet fed offset press	Grafikom Edmonton	2006	FS000273

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LIMITED

Applicant

Respondents

Ontario

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

**APPROVAL AND VESTING ORDER
(RRD Transaction)**

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Solicitors for RSM Richter Inc.
in its capacity as Interim Receiver and Receiver and
Manager of Grafikom Limited
Partnership, Grafikom General Partner Inc.,
Grafikom.Speedfast Limited and
Grafikom.Grenville Limited