

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

**IN THE MATTER OF SECTION 243 OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE*  
*ACT*, R.S.O. 1990, C. C.43, AS AMENDED**

BETWEEN:

**CALLIDUS CAPITAL CORPORATION**

Applicant

- and -

**JD NORMAN CANADA, ULC**

Respondents

**NOTICE OF MOTION**

KSV Restructuring Inc., in its capacity as the Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of JD Norman Canada, ULC (“**JD Norman**”), will make a motion before a judge presiding over the Ontario Superior Court of Justice (Commercial List) at a date and time to be set by the Commercial List Office by judicial videoconference via Zoom at Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard by videoconference.

**THE MOTION IS FOR:**

1. An order providing advice and direction on the Receiver’s efforts to realize on certain of JD Norman’s inventory and actions and positions taken by the union representing JD Norman’s

former hourly workers (the “**Union**”), which are preventing the Receiver from fulfilling the principal purpose of these proceedings.

2. Such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

***Background***

1. Until early February 2021, JD Norman carried on the business of manufacturing highly engineered metal components and supplying the components exclusively to General Motors Holdings LLC and its affiliates (“**GM**”) from its facility in Windsor (the “**Windsor Property**”).

2. As a result of GM resourcing its supply to an alternative vendor, JD Norman discontinued its operations in early February 2021 and, among other things, terminated its entire workforce, including 72 members of the Union.

3. Pursuant to an Order made on February 12, 2021 (the “**Receivership Order**”), KSV was appointed Receiver to conduct a Court-supervised wind-down of JD Norman’s business and assets that maximizes value for stakeholders.

***Attempts to Ship Inventory***

4. Following its appointment, the Receiver has attempted to arrange for a final shipment of inventory with a value of approximately \$500,000 to GM (the “**Inventory**”).

5. The Receiver has been unable to ship the Inventory because the Windsor Property is being blockaded by members of the Union. Notwithstanding efforts by the Receiver to coordinate the removal of the blockade so the Inventory can be shipped, the Receiver and the Union are currently at an impasse.

6. The shipment of the Inventory is critical as the agreement and purchase orders under which the Inventory was purchased expire on February 18, 2021 and the Receiver understands that the customer will likely cancel the purchase orders if it does not receive the Inventory by February 18. The Inventory is comprised of customized components; it will lose its value and be essentially reduced to “scrap value” if it is not be shipped before February 18, 2021.

7. The Receiver has contacted the Windsor Police and written a letter to the Sherriff to request police assistance but has not received any indication that the Windsor Police or the Sherriff will be able to assist the Receiver absent a further order of this Court.

***Request for Advice and Directions***

8. The Receiver is, pursuant to paragraph 29 of the Receivership Order, seeking the Court’s advice and direction in respect of the shipment of Inventory.

9. The Receiver is of the view that the Court’s intervention to provide for the removal of the Inventory is reasonable and appropriate for the following reasons:

- (a) In attempting to ship the Inventory prior to the date on which its value diminishes from approximately \$500,000 to scrap value, the Receiver is discharging its obligations under the Receivership Order.
- (b) The Receiver is not interested in interfering with the Union’s rights to peacefully picket outside the Windsor Property. On the contrary, the Receiver is solely requesting that the blockade be removed to allow the Receiver access to the shipping docks to allow one shipment of Inventory prior to February 18, 2021.

- (c) It is unclear to the Receiver the legal basis on which the Union is preventing the shipment of Inventory.
- (d) The Union's actions appear to be in breach of Paragraph 4 of the Receivership Order (unchanged from the "model order"), which requires parties to "...grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request."
- (e) In the Receiver's view, no party is prejudiced if the Union moves the blockade to allow the Receiver full access to the Property to monetize the Inventory. On the other hand, JD Norman's estate is materially prejudiced (*i.e.*, loss of value of up to \$500,000) should the Receiver not be able to ship the Inventory prior to February 18, 2021.

10. The Union has advised that it is unable to respond to this motion before February 17, 2021. Given the urgency of this situation, the Receiver is amenable to attending a case conference on February 16, 2021, should the Court believe it might be helpful in the circumstances.

***Other Grounds***

- 11. Section 243 of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*.
- 12. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*.
- 13. The Consolidated Notice to the Profession, the Public and the Media Regarding Civil and Family Proceedings dated May 13, 2020.
- 14. Changes to Commercial List operations in light of COVID-19 dated March 16, 2020.

15. Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

1. The First Report of the Receiver dated February 15, 2021; and
2. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

February 15, 2021

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**TO: THE SERVICE LIST**

**CALLIDUS CAPITAL  
CORPORATION**

**JD NORMAN CANADA, ULC**

Court File No: CV-21-00656820-00CL

and

Applicant

Respondent

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
PROCEEDING COMMENCED AT: TORONTO

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**NOTICE OF MOTION**

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