

ONTARIO
SUPERIOR COURT OF JUSTICE
- IN BANKRUPTCY -

IN THE MATTER OF THE BANKRUPTCY OF 2515080 NOVA SCOTIA COMPANY

MOTION RECORD
(Returnable May 30, 2011)

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
- IN BANKRUPTCY -**

IN THE MATTER OF THE BANKRUPTCY OF 2515080 NOVA SCOTIA COMPANY

**NOTICE OF MOTION
(Returnable May 30, 2011)**

RSM Richter Inc. ("**Richter**"), in its capacity as trustee in bankruptcy (the "**Trustee**") of SKD Company ("**SKD**"), NMC Canada, Inc. ("**NMC**") and 2515080 Nova Scotia Company ("**2515**" and collectively with SKD and NMC, the "**Bankrupts**"), will make a motion before this Honourable Court on May 30, 2011 at 9:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: the Motion is to be heard orally.

THE MOTION IS FOR AN ORDER:

- (a) abridging time for service and filing of this Notice of Motion and the materials filed in support of this Motion, or in the alternative, dispensing with same;
- (b) authorizing the Trustee to administer the estates of the Bankrupts on an administratively consolidated basis;
- (c) authorizing the Trustee to transfer the amount of \$3,264,025 (representing a tax refund to 2515 specifically) from the bankruptcy estate bank account of SKD to the bankruptcy estate bank account of 2515;
- (d) approving the Trustee's first report dated May 26, 2011 (the "**First Report**") and the conduct and activities of the Trustee as set out therein; and
- (e) such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

- (a) NMC is incorporated under the Ontario Business Corporations Act. 2515 is an unlimited limited company incorporated under the Nova Scotia *Companies Act*.

NMC and 2515 are the general partners of SKD, a general partnership registered under the Ontario *Partnership Act*; NMC and 2515 own 1% and 99% of SKD, respectively;

- (b) on January 21, 2009, this Honourable Court issued an order (the “**Initial Order**”) granting NMC and 2515 protection pursuant to the *Companies’ Creditors Arrangement Act* (“**CCAA**”), which was extended to cover SKD. Pursuant to the terms of the Initial Order, Richter was appointed as the monitor of the Companies in the CCAA proceeding;
- (c) on June 11, 2009, this Honourable Court granted an order that placed the Bankrupts into receivership and appointed Richter as receiver (the “**Receiver**”);
- (d) on April 29, 2010, this Honourable Court issued an order that, among other things, authorized the Receiver to assign the Bankrupts into bankruptcy at such time as the Receiver deemed appropriate (the “**April 29 Order**”);
- (e) on January 11, 2011, pursuant to the April 29 Order, the Receiver filed an assignment in bankruptcy on SKD’s behalf and was appointed as Trustee of SKD’s bankrupt estate;
- (f) on May 26, 2011, the Receiver assigned NMC and 2515 into bankruptcy and Richter was appointed as the trustee in bankruptcy of the estates of NMC and 2515;
- (g) the Trustee is of the view that administering the Bankrupts’ estates on a consolidated basis is in the best interests of all creditors because it will minimize administrative costs;
- (h) in particular, should this Honourable Court grant the requested Order, the Trustee would be:
 - (i) required to issue only one combined advertisement with respect to the first meeting of creditors of NMC and 2515; (“**First Meeting of Creditors**”);

- (ii) permitted to use a consolidated form of proof of claim which directs creditors of the Bankrupts to identify the estate in which a claim is made;
 - (iii) permitted to have a joint First Meeting of Creditors for the estates of NMC and 2515 (with the proviso that all voting is recorded and enforced, if necessary, on an estate by estate basis);
 - (iv) permitted to issue consolidated reports;
 - (v) the Trustee will keep a separate claims register for each estate, and will issue dividends on an estate by estate basis; and
 - (vi) permitted to select a common group of inspectors to oversee the activities of the Trustee with respect to the estates of NMC and 2515 (to the extent authorized by the applicable creditors at the First Meeting of Creditors).
- (i) approximately \$3,300,000 currently held by the Trustee in the bankrupt estate account of SKD, and reflected on the statement of affairs for SKD, represents tax refunds properly payable to NMC and 2515, which were received by the Receiver prior to the bankruptcy of SKD and were deposited into the receivership bank accounts, most of which has now been transferred to the bankruptcy estate bank account of SKD. The Trustee seeks authority to transfer the appropriate amounts to the bankruptcy estate bank accounts of NMC and 2515. The Trustee intends to prepare an amended statement of affairs for SKD reflecting such transfer;
- (j) rules 1.04, 2.03 and 3.02 of the *Rules of Civil Procedure* (Ontario), R.R.O. 1990, Reg. 194;
- (k) sections 19(1), 34(1) and 183(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended; and
- (l) such further and other grounds as counsel may advise and this Honourable Court permits.

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

- (a) the First Report of the Trustee and all appendices attached thereto; and

- (b) such further and other materials as counsel may advise and this Honourable Court permits.

May 26, 2011

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**ONTARIO
SUPERIOR COURT OF JUSTICE
Bankruptcy Court**

Proceeding commenced at Toronto

**NOTICE OF MOTION
(returnable, May 30, 2011)**

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TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
- BANKRUPTCY COURT -**

THE HONOURABLE) MONDAY, the 30th DAY
)
JUSTICE CAMPBELL) OF MAY, 2011

IN THE MATTER OF THE BANKRUPTCY OF 2515080 NOVA SCOTIA COMPANY

ADMINISTRATIVE CONSOLIDATION ORDER

THIS MOTION made by RSM Richter Inc. (the “**Trustee**”), in its capacity as the trustee in bankruptcy of SKD Company, NMC Canada, Inc. and 2515080 Nova Scotia Company (collectively, the “**Bankrupts**”), for an Order, *inter alia*, administratively consolidating the Bankrupts’ estates, was heard this day at 330 University Avenue, Toronto, Ontario;

ON READING the first report of the Trustee dated May 26, 2011 (the “**First Report**”), and on hearing the submissions of counsel for the Trustee and counsel for each of Honda of America Mfg. Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC, Chrysler Group LLC, Ford Motor Company, and Messer’s Constantino and Wong, no one appearing for any other person on the Service List, although duly served as appears from the Affidavit of Service of Susa Slaney sworn May 26, 2011, filed;

Service

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged such that this Motion is properly returnable today and that further service thereof is hereby dispensed with.

Consolidation of Estates

2. **THIS COURT ORDERS** that the Trustee be and is hereby authorized to administer the estates of the Bankrupts (collectively, the “**Estates**”, individually, an “**Estate**”) on a consolidated basis, as follows:

- (a) the Estates shall be assigned Court File No. 32-158287 and the title of proceeding of “In the Matter of the Bankruptcy of SKD Company, NMC Canada, Inc. and 2515080 Nova Scotia Company”;
- (b) the Trustee is authorized to convene and conduct a single, consolidated first meeting of creditors for NMC Canada, Inc. and 2515080 Nova Scotia Company through one combined advertisement, provided that all voting is recorded on an Estate by Estate basis;
- (c) the Trustee is authorized to use a consolidated form of proof of claim which directs creditors of the Bankrupts to identify the Estate for which a claim is made;
- (d) the Trustee is authorized to issue consolidated reports for the Bankrupts;
- (e) unless the creditors of any Estate object at the first meeting of creditors, the same slate of inspectors shall be appointed as the inspectors in respect of all of the estates of NMC Canada, Inc. and 2515080 Nova Scotia Company; and
- (f) the Trustee shall maintain a separate claims register for each Estate and will issue dividends, if any, on an Estate by Estate basis.

3. **THIS COURT ORDERS** that the administrative consolidation of the Estates in accordance with the terms of this Order is not a substantive consolidation of the Estates, and will

automatically terminate if the Trustee is replaced as trustee in bankruptcy of any but not all of the Estates.

Transfer of Funds

4. **THIS COURT AUTHORIZES AND DIRECTS** the Trustee to transfer the amount of \$3,264,025 from the bankruptcy estate bank account of SKD Company to the bankruptcy estate bank account of 2515080 Nova Scotia Company.

Trustee's Report and Conduct

5. **THIS COURT ORDERS** that the First Report and the conduct and activities of the Trustee as set out therein, be and are hereby approved.

General

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

ONTARIO
SUPERIOR COURT OF JUSTICE
Bankruptcy Court

Proceeding commenced at Toronto

ADMINISTRATIVE CONSOLIDATION ORDER
(Motion returnable May 30, 2011)

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-In Bankruptcy

Proceeding commenced at Toronto

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