

Bankruptcy File No.: BK-11-00158287-0032

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC.  
AND 2515080 NOVA SCOTIA COMPANY**

**MOTION RECORD OF  
KSV RESTRUCTURING INC.  
(returnable August 13, 2024)**

Date: July 26, 2024

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TO: NMC Canada, Inc.  
375 Wheelabrator Way  
Milton, ON L9T 3C1

AND TO: 2515080 Nova Scotia Company  
375 Wheelabrator Way  
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# INDEX

## INDEX

TAB NO.	DOCUMENT	PAGE NO.
1.	Notice of Motion dated July 26, 2024	6
2.	Draft Order	13
3.	Report of KSV Restructuring Inc. re SKD Company dated July 25, 2024	17
A.	Appendix “A” – Initial Order dated January 21, 2009	24
B.	Appendix “B” – Order dated June 11, 2009	63
C.	Appendix “C” – Certificate of Appointment dated January 11, 2011	67
D.	Appendix “D” – Order dated September 11, 2013	69
E.	Appendix “E” – Order of Discharge of Trustee dated October 26, 2016	75
F.	Appendix “F” – Substitution Order dated December 12, 2011	78
G.	Appendix “G” – Substitution Order dated July 10, 2015	95

1

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF**  
**SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC.**  
**AND 2515080 NOVA SCOTIA COMPANY**

**NOTICE OF MOTION**  
**(returnable August 13, 2024 @ 10:00 am via “Zoom”)**

KSV Restructuring Inc. (“KSV”), an interested person under s. 41(11) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”), will make a motion to an Associate Justice of the Court on August 13, 2024 at 10:00 am, or as soon after that time as the motion can be heard, which motion shall be heard virtually by “Zoom” videoconference and may be attended online by accessing the direct videoconference link to be posted by the Court at the following URL:

<https://ca01web.zoom.us/j/69431075937?pwd=w4k0bXaHvMqwD35WKMaL7GwF4RqEDp.1>.

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

**THE MOTION IS FOR:**

1. an order, substantially in the form attached hereto as Schedule “A” (the “**Appointment of Trustee**”), *inter alia*:
  - (a) abridging the time for service and filing of this notice of motion and the motion record or, in the alternative, dispensing with same;
  - (b) re-appointing KSV, a licensed insolvency trustee, as the trustee (in such capacity, the “**Trustee**”) of the procedurally and substantively consolidated bankrupt estates of SKD Company, NMC Canada, Inc. (“NMC”) and 2515080 Nova Scotia Company (“251”) pursuant to s. 41(11) of the BIA; and

2. such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

*Background of the SKD Bankruptcy*

3. On January 21, 2009, an order under the *Companies' Creditors Arrangement Act* (the "**CCAA Order**") was granted in respect of SKD, NMC and 251. The CCAA Order appointed RSM Richter Inc. ("**Richter**") as the monitor.
4. By Order issued on June 11, 2009, Richter was appointed as the receiver of SKD, NMC, and 251.
5. On January 11, 2011, Richter filed an assignment in bankruptcy on behalf of SKD and Richter was appointed as the trustee of SKD's bankrupt estate. Richter subsequently filed assignments in bankruptcy for NMC and 251 and, on September 11, 2013, the estates of each of SKD, NMC, and 251 were procedurally and substantively consolidated (collectively, the "**Bankrupt**").
6. In December 2011, Richter was acquired by Duff & Phelps Canada Restructuring Inc. ("**D&P**"). In June 2015, KSV Kofman Inc. acquired D&P and KSV Kofman Inc. was substituted as trustee of the Bankrupt.<sup>1</sup>
7. As the licensed professionals overseeing the mandate remained constant throughout this process, for the purpose of this motion, "Trustee" refers to KSV and its predecessors.
8. The Trustee distributed approximately \$10 million to unsecured creditors of the Bankrupt, leaving unpaid more than \$40 million in proven claims against the Bankrupt.

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<sup>1</sup> The corporate history of the Trustee and its role in relation to the Bankrupt is detailed at section 3.0 of the KSV Report. Note that KSV Kofman Inc. changed its name to KSV Restructuring Inc. on August 31, 2020.

9. On October 26, 2016, upon undertaking to maintain all estate books, records, and documents in accordance with Rule 68, and believing that all assets of the Bankrupt had been administered, KSV Kofman Inc. was discharged as the Trustee of the Bankrupt.

*The Pension Plan Surplus*

10. In 1985, SKD acquired SKD Technologies, which had a pension plan for certain employees (the “**Pension Plan**”). As of December 1985, new benefit accruals and active participation in the Pension Plan were terminated by SKD, as the employees were moved over to another pension plan sponsored by SKD.
11. In 2009, after the commencement of the CCAA proceedings, steps were taken to wind up various pensions plans which SKD was the sponsor of, including the Pension Plan.
12. In June of 2023, the Pension Plan’s actuary contacted KSV to advise that all members or beneficiaries of the Pension Plan had received their basic entitlements at the 100% funded level, and that there was a surplus of funds remaining in the Pension Plan. The actuary asked KSV how it wished to deal with the surplus.
13. As of July 31, 2023, there is a surplus of over \$2 million (the “**Surplus**”) available in the Pension Plan. The Pension Plan is registered and subject to the *Ontario Pension Benefits Act* (the “**PBA**”). The PBA requires Financial Services Regulatory Authority of Ontario (“**FSRA**”) approval before the Surplus can be paid to the plan sponsor (here, the bankrupt estate of SKD).
14. Under the PBA, approval can be obtained where either:
  - (a) the plan sponsor establishes that it is entitled to the surplus based on certain documentation and opinions, or
  - (b) the plan sponsor enters into a surplus sharing arrangement with the Pension Plan beneficiaries.



15. While KSV and its counsel believe that SKD, as the plan sponsor, is entitled to 100% of the Surplus, it is more efficient and less costly to enter into a surplus sharing arrangement with the beneficiaries of the Pension Plan.

*Re-Appointment of Trustee and Proposed Sale*

16. KSV is seeking re-appointment as Trustee of the Bankrupt pursuant to Section 41(11) of the BIA, in order that it may formally pursue a fair and reasonable surplus sharing agreement and present it to FSRA for approval. KSV will then distribute the remainder of the Surplus to the unsecured creditors of the Bankrupt who have, to date, received less than 19% of their proven claim amounts.

*General*

17. KSV also relies on:
  - (a) the grounds set out in the Report of KSV dated July 25, 2024 (the “**KSV Report**”);
  - (b) the inherent equitable jurisdiction of the Court;
  - (c) sections 30, 34, and 41 of the BIA;
  - (d) section 100 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43;
  - (e) rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
  - (f) such further and other grounds as counsel may advise and this Court may permit.

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

18. The KSV Report and the appendices thereto; and
19. Such further and other material as counsel may advise and this Court may permit.

Date: July 26, 2024

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Lawyers for KSV Restructuring Inc.

TO: **KSV Restructuring Inc.**

*Proposed Trustee*

AND TO: **NMC Canada, Inc.**

AND TO: **2515080 Nova Scotia Company**

AND TO: **Office of the Superintendent of Bankruptcy**

**IN THE MATTER OF THE BANKRUPTCY OF SKD COMPANY, A PARTNERSHIP  
OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

Bankruptcy File No.: BK-11-00158287-0032

	<p><b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b> <b>[IN BANKRUPTCY &amp; INSOLVENCY]</b></p> <p><b>Proceedings commenced at Toronto</b></p>
	<p><b>NOTICE OF MOTION</b></p> <p><b>GOODMANS LLP</b> Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p><b>L. Joseph Latham</b> LSO# 32326A jlatham@goodmans.ca</p> <p><b>Meghan de Snoo</b> LSO# 80030P mdesn00@goodmans.ca</p> <p>Tel: 416-979-2211</p> <p>Lawyers for KSV Restructuring Inc.</p>

2

Bankruptcy File No.: BK-11-00158287-0032

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

ASSOCIATE	)	TUESDAY, THE 13 <sup>TH</sup> DAY
	)	
JUSTICE ILCHENKO	)	OF AUGUST, 2024

**IN THE MATTER OF THE BANKRUPTCY OF  
SKD COMPANY, A PARTNERSHIP OF NMC CANADA, INC.  
AND 2515080 NOVA SCOTIA COMPANY ORDER**

**(Appointment of Trustee)**

**THIS MOTION**, brought by KSV Restructuring Inc. (“**KSV**”), an interested person under s. 41(11) of the *Bankruptcy and Insolvency Act*, R.S.C. 1988 c. B-3 (the “**BIA**”), for an order, *inter alia*, appointing KSV as trustee (the “**Trustee**”) of the bankrupt estate of SKD Company (“**SKD**”), NMC Canada, Inc. (“**NMC**”) and 2515080 Nova Scotia Company (“**251**”) (collectively, the “**Bankrupt**”) was heard virtually on this day.

**SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**APPOINTMENT OF TRUSTEE**

2. **THIS COURT ORDERS** that pursuant to section 41(11) of the BIA, KSV is hereby appointed as Trustee of the bankrupt estate of the Bankrupt.

3. **THIS COURT ORDERS** that the Trustee and its counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the creditors or other interested parties and their advisors. For greater

certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

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**IN THE MATTER OF THE BANKRUPTCY OF SKD COMPANY, A PARTNERSHIP  
OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

Bankruptcy File No.: BK-11-00158287-0032

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**[IN BANKRUPTCY & INSOLVENCY]**

**Proceedings commenced at Toronto**

**ORDER**  
**(Appointment of Trustee)**

**GOODMANS LLP**

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3





# **Report of KSV Restructuring Inc. Re: SKD Company**

July 25, 2024

## Contents

## Page

1.0	Purpose of this Report .....	1
2.0	Background of the SKD Bankruptcy .....	1
3.0	Background of Trustee .....	2
4.0	Potential Additional Realization .....	2
5.0	Conclusion and Recommendation .....	4

## Appendices and Exhibits

### Appendix

### Tab

CCAA Order dated January 21, 2009 .....	A
Receivership Order dated June 11, 2009 .....	B
Certificate of Appointment dated January 11, 2011 .....	C
Consolidation Order dated September 11, 2013 .....	D
Trustee's Discharge Order dated October 26, 2016 .....	E
D&P Replacement Order dated December 12, 2011 .....	F
July 10, 2015 Substitution Order .....	G

ESTATE FILE NO.:32-158287  
BANKRUPTCY FILE NO: BK-11-00158287-0032

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF SKD COMPANY, A  
PARTNERSHIP OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA  
COMPANY, OF THE TOWN OF MILTON, IN THE PROVINCE OF ONTARIO**

**REPORT OF KSV RESTRUCTURING INC.  
RE: SKD COMPANY**

**JULY 25, 2024**

## **1.0 Purpose of this Report**

1. The purpose of this report (the “**Report**”) is to advise the Superior Court of Justice, In Bankruptcy and Insolvency, that a previously unknown asset in the estate of SKD Company (“**SKD**”) has been identified, that a realization of this asset may result in an additional recovery to the ordinary, unsecured creditors of the Company (as herein defined) (the “**Unsecured Creditors**”), and to recommend that KSV Restructuring Inc. (“**KSV**”) be re-appointed as trustee in bankruptcy of the Company pursuant to Section 41(11) of the *Bankruptcy and Insolvency Act* (the “**BIA**”).

## **2.0 Background of the SKD Bankruptcy**

1. On January 21, 2009, an order (the “**CCAA Order**”) was granted by the Superior Court of Justice (Commercial List) (the “**Court**”) under the *Companies’ Creditors Arrangement Act* in respect of SKD, NMC Canada Inc. (“**NMC**”) and 2515080 Nova Scotia Company (“**251**”) (collectively, the “**Company**”), appointing RSM Richter Inc. (“**Richter**”) as the monitor. A copy of the CCAA Order is annexed as Appendix “A” to this Report.
2. On June 11, 2009, an order was made by the Court appointing Richter as receiver (the “**Receiver**”) of the Company’s property, assets and undertakings (the “**Receivership Order**”). A copy of the Receivership Order is annexed as Appendix “B” to this Report.
3. On January 11, 2011, the Receiver filed an assignment in bankruptcy on SKD’s behalf (the “**Assignment**”) and Richter was appointed as trustee of SKD’s bankrupt estate (the “**Trustee**”). Richter was affirmed as Trustee at the first meeting of creditors held on January 31, 2011. A copy of the Certificate of Appointment naming Richter as Trustee is annexed as Appendix “C” to this Report.
4. On May 26, 2011, the Receiver filed separate assignments in bankruptcy on behalf of each of NMC and 251, and Richter was appointed trustee of each estate.

5. On the application of the Trustee, on September 11, 2013, orders were made by the Court in each of the three (3) bankruptcy estates, procedurally and substantively consolidating the estates of SKD, NMC and 251 (the “**Consolidation Order**”). A copy of the Consolidation Order is annexed as Appendix “D” to this Report.
6. The Trustee administered the consolidated estate, realized on all of the known assets of the Company and distributed the available funds to the Unsecured Creditors of the Company. The Trustee distributed approximately \$9.97 million to the Unsecured Creditors, whose proven claims totaled approximately \$51.76 million.
7. On October 26, 2016, the Trustee received its discharge order (the “**Trustee’s Discharge Order**”). A copy of the Trustee’s Discharge Order is annexed as Appendix “E” to this Report.

### 3.0 Background of Trustee

1. At the dates of the CCAA Order, the Receivership Order and the Assignment, the corporate name of Richter was RSM Richter Inc. The Toronto practice of Richter was beneficially owned by RAP Inc. (“**RAP**”).
2. As a result of the acquisition of RAP’s interest in Richter’s Toronto restructuring practice by Duff & Phelps Canada Restructuring Inc. (“**D&P**”) on December 9, 2011, D&P replaced Richter as trustee of each of SKD, NMC and 251 pursuant to a Court order dated December 12, 2011 (the “**D&P Replacement Order**”). A copy of the D&P Replacement Order is annexed as Appendix “F” to this Report.
3. On June 30, 2015, D&P was acquired by KSV Kofman Inc. and there was a statutory amalgamation of D&P and KSV Kofman Inc., with the amalgamated entity continuing as KSV Kofman Inc. Pursuant to an order of the Court dated July 10, 2015 (the “**July 10, 2015 Substitution Order**”), KSV Kofman Inc. was substituted in place of D&P as trustee on open estate files; in addition, the July 10, 2015 Substitution Order required KSV to observe all the terms provided by Rule 61(2) of the BIA. A copy of the July 10, 2015 Substitution Order is annexed as Appendix “G” to this Report. On August 31, 2020, KSV Kofman Inc. changed its name to KSV Restructuring Inc.

### 4.0 Potential Additional Realization

1. The assets of S.K.D. Technologies Inc. were acquired by SKD in December of 1985. S.K.D. Technologies Inc. had maintained the S.K.D. Technologies Inc. Pension Plan, Registration No. 0474221 (the “**Pension Plan**”) for certain of its employees. After SKD acquired S.K.D. Technologies Inc., SKD effectively transferred all employees over to one of SKD’s other pension plans. Accordingly, as of December of 1985, new benefit accruals and active participation in the Pension Plan were terminated, and annuities were purchased to fund benefits which had accrued to the date of the acquisition of S.K.D. Technologies Inc.
2. After the CCAA Order was issued, SKD took steps to wind up its various pension plans, including the Pension Plan. The Pension Plan was wound up effective April 15, 2009 (the “**Wind-Up Date**”). When the Trustee was discharged in 2016, it was unaware of any other assets of SKD.

3. The Pension Plan's actuary contacted KSV in June of 2023 to advise that all members of the Pension Plan had received their basic entitlements at the 100% funded level, and that there was a surplus remaining in the Pension Plan, and asked KSV, as former trustee of the sponsor of the Pension Plan, what it wished to do in respect of the surplus.
4. The Pension Plan's actuary filed a wind-up report on November 8, 2021 with the Financial Services Regulatory Authority of Ontario ("**FSRA**"), the Ontario pension regulator, which included all Pension Plan members affected by the wind-up of the successor plan, the SKD Company Pension Plan for Salaried Employees, and dealt only with the ancillary benefits that Pension Plan members are entitled to on the full wind-up of the Pension Plan as at April 15, 2009. The most recent trustee statement reports a surplus (the "**Surplus**") of \$2,016,103.17 as at July 31, 2023. The Pension Plan's actuary has advised KSV that there are thirty (30) members or beneficiaries of the Pension Plan.
5. The Pension Plan is registered and subject to the Ontario Pension Benefits Act (the "**PBA**"). The PBA provides that FSRA's chief executive officer (the "**FSRA CEO**") must give consent before any surplus can be paid to the plan sponsor, which, in this case, is the bankrupt estate of SKD. Under the PBA, the FSRA CEO may give consent where (i) the plan sponsor establishes that it is entitled to the surplus based on documents that created and supported the Pension Plan, or (ii) the plan sponsor enters into a surplus sharing arrangement with the affected members or beneficiaries that meet the requirements of the PBA.
6. KSV has obtained legal advice from Goodmans LLP ("**Goodmans**") that supports the view that the trustee of the SKD bankruptcy estate is entitled to 100% of the Surplus. Goodmans was the Trustee's legal counsel in the SKD bankruptcy proceedings, as well as the CCAA and Receivership proceedings. Further, KSV understands that the process to seek the full amount of the Surplus is lengthy and costly, given the documentation and opinions needed to seek consent of the FSRA CEO. KSV understands that a surplus sharing arrangement is a far quicker and less expensive option to recover a significant portion of the Surplus.
7. In light of the fact that the Unsecured Creditors of the Company received only approximately 18.6% of their proven claims, and that there continues to be approximately \$40 million in unpaid Unsecured Creditor claims, KSV believes that it is appropriate to pursue the recovery of the Surplus, or as much of it as possible, and to then make a further distribution to the Unsecured Creditors (net of the costs incurred to do so).
8. Provided that it is re-appointed as Trustee of the Company, and in order to avoid the costs and delay of an application to FSRA, KSV intends to propose entering into a surplus sharing agreement with members of the Pension Plan (the "**Sharing Agreement**") and then presenting that to FSRA for consent to distribute the Surplus from the Pension Plan.

9. KSV and Goodmans have been pursuing methods of potentially recovering the Surplus (or a portion thereof) since the summer of 2023, including obtaining details of the Surplus and the number of Pension Plan members or beneficiaries from the Pension Plan administrator. KSV and Goodmans are of the view that the most practical and cost-effective approach to obtain the Surplus is to pursue a Sharing Agreement. If KSV is re-appointed as Trustee and is able to execute a Sharing Agreement with the members of the Pension Plan, KSV would then apply to the Court on the methodology of distributing the recovered Surplus, net of costs, to the Unsecured Creditors.

## 5.0 Conclusion and Recommendation

1. This potential realization was not identified during the administration of the Company's estate and, if realized, would represent a meaningful additional recovery for Unsecured Creditors of the Company.
2. KSV recommends that the Court re-appoint it as trustee in bankruptcy of the Company under Section 41(11) of the BIA for the purposes of realizing on SKD's interest in the Surplus and making an additional distribution to the Unsecured Creditors of the Company.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.**

## Appendix “A”

COURT FILE NO. 09-CL- 7960

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

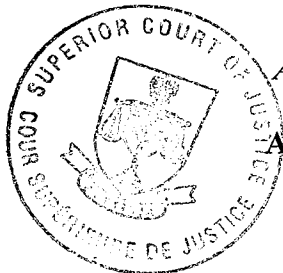
THE HONOURABLE MR.

) WEDNESDAY, THE 21ST DAY  
OF JANUARY, 2009

)

JUSTICE CAMPBELL

)



**IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF NMC CANADA, INC. AND  
2515080 NOVA SCOTIA COMPANY**

Applicants

**INITIAL ORDER**

THIS APPLICATION, made by NMC Canada, Inc. ("NMC") and 2515080 Nova Scotia Company ("2515080") (collectively, the "**Applicants**" and any one, an "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of John Chen sworn January 21, 2009 (the "**Chen Affidavit**") and the Exhibits thereto and the report of RSM Richter Inc. ("**Richter**") as the proposed monitor in these proceedings (the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, and counsel for Richter, Comerica Bank ("**Comerica**"), the Customers (as defined below), General Motors Corporation ("**GM**"), the National Automobile, Aerospace, Transportation and General Workers of Canada and its Local 1285 (the "**CAW**"), the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union (the "**USW**") and the Teamsters Local Union No. 419 (the "**Teamsters**" and, together with the CAW and USW, the "**Unions**" and, any one, a "**Union**"), no one else on the Service List appearing and on reading the consent of Richter to act as the Monitor,



## SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged so that this Application is properly returnable today and hereby dispenses with further service thereof.

## APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are debtor companies to which the CCAA applies. Although not an Applicant, this Court further orders and declares that SKD Company, as the general partnership through which the Applicants carry on business (“SKD Company”, and together with the Applicants, the “CCAA Parties”, and any one, a “CCAA Party”), shall enjoy the benefits of the protections provided by this Order and shall be treated as if an applicant under this Order.

## PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court one or more plans of compromise or arrangement (hereinafter referred to as the “Plan”) between, *inter alia*, the CCAA Parties or any of them and one or more classes of their secured and/or unsecured creditors, as they deem appropriate.

## POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the CCAA Parties shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “Property”). Subject to further Order of this Court, the CCAA Parties shall continue to carry on business in a manner consistent with the preservation of their businesses (the business of the CCAA Parties, collectively, the “Business”) and Property. The CCAA Parties shall be authorized and empowered to continue to retain and employ the employees, consultants, financial advisors, agents, experts, accountants, counsel, appraisers and such other persons (collectively, “Assistants”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably

necessary or desirable in the ordinary course of business, for the carrying out of the terms of this Order or to assist the CCAA Parties with their restructuring activities as contemplated by this Order.

5. THIS COURT ORDERS that the CCAA Parties shall be entitled to continue to utilize their existing bank accounts and any other bank accounts permitted under the Forbearance Agreement (as defined below) (the “**Bank Accounts**”) and that all banks in which the CCAA Parties maintain any Bank Account are authorized and directed to continue to maintain, service and administer the Bank Accounts in accordance with the documents governing the Bank Accounts.

6. THIS COURT ORDERS that the CCAA Parties are authorized and empowered to continue to manage their cash and cash equivalents and transfer funds among their respective Bank Accounts pursuant to the cash management system currently in place, as described in the Chen Affidavit, or replace it with another substantially similar central cash management system satisfactory to Comerica (the “**Cash Management System**”), and that any present or future bank providing or participating in the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the CCAA Parties of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as defined below) other than the CCAA Parties and Comerica pursuant to the terms of the documentation applicable to the Bank Accounts and the Cash Management System, and shall be, in their capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Bank Accounts and the Cash Management System and that the CCAA Parties may use the funds standing to their credit from time to time in their bank accounts within the Cash Management System.

7. THIS COURT ORDERS that the CCAA Parties shall be entitled but not required to pay the following expenses, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, contributions to registered retirement pension plans, bonuses, expenses and retention plan payments pursuant to plans and programs currently in place payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with or pursuant to existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the CCAA Parties in respect of these proceedings, at their standard rates and charges.

8. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the CCAA Parties shall be entitled but not required to pay all reasonable expenses incurred by the CCAA Parties to carry on and preserve the Business in the ordinary course from and after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of and operation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the CCAA Parties following the date of this Order.

9. THIS COURT ORDERS that the CCAA Parties, as applicable, shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the CCAA Parties in connection with the sale of goods and services by the CCAA Parties; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the CCAA Parties.

10. THIS COURT ORDERS that the CCAA Parties may pay to SKD Automotive Group, Limited Partnership (“**SKD AG**”) and to SKD, L.P., the amounts described in the Chen Affidavit in respect of the head office management, accounting, record-keeping, budgeting, financial reporting, cash management, payroll, human resources, information technology, purchasing, sales, engineering, research and development and other administrative functions provided by SKD AG and SKD L.P. to the CCAA Parties, unless objected to by the Monitor.

11. THIS COURT ORDERS that until such time as a CCAA Party repudiates a real property lease in accordance with paragraph 13(c) of this Order, such CCAA Party shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated by such CCAA Party from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, or the next business day thereafter, in advance (but not in arrears).

12. THIS COURT ORDERS that, except as specifically permitted under this Order, the CCAA Parties are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the CCAA Parties to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

**RESTRUCTURING**

13. THIS COURT ORDERS that the CCAA Parties shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and, subject to the prior consent of Comerica, to dispose of redundant or non-material assets, which are currently not used in the production of component parts for any of the Customers: (i) not exceeding \$100,000 in any one transaction; or (ii) with the consent of the Monitor, not exceeding \$500,000 in any one transaction or \$1,000,000 in the aggregate, subject to paragraph 13(c), if applicable; and for further certainty the proceeds of sale of these assets shall remain subject to the terms of any valid and existing liens and security interests affecting the Property and its proceeds;
- (b) subject to any applicable seniority provisions of any applicable collective bargaining agreement, or as may be agreed between SKD Company and the applicable collective bargaining unit, terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate on such terms as may be agreed upon between the CCAA Parties and such employee or, failing such agreement, to deal with the consequences thereof in the Plan;
- (c) in accordance with paragraphs 14 and 15, vacate, abandon or quit any leased premises and/or repudiate any real property lease and any ancillary agreements relating to any leased premises, on not less than seven (7) days' notice in writing to the relevant landlord or on such terms as may be agreed upon between an applicable CCAA Party and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;
- (d) repudiate such of their arrangements or agreements of any nature whatsoever, whether oral or written, as the CCAA Parties deem appropriate on such terms as may be agreed upon between the applicable CCAA Party and such counter-parties, or failing such agreement, to deal with the consequences thereof in the

Plan, and to negotiate any new or replacement arrangements or agreements as the applicable CCAA Party deems appropriate (provided that the Monitor does not object to such new or replacement arrangements or agreements); provided that, notwithstanding this paragraph, SKD Company shall not repudiate any collective bargaining agreement with any Union; and

- (e) pursue avenues of refinancing and restructuring and the sale of material parts of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or any sale (except as permitted by paragraph 13(a), above);

all of the foregoing to permit the CCAA Parties to proceed with an orderly restructuring, sale or wind down of the Business (the “**Restructuring**”).

14. THIS COURT ORDERS that the applicable CCAA Party shall provide each of the relevant landlords with notice of their intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes a CCAA Party’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable CCAA Party, or by further Order of this Court upon application by the CCAA Parties on at least two (2) days’ notice to such landlord and any such secured creditors. If a CCAA Party repudiates the lease governing such leased premises in accordance with paragraph 13(c) of this Order, it shall not be required to pay Rent under such lease pending resolution of any such dispute, and the repudiation of the lease shall be without prejudice to the CCAA Party’s claim to the fixtures in dispute.

15. THIS COURT ORDERS that if a lease is repudiated by a CCAA Party in accordance with paragraph 13(c) of this Order, then (a) during the notice period prior to the effective time of the repudiation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the applicable CCAA Party and the Monitor 24 hours’ prior written notice, and (b) at the effective time of the repudiation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any

claims or rights such landlord may have against the applicable CCAA Party in respect of such lease or leased premises and such landlord shall be entitled to notify the applicable CCAA Party of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of their obligation to mitigate any damages claimed in connection therewith.

16. THIS COURT ORDERS that, subject to the other provisions of this Order (including the payment of Rent as herein provided) and any further Order of this Court, the CCAA Parties shall be permitted to dispose of any or all of the Property located (or formerly located) at such leased premises without any interference of any kind from landlords (notwithstanding the terms of any leases) and, for greater certainty, the CCAA Parties shall have the right to realize upon the Property and other assets in such manner and at such locations, including leased premises, as it deems suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom.

#### **NO PROCEEDINGS AGAINST THE CCAA PARTIES OR THE PROPERTY**

17. THIS COURT ORDERS that until and including February 19, 2009 or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the CCAA Parties or the Monitor, or affecting any of the Business or the Property, except with the written consent of the CCAA Parties and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the CCAA Parties or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding the foregoing, nothing in this Order shall stay the exercise by Comerica of any of its rights or remedies under the Credit Agreement or the Loan Documents (as defined below), provided however that Comerica shall provide notice to the CCAA Parties, the Customers and the Monitor in accordance with paragraph 38(b).

18. THIS COURT ORDERS that no proceeding, enforcement process or any other remedy available to the judgment creditors Roberto Costantino and Tony Wong (the “**Judgment Creditors**”) pursuant to the Judgment issued in Action 06 CV 308 185 PD1 commenced at Toronto (the “**Judgment**”) shall be commenced or continued as against the CCAA Parties or the

Property, including with respect to any amounts payable to the CCAA Parties by the Customers (as defined below) and GM, including, without limitation, that:

- (a) the effect of any notices of garnishment issued by the Judgment Creditors and served on any Person, including the Customers (as defined below) and GM, under the Judgment (the “**Notices of Garnishment**”) is hereby stayed;
- (b) the expiry of any time periods under the Notices of Garnishment for the filing of garnishees’ statements is hereby stayed and any Persons having been served with the Notices of Garnishment, including the Customers (as defined below) and GM (collectively, the “**Garnishees**”), are hereby relieved of any requirement to file with the Court garnishee’s statements with respect to the Notices of Garnishment;
- (c) five (5) days after this order has been served on the Sheriff for the Regional Municipality of Halton (the “**Sheriff**”) and the Judgment Creditors in accordance with sub-paragraph (d) below, the Garnishees are authorized and empowered to continue to make all payments of any amounts owing to any of the CCAA Parties directly to the CCAA Parties, rather than to the Sheriff, without regard to the Notices of Garnishment, shall incur no liability to the Judgment Creditors by doing so, shall be relieved of any obligations the Garnishees may have had under the Notices of Garnishment, and upon payment of amounts by the Garnishees to the CCAA Parties, the liabilities of the Garnishees to the Judgment Creditors, or to the CCAA Parties in respect of the amounts paid to the CCAA Parties, is extinguished; and
- (d) the CCAA Parties are hereby directed to deliver a copy of this Order to the Sheriff, as well as to counsel for the Judgment Creditors, with a cover letter advising that all proceedings, enforcement processes or any other remedy available in relation to the Judgment, including the enforcement of the Notices of Garnishment against any Person, including the Garnishees, have been stayed pursuant to this Order.



### **NO EXERCISE OF RIGHTS OR REMEDIES**

19. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, partnership, governmental body or agency, or any other persons or entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the CCAA Parties or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the CCAA Parties and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the CCAA Parties to carry on any business which the CCAA Parties are not lawfully entitled to carry on, (ii) exempt the CCAA Parties from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, (iv) prevent the filing of any grievance pursuant to the *Labour Relations Act, 1995* or any collective agreements, provided that, subject to further order of the Court, no further steps of any kind shall be taken pursuant to or in connection with any such grievance by any party (for greater certainty, neither the CCAA Parties nor any other party shall be obligated to file any form of response or reply to any such grievance, or (v) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

20. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the CCAA Parties, except with the written consent of the CCAA Parties and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

21. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with any of the CCAA Parties or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all raw materials, metals, components, subcomponents, tools and tooling, dies, tests and assembly fixtures, gauges, jigs, computer software, communication and other data services, centralized and other banking services, payroll services, customs, customs brokerage (or similar) services, insurance, transportation, shipping services, utilities, gas, electricity and other services to the Business, or any of the CCAA Parties, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services, utilities, gas and electricity as may be required by any of the CCAA Parties, and that the CCAA Parties shall be entitled to the continued use of their current premises, utilities, telephone numbers, facsimile numbers, internet

addresses and domain names, provided in each case that the normal prices or charges for all such goods, services, utilities, gas and electricity received after the date of this Order are paid by the CCAA Parties in accordance with normal payment practices of the CCAA Parties or such other practices as may be agreed upon by the supplier, utility provider or service provider and each of the CCAA Parties and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

22. THIS COURT ORDERS that, notwithstanding anything else contained herein, no creditor of any of the CCAA Parties shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to any CCAA Party. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA, provided however that, except as provided in the Accommodation Agreement, any Person that seeks to advance a claim of, or analogous to set-off or equitable set-off to justify the non-payment of any existing or accruing debt to any of the CCAA Parties shall advise the CCAA Parties and the Monitor in writing prior to so doing so as to enable the CCAA Parties to have the validity of the set-off adjudicated upon by this Honourable Court on an urgent basis if so advised.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

23. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.5(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the CCAA Parties whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

24. THIS COURT ORDERS that the Applicants shall indemnify their directors and officers from all claims, costs, charges and expenses (i) relating to the failure of any CCAA Party, after

the date hereof, to make payments of the nature referred to in subparagraphs 7(a), 9(a), 9(b) and 9(c) of this Order which they sustain or incur by reason of or in relation to their respective capacities as directors and/or officers of the Applicants, and (ii) which they sustain or incur by reason of or in relation to their respective capacities as directors and/or officers of the Applicants from and after the date of this Order (each, and any of (i) and (ii) , a “**D&O Claim**”), including without limitation, by reason of the Restructuring or in relation to any Plan, except to the extent that, with respect to any officer or director, such officer or director has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct.

25. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property of the Applicants, which charge shall not exceed an aggregate amount of \$3,000,000, as security for the indemnity provided in paragraph 24 of this Order. The Directors’ Charge shall have the priority set out in paragraphs 45 and 47 herein. The Applicants’ directors and officers shall only be entitled to the benefit of the Directors’ Charge to the extent that they do not have coverage under any directors’ and officers’ insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order.

26. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, no insurer shall be entitled to be subrogated to or claim the benefit of the Directors’ Charge.

#### **APPOINTMENT OF MONITOR**

27. THIS COURT ORDERS that Richter is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property and the conduct of the Business with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, SKD Company and the Assistants shall advise the Monitor of all material steps taken by the CCAA Parties pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations.

28. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Restructuring, the Sales Process (as defined below) and such other matters as may be relevant to the proceedings herein;
- (b) monitor and review the CCAA Parties' receipts and disbursements;
- (c) monitor and review any transactions and obligations between the CCAA Parties and any affiliated entities or partnerships;
- (d) assist the CCAA Parties in preparing the cash flow projections, budgets and any other reporting or information they may require in relation to the Business and the Property, and to report to Comerica and the Customers (as defined below) as required in relation to the Forbearance Agreement and the Accommodation Agreement (each as defined below), which information shall be reviewed with the Monitor;
- (e) assist the CCAA Parties in their dissemination to Comerica and its counsel of financial and other information requested by Comerica and as otherwise required by the CCAA Parties, which may be used by the CCAA Parties in these proceedings;
- (f) assist the CCAA Parties, to the extent required by the CCAA Parties, in dealing with their respective creditors, customers, vendors and other interested Persons;
- (g) with the assistance of the CCAA Parties, conduct the Sales Process as provided for in this Order and report to this Court in relation to the status of the Sales Process from time to time as it considers appropriate;
- (h) advise the Applicants in their development of the Plan and any amendments to the Plan and, to the extent required by the CCAA Parties in their negotiations with creditors, customers, vendors and other interested Persons;

- (i) assist the CCAA Parties with their financing and restructuring activities to the extent required by the CCAA Parties;
- (j) carry out the responsibilities of the Monitor under the Accommodation Agreement and, to the extent requested by the CCAA Parties, to otherwise assist the CCAA Parties in the performance of their obligations under the Accommodation Agreement and the Access Agreement (each as defined below and together, the “**Customer Agreements**”);
- (k) give any consent or approval as is contemplated by this Order and any other orders made in this proceeding;
- (l) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors’ or shareholders’ meetings for voting on the Plan;
- (m) have full and complete access to the books, records and management, employees and advisors of the CCAA Parties and to the Business and the Property to the extent required to perform its duties arising under this Order;
- (n) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (o) be at liberty to serve as a “foreign representative” of any of the CCAA Parties in any proceeding outside of Canada, including if deemed advisable by the CCAA Parties and the Monitor, to file Chapter 15 proceedings as a foreign representative of the CCAA Parties;
- (p) consider, and if deemed advisable by the Monitor, prepare a report and assessment on the Plan; and
- (q) perform such other duties as are required by this Order or by this Court from time to time.

29. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

30. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law or guideline respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. THIS COURT ORDERS that the Monitor shall provide any creditor of the CCAA Parties with information provided by the CCAA Parties in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the CCAA Parties is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the CCAA Parties may agree.

32. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or

obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

#### **PAYMENT OF FEES AND ADMINISTRATION CHARGE**

33. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the CCAA Parties shall be paid their reasonable fees and disbursements incurred both before and after the making of this Order, in each case at their standard rates and charges, by the CCAA Parties as part of the costs of these proceedings. The CCAA Parties are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis.

34. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicants shall undertake a final assessment of their accounts, if requested by the Applicants, or as directed by this Court pursuant to a request made by a creditor of the CCAA Parties, and for this purpose such accounts are referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to the CCAA Parties and the financial advisor to the CCAA Parties, Conway MacKenzie, Inc. (collectively, the “**Professionals**”) shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for their unpaid professional fees and disbursements incurred at the standard rates and charges of such Professionals, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 45 and 47 hereof.

#### **COMERICA FACILITY**

36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) SKD Company is authorized and empowered to continue to borrow under the revolving credit agreement among Comerica and SKD Company (as Canadian

borrower), SKD AG (as US Borrower) and SKD, L.P., EASSA Mexico, S de R.I. de C.V., SKD de Mexico, S de R.I. de C.V. and the Applicants (as additional loan parties) made December 14, 2004, as subsequently amended, modified and supplemented, most recently pursuant to the Forbearance Agreement (defined below), including, without limitation, in relation to the subordinated participations in the Comerica loan facility purchased or to be purchased by the Customers in relation to the Customer Operations Funding (as described in the Chen Affidavit) in accordance with the Amended and Restated Subordinated Participation Agreement (as described in the Chen Affidavit) (the “**Credit Agreement**”);

- (b) the CCAA Parties are authorized and directed to perform all obligations to Comerica under the Credit Agreement and any security or other documents contemplated thereby, including those relating to the Customer Operations Funding (as defined below), whether arising before or after the making of this Order as and when the same become due and are to be performed, but subject to the priority set out in paragraph 45 hereof (the “**Loan Documents**”); and
- (c) the CCAA Parties are authorized, empowered and directed to enter into and perform their obligations under a certain forbearance agreement, substantially in the form of the agreement attached as Exhibit “H” to the Chen Affidavit (the “**Forbearance Agreement**”) to which the CCAA Parties are party, and are directed and shall comply with the Loan Documents and the Forbearance Agreement and shall make all payments to Comerica provided for under the Forbearance Agreement and Loan Documents, including without limitation, in relation to the Customer Operations Funding (as defined below).

37. THIS COURT ORDERS that Comerica shall be entitled to the benefits of and is hereby granted a charge (the “**Comerica Charge**”) as security for the existing and future obligations of the CCAA Parties to Comerica under the Credit Agreement and Loan Documents, which charge shall not exceed the aggregate amount owed to Comerica under the Credit Agreement and Loan Documents. The Comerica Charge shall have the priority set out in paragraphs 45 and 47 hereof.

38. THIS COURT ORDERS that, notwithstanding any other provision of this Order:



- (a) Comerica may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Comerica Charge;
- (b) subject to the terms of the Customer Agreements, the Forbearance Agreement and the Credit Agreement, Comerica may (i) without notice to the CCAA Parties or any other Person cease making advances to SKD Company and set off and/or consolidate any amounts owing by Comerica to the CCAA Parties, other than in relation to amounts deposited to the Trust Accounts (as defined in the Forbearance Agreement) in accordance with the Forbearance Agreement, against the obligations of the CCAA Parties to Comerica under the Credit Agreement, the Loan Documents or the Comerica Charge, and (ii) upon the occurrence of a default (other than an Existing Default as defined in the Forbearance Agreement) under the Credit Agreement and the Loan Documents, and upon two (2) business days notice to the CCAA Parties, the Customers and the Monitor, exercise any and all of its rights and remedies against the CCAA Parties or the Property under or pursuant to the Forbearance Agreement, the Credit Agreement, the Loan Documents and the Comerica Charge, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the CCAA Parties or for the appointment of a trustee in bankruptcy of the CCAA Parties, but subject to the priorities as set out in paragraphs 45 and 47 of this Order; and
- (c) the foregoing rights and remedies of Comerica shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the CCAA Parties or the Property.

39. THIS COURT ORDERS AND DECLARES that Comerica shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by any of the CCAA Parties under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Credit Agreement or the Loan Documents.

## CUSTOMER ACCOMMODATION AND ACCESS AGREEMENTS

40. THIS COURT ORDERS that notwithstanding any other provision of this Order, the CCAA Parties be and they are hereby authorized, empowered and directed to enter into and perform their obligations under a certain accommodation agreement, substantially in the form of the agreement attached as Exhibit “J” to the Chen Affidavit (the “**Accommodation Agreement**”) among SKD Company, Ford Motor Company, Chrysler Canada Inc., Chrysler LLC, on behalf of itself and Chrysler Motors LLC, Honda of America Mfg., Inc., for itself and on behalf of Honda Canada Mfg., a division of Honda Canada, Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, the “**Customers**”) and Comerica.

41. THIS COURT ORDERS that the Accommodation Agreement and the exhibits thereto, including, without limitation (i) an access agreement, substantially in the form of the agreement among SKD Company and the Customers attached as Exhibit B to the Accommodation Agreement (the “**Access Agreement**”), (ii) the Customer Operations Funding (as defined in and to be provided under the Accommodation Agreement), and (iii) the transactions contemplated by the Accommodation Agreement (the “**Accommodation Agreement Transactions**”), be and they are hereby approved.

42. THIS COURT ORDERS that in completing the Accommodation Agreement Transactions, the CCAA Parties, and the Monitor, subject to the terms and conditions of the Accommodation Agreement, are hereby authorized to execute and deliver such additional, related and ancillary documents and assurances governing or giving effect to the Accommodation Agreement Transactions as the CCAA Parties, in their discretion, may deem to be reasonably necessary or advisable to complete the Accommodation Agreement Transactions and to take such steps as are necessary or incidental for the completion thereof.

43. THIS COURT ORDERS that the CCAA Parties be and they are hereby authorized, empowered and directed to enter into and perform their obligations under the Access Agreement and enter into and complete the transactions contemplated by the Access Agreement (the “**Access Agreement Transactions**”) and to grant the security interests provided for under the Access Agreement (the “**Customers’ Security**”) in accordance with the Access Agreement and

with such amendments, deletions and additions as the parties thereto may agree to, and to perform the obligations contained in the Access Agreement.

44. THIS COURT ORDERS that in completing the Access Agreement Transactions, the CCAA Parties, subject to the terms and conditions of the Access Agreement, are hereby authorized and directed to execute and deliver such additional, related and ancillary documents and assurances governing or giving effect to the Access Agreement Transactions as each of the CCAA Parties, in their discretion, may deem to be reasonably necessary or advisable to complete the Access Agreement Transactions and to take such steps as are necessary or incidental for the completion thereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

45. THIS COURT ORDERS that the priorities of the Administration Charge, the Directors' Charge, and the Comerica Charge shall be as follows:

- (i) First – the Administration Charge;
- (ii) Second – the Directors' Charge to the maximum amount of \$700,000 in relation to any vacation pay obligations;
- (iii) Third – the Comerica Charge, but excluding that portion of the Comerica Indebtedness (as defined in the Accommodation Agreement) relating to the Customer Operations Funding (as defined in the Accommodation Agreement);
- (iv) Fourth - the Directors' Charge for any amount greater than \$700,000 up to the maximum amount of \$2,300,000; and
- (v) Fifth - the Comerica Charge in relation to that portion of the Comerica Indebtedness (as defined in the Accommodation Agreement) relating to the Customer Operations Funding (as defined in the Accommodation Agreement);

46. THIS COURT ORDERS that the filing, registration or perfection of the Administration Charge, Directors' Charge and Comerica Charge (collectively, the "**Charges**"), as well as the Customers' Security, shall not be required, and that the Charges and the Customers' Security shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges and the Customers' Security coming into existence, notwithstanding any such failure to file, register, record or perfect.

47. THIS COURT ORDERS that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

48. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the CCAA Parties shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, or which impair a Customer's "Right of Access" under the Access Agreement, unless the CCAA Parties also obtain the prior written consent of the Monitor, the beneficiaries of the Charges, and the Customers, or a further Order of this Court made on notice to the beneficiaries of the Charges and the Customers.

49. THIS COURT ORDERS that the exercise of the rights and remedies of the beneficiaries of the Charges shall be subject to the applicable terms of the Access Agreement, including a Customer's Right of Access if exercised in accordance with the Access Agreement; provided however that the Customers' Security shall be fully released and discharged and be of no further force and effect upon the later of (i) the expiration of the Term of the Access Agreement, and (ii) in relation to any Operating Assets and Real Estate in respect of which a Right of Access has been exercised by a Customer in accordance with the Access Agreement prior to expiration of the Term of the Access Agreement, at the end of the Occupancy Period arising from the exercise of such Right of Access (with capitalized terms in this paragraph being as defined under the Access Agreement).

50. THIS COURT ORDERS that the Charges, the Forbearance Agreement, the Customer Agreements and the Customers' Security, and any payments made by the CCAA Parties pursuant

to the Charges or the Credit Agreement or pursuant to paragraph 25 of this Order (collectively, the “**Payments**”), shall not be rendered invalid or unenforceable, and the rights and remedies of any Persons receiving the Payments and the chargees entitled to the benefit of the Charges (the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any of the CCAA Parties, and notwithstanding any provision to the contrary in any Agreement:

- (a) Neither the creation of the Charges, nor the execution, delivery, perfection registration or performance of the Forbearance Agreement, the Customer Agreements or the Customers’ Security, shall create or be deemed to constitute a breach by an applicable CCAA Party of any Agreement to which it is a party;
- (b) none of the Chargees, or the holders of the Customers’ Security shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges or the execution, delivery or performance by the CCAA Parties of the Forbearance Agreement, the Customer Agreements or the Customers’ Security; and
- (c) any payments made by any of the CCAA Parties pursuant to this Order or the Forbearance Agreement and the granting the Charges, the Forbearance Agreement, the Customer Agreements and the Customers’ Security do not and will not constitute fraudulent preferences, fraudulent conveyances, oppressive conduct, settlements or other challengeable, voidable or reviewable transactions under any applicable law.

## MARKETING AND SALES PROCESS

51. THIS COURT ORDERS that the Monitor, with the assistance of CCAA Parties, will forthwith conduct a marketing and sales process (the “**Sales Process**”) with the assistance of such other professionals as it considers desirable to assist it in undertaking the Sales Process, to explore a sale of the business of SKD Company and/or the Property, as follows:

- (a) immediately following the date of this Order, the Monitor, with the assistance of the CCAA Parties, will canvass the market for interested parties and send to potentially interested parties a letter detailing this acquisition opportunity;
- (b) if considered desirable, will arrange for the placement of an advertisement in one or more newspapers providing notice of this acquisition opportunity as soon as reasonably practicable;
- (c) on or before January 22, 2009, will prepare a summarized confidential information memorandum (“**CIM**”) to be provided to interested purchasers who execute a confidentiality agreement in a form acceptable to the CCAA Parties and the Monitor (the “**Prospective Purchasers**”);
- (d) on or before January 22, 2009, will arrange for a data room, either electronic, physical or both (the “**Data Room**”);
- (e) on or before January 30, 2009, the CCAA Parties and the Monitor will prepare and make available to Prospective Purchasers, and in the electronic Data Room, a standardized form of asset purchase agreement that the Monitor will request all Prospective Purchasers to use to structure and submit their offers;
- (f) Prospective Purchasers will be required to conduct due diligence and to submit a purchase agreement to the Monitor by 4:00 p.m. (eastern time) on February 18, 2009;
- (g) the CCAA Parties, with the assistance of the Monitor, may thereafter select and settle a form of purchase agreement with one or more Prospective Purchasers;

- (h) on or about February 25, 2009, the Applicants will move to this Court for approval of any sales transaction that they wish to complete (each, a “**Transaction**”) and for any related relief, including an order vesting title (“the **Sales Approval Order**”); and
- (i) the closing of any Transaction in respect of which a Sales Approval Order is made shall be completed within two (2) business days following the making of such Order.

The Monitor shall have the ability, with the approval of the CCAA Parties, Comerica and the Customers, to modify the Sales Process, including the foregoing timetable, and to apply to this Court for any advice and directions that it may require in relation to the Sales Process.

#### **SERVICE AND NOTICE**

52. THIS COURT ORDERS that the Monitor on behalf of the Applicants shall, within ten (10) business days of the date of entry of this Order, send a letter to the known creditors of the CCAA Parties, other than employees and creditors to which the CCAA Parties owe less than \$1,000, at their addresses as they appear on the CCAA Parties’ records, advising of this Order, specifying that a copy of the Order and other materials are available on the Monitor’s website and disclosing such website, and that the Monitor, on behalf of the Applicants, shall promptly send a copy of this Order (a) to all parties filing a Notice of Appearance in respect of this Application, and (b) to any other interested Person requesting a copy of this Order; and the Monitor is relieved of its obligation under Section 11(5) of the CCAA to provide similar notice, other than to supervise this process.

53. THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve this Order, any other materials, motions and orders in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile or electronic transmission to the CCAA Parties’ creditors or other interested parties at their respective addresses as last shown on the records of the CCAA Parties, as applicable, and that (i) any such service by courier, personal delivery, facsimile or electronic transmission shall be deemed to be received (i) if delivered by or forwarded by facsimile or

electronic submission before 4 p.m. on a business day (being a day that the principal Canadian banks are open for business in Toronto), on that same day, (ii) if delivered or forwarded by facsimile or electronic submission following 4 p.m. on any day, on the next business day following the date of delivery or forwarding thereof, or (iii) if sent by ordinary mail, on the third business day after mailing, and (ii) any such service shall be deemed to be good and sufficient service.

54. THIS COURT ORDERS that the Applicants, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials upon counsel and any other Persons appearing on the Service List to the email addresses of counsel and such Persons as recorded on the Service List from time to time, in accordance with the E-filing protocol of the Commercial List to the extent practicable, and the Monitor may post a copy of any or all such materials on the Monitor's website.

#### GENERAL

55. DECLARES that, pursuant to sub-paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, any of the CCAA Parties are permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in their possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to their advisers (individually, a "**Third Party**"), but only to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with a CCAA Party binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the applicable CCAA Party, or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring, or the preparation and implementation of the Plan or a transaction in furtherance



thereof, such Third Party may continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the applicable CCAA Party.

56. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

57. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Applicants, SKD Company, the Business or the Property.

58. 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 CCAA Parties, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor as a representative of the CCAA Parties in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

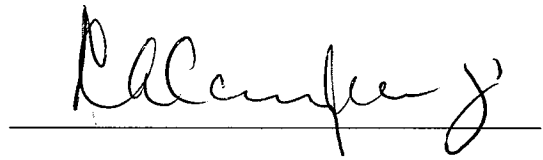
59. THIS COURT ORDERS that each of the CCAA Parties and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

60. THIS COURT ORDERS that any interested party (including the CCAA Parties and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

61. THIS COURT ORDERS that notwithstanding paragraph 60, no order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the Charges unless notice of a motion for such order is served on the Applicants, the Monitor,

Comerica, the Chargees and the Customers, returnable no later than 7 days following the making of this Order.

62. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard Time on the date of this Order.

A handwritten signature in cursive script, appearing to read "R. Campbell", is written over a horizontal line.

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

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PER / PAR: TV

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NMC CANADA, INC.  
AND 2515080 NOVA SCOTIA COMPANY

Applicants

Court File No. 09-CL-7960

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**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at TORONTO

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**INITIAL ORDER**

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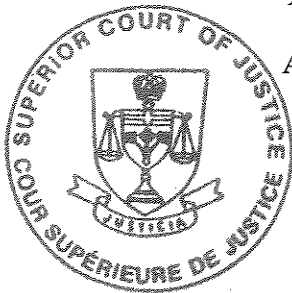
## Appendix “B”

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

<b>THE HONOURABLE MR.</b> ) ) <b>JUSTICE COLIN CAMPBELL</b> )	<b>THURSDAY, THE 11<sup>TH</sup></b>  <b>DAY OF JUNE, 2009</b>
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**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF NMC CANADA, INC. AND  
2515080 NOVA SCOTIA COMPANY**



Applicants

**ORDER**

THIS MOTION, made by Chrysler LLC, Chrysler Motors LLC and Chrysler Canada Inc. (collectively, "Chrysler") for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended (the "CJA") appointing RSM Richter Inc. as receiver (the "Receiver") without security, of all of the assets, undertakings and properties of SKD Company, including its general partners, 2515080 Nova Scotia Company and NMC Canada Inc. (collectively, the "Debtor") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the tenth report (the "Tenth Report") of RSM Richter Inc., as monitor of the Debtor (the "Monitor") appointed pursuant to the Order of this Court made in this proceeding on January 21, 2009, as amended (the "Initial Order"), and on hearing submissions from counsel for Chrysler, as well as counsel for SKD Company, the Receiver, Comerica Bank ("Comerica"), Orlando Corporation, Honda of America Mfg., Inc., for itself and on behalf of Honda Canada Mfg., a division of Honda Canada, Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC and Ford Motor Company, no else on the service list appearing, and on reading the consent of RSM Richter Inc. to act as Receiver.

**SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today and hereby dispenses with further service thereof.

**APPOINTMENT**

2. THIS COURT ORDERS that, pursuant to section 101 of the CJA, RSM Richter Inc. is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property").

**RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession and control of the Property (which shall, for greater certainty, include the proceeds of sale of assets of the Debtor held by the Monitor as at the date hereof), and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever

basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;

- (d) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (e) to settle, extend or compromise any indebtedness owing to the Debtor;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (g) to undertake environmental assessments of the Property;
- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (i) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (j) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (k) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (l) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (p) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (q) to make an assignment into bankruptcy on behalf of SKD Company, NMC Canada Inc. and 2515080 Nova Scotia Company (collectively, the "CCAA Parties");



- 5 -

- (r) to take actions on behalf of the Debtor in furtherance of the winding-up and administration of registered defined benefit pension plans administered by the Debtor;
- (s) to propose a process for the identification of any claims against officers and directors of the Debtor that may give rise to a claim for indemnity pursuant to paragraph 24 of the Initial Order (the "D&O Claims Process") and to administer the D&O Process as ordered by this Court on motion made on notice to all affected persons;
- (t) to arrange with counsel to the Debtor, or such other counsel as is consented to by the Receiver or ordered by this Court, for its retainer to act as counsel for the directors and officers of the Debtor in relation to the Claims Process, and to pay the reasonable fees, disbursements and expenses of such counsel, as approved by the Receiver or ordered by this Court;
- (u) to pay, on behalf of the CCAA Parties, the reasonable fees and disbursements of the Monitor, counsel for the Monitor and counsel for the CCAA Parties in relation to accounts rendered pursuant to paragraph 33 of the Initial Order; and
- (v) to take any steps reasonably incidental to the exercise of these powers,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person. For greater certainty, the Receiver shall not, without specific authorization from this Court (i) undertake any of the operations of the Debtor, or (ii) employ any former employee of the Debtor to assist in the Receiver's mandate, save and except for term and task engagements pursuant to written agreements entered into with the Receiver.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons

acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall 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.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and

providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

**RECEIVER TO HOLD FUNDS**

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

13. THIS COURT ORDERS that all funds currently held by the Monitor in respect of its mandate as monitor, save and except for any amounts held by the Monitor in its capacity as escrow agent pursuant to the Employee Escrow Agreements (as defined in paragraph 22 of this Order), shall be transferred to the Post Receivership Accounts, provided that all such funds, and all other Property of the Debtor transferred to the Receiver, shall remain subject to the CCAA Charges, as such charges are defined in the Initial Order.

**EMPLOYEES**

14. THIS COURT ORDERS that the Receiver shall not employ any employees of the Debtor, save and except for term and task engagements pursuant to written agreements entered into with the Receiver. The Receiver shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

15. THIS COURT ORDERS that, the Receiver shall not disclose personal information of identifiable individuals to any party without the knowledge or consent of the individuals in question.

**LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

**LIMITATION ON THE RECEIVER'S LIABILITY**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

**RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and, subject to this Order, shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").

19. THIS COURT ORDERS the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

**CCAA ORDER**

21. THIS COURT ORDERS AND DECLARES that, except as otherwise amended hereby, the Initial Order, as amended, and all other Orders of this Court granted in these proceedings remain in full force and effect, and that the Administration Charge and the Directors' Charge created under the Initial Order shall rank prior to the Receiver's Charge created by this Order.

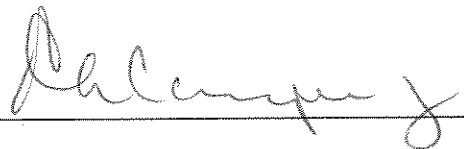
22. THIS COURT ORDERS AND DECLARES that the Initial Order be and the same is hereby amended to delete, effective as of the date hereof, paragraphs 3, 4, 5, 7, 10, 13, 14, 15, 16, 21, 28(d), 28(g), 28(h), 28(i), 28(l), 28(p), 36(a), 43, 44, 49, 51 and 55 , and to delete, effective as of the date hereof, the second sentence of paragraph 33; provided that nothing in this Order or the amendment of the Initial Order as provided for herein, shall (a) preclude the Monitor from the performance of its duties and responsibilities as the escrow agent under the Employee Retention Plan Escrow Agreement, as defined in the Order of this Court made on March 31, 2009, and the Escrow Agreements, as defined in the Order of this Court made on April 3, 2009, as amended by Order made on April 30, 2009 (the Escrow Agreements and the Employee Retention Plan Escrow Agreement, collectively referenced hereinafter as the "Employee Escrow Agreements"); or (b) preclude the Monitor from the disbursement of any funds provided for under the Employee Escrow Agreements.

23. THIS COURT ORDERS AND DECLARES that the Initial Order be and the same is hereby amended, effective as of the date hereof, as follows:

- (i) paragraph 6 of the Initial Order is amended to delete the existing paragraph in its entirety and insert in its place "THIS COURT ORDERS AND DECLARES that Comerica and any bank providing or participating in the Cash Management System (as defined in the Initial Order dated January 21, 2009) shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the CCAA Parties of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, and that Comerica and any such bank shall at all times have provided the Cash Management System without any liability in respect thereof to any Person (as defined below) other than the CCAA Parties and Comerica.";
- (ii) the fourth line of paragraph 8 of the Initial Order is amended to insert "and prior to June 11, 2009" after "date of this Order";
- (iii) the first line of paragraph 23 of the Initial Order is amended by deleting the words "during the Stay Period" from the first line, and replacing them with "unless otherwise ordered by this Court";
- (iv) the seventh line of paragraph 24 (ii) of the Initial Order is amended by inserting, "and prior to June 11, 2009" after "from and after the date of this Order"; and
- (v) the second line of paragraph 36(b) is amended to insert "(as defined in the Initial Order dated January 21, 2009)" after "Credit Agreement".

**GENERAL**

24. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
25. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
26. 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.
27. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.
28. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

JUN 11 2009

PER / PAR: 



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT R.S.C, 1985, c.C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NMC CANADA , INC. and  
515080 NOVA SCOTIA COMPANY.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDINGS COMMENCED AT  
TORONTO

**ORDER**

**BORDEN LADNER GERVAIS LLP**  
Barristers and Solicitors  
Scotia Plaza, 40 King Street West  
Toronto, Ontario M5H 3Y4

**CRAIG J. HILL**  
(LSUC Reg. No. 31888K)  
Direct Dial (416) 367-6156  
Direct Fax (416) 361-7301

Lawyers for Chrysler LLC, Chrysler Motors  
LLC and Chrysler Canada Inc.

::ODM\PCDOCS\TOR01\4105892\3

## Appendix “C”



Office of the Superintendent  
of Bankruptcy Canada

67  
Bureau du surintendant  
des faillites Canada

An Agency of  
Industry Canada

Un organisme  
d'Industrie Canada

District of: ONTARIO

Division No.: 07 - Hamilton

Court No.: 32-158287

Estate No.: 32-158287

In the Matter of the Bankruptcy of:

SKD COMPANY

Debtor

RSM RICHTER INC.

Trustee

ORDINARY ADMINISTRATION

Security: \$0

Date and time of bankruptcy: January 11, 2011, 09:29

Date of trustee appointment: January 11, 2011

Meeting of creditors: January 31, 2011, 11:00  
HYATT REGENCY TORONTO ON KING  
370 KING STREET WEST  
TORONTO, ONTARIO

Chair: Trustee

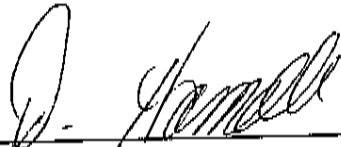
CERTIFICATE OF APPOINTMENT Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify, that:

- the aforementioned debtor filed an assignment under section 49 of the Bankruptcy and Insolvency Act;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

  
COLIN PEACOCK

Official Receiver

Federal Building, 55 Bay Street North, 9th Floor, Hamilton, ONTARIO, L8R 3P7,  
905/572-2847

Canada

## Appendix “D”



Estate No. 32-158287

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

THE HONOURABLE	)	WEDNESDAY, the 11 <sup>th</sup> DAY
	)	
JUSTICE <i>Mesbur</i>	)	OF SEPTEMBER, 2013

**IN THE MATTER OF THE BANKRUPTCY OF SKD COMPANY  
A PARTNERSHIP OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

**O R D E R**

**THIS MOTION** made by Duff & Phelps Canada Restructuring Inc. ("**D&P**"), in its capacity as the trustee in bankruptcy (in such capacity, the "**Trustee**") of each of SKD Company ("**SKD**"), NMC Canada, Inc. ("**NMC**") and 2515080 Nova Scotia Company ("**2515**") (collectively, the "**Estates**") for an Order authorizing and directing the procedural and substantive consolidation of the Estates, was heard this day at 330 University Avenue, Toronto, Ontario;

**ON READING** the Trustee's Motion Record in respect of this motion, including the notice of motion and the Second Report of the Trustee dated September 3, 2013 (the "**Second Report**"), and the Appendices thereto;

**AND UPON** hearing the submissions of counsel for the Trustee, no one else appearing for any other person on the service list, although duly served as appears from the affidavit of service of Mirella Ricci sworn September 4, 2013, filed;

**NOTICE AND SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Motion Record in respect of this motion and the Second Report is hereby abridged and validated so that the motion is properly returnable today, and that further service thereof is hereby dispensed with.

**APPROVAL OF TRUSTEE'S REPORT**

2. **THIS COURT ORDERS** that the Second Report is hereby approved and the conduct and activities of the Trustee described therein are hereby approved.

**CONSOLIDATION OF ESTATES**

3. **THIS COURT ORDERS** that the Estates shall be procedurally and substantively consolidated and the Trustee shall be authorized and directed to administer the Estates on a consolidated basis for all purposes in carrying out its administrative duties and other responsibilities as trustee under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, including, without limitation, as follows:

- (a) calling and conducting any meetings of creditors or inspectors of the Estates pursuant to one combined advertisement and one meeting;
- (b) issuing consolidated reports in respect of the Estates;
- (c) preparing, filing, advertising, and distributing any and all filing and/or notices relating to the administration of the Estates on a consolidated basis;
- (d) establishing a single bank account for the Estates;

- (e) establishing a single consolidated pool of assets containing all assets of the Estates; and
- (f) administering all claims and making all distributions in respect of allowed claims from the consolidated pool.

4. **THIS COURT ORDERS** that the single Court File Number of 32-158287 and the title of proceeding of “In the Matter of the Bankruptcy of SKD a Partnership of NMC Canada, Inc. and 2515080 Nova Scotia Company” shall be assigned to the proceedings of the bankrupt Estates.

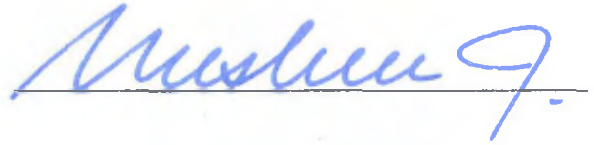
5. **THIS COURT ORDERS** that a copy of this Order shall be filed by the Trustee in the Court File for both of Estate numbers 32-1501841 and 32-1501836 but that any other document required to be filed in this proceeding shall hereafter only be required to be filed in Court File Number 32-158287.

6. **THIS COURT ORDERS** that the substantive consolidation of the Estates shall not: (i) affect the separate legal status and corporate structures of NMC or 2515; (ii) cause NMC or 2515 to be liable for any claim for which it otherwise is not liable; or (iii) affect the Trustee’s right to seek to disallow any claim, including on the basis that such claim is a duplicative claim.

#### **GENERAL**

7. **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.

A handwritten signature in blue ink, appearing to read "Mushu 9", is written over a horizontal line.



IN THE MATTER OF THE BANKRUPTCY OF SKD COMPANY  
A PARTNERSHIP OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY  
ET AL

Estate Nos. 32-158287

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
Bankruptcy Court

Proceeding commenced at Toronto

ORDER  
(Motion returnable September 11, 2013)

73

**Goodmans LLP**  
Barristers & Solicitors  
Bay Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, Canada M5H 2S7

L. Joseph Latham LSUC#: 32326A  
Michel Anderson LSUC#: 60608T  
Tel: 416.979.2211  
Fax: 416.979.1234

Lawyers for Duff & Phelps Canada Restructuring  
Inc., in its capacity as Trustee in Bankruptcy

## Appendix “E”

Estate File No.: 32-158287

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF SKD A PARTNERSHIP OF  
NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

**ORDER OF DISCHARGE OF TRUSTEE**

REGISTRAR

) OCT 26 2016, the \_\_\_\_\_  
)  
) day of \_\_\_\_\_, \_\_\_\_\_  
)

UPON the application of KSV Kofman Inc., Trustee of the bankrupt estate of SKD a Partnership of NMC Canada, Inc. and 2515080 Nova Scotia Company;

UPON reading the application of the said Trustee;

AND UPON the said Trustee undertaking to keep all estate books, records and documents as provided by Rule 68;

IT IS ORDERED THAT the said Trustee be and is hereby discharged as Trustee in the above estate and that any security given by the Trustee with respect to the said estate be and the same is hereby released.



\_\_\_\_\_  
REGISTRAR  
Master M. Jean

**Estate File No.: 32-158287**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY**

---

**IN THE MATTER OF THE BANKRUPTCY OF  
SKD A PARTNERSHIP OF  
NMC CANADA, INC. AND 2515080 NOVA  
SCOTIA COMPANY**

---

**ORDER OF DISCHARGE OF TRUSTEE**

---

**KSV KOFMAN INC.  
(Formerly Duff & Phelps Canada Restructuring  
Inc.)  
Formerly RSM Richter Inc.)  
LICENSED INSOLVENCY TRUSTEE  
150 King St. W., Suite 2308  
Toronto, ON M5H 1J9**

**Contact: Renee Schwartz  
Tel: 416-932-6223  
Fax: 416-932-6266  
[rschwartz@ksvadvisory.com](mailto:rschwartz@ksvadvisory.com)**

## Appendix “F”

Court File No. CV-11-9375-00CL

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

THE HONOURABLE MR. )

MONDAY, THE 12<sup>TH</sup> DAY OF

JUSTICE MORAWETZ )

DECEMBER, 2011



BETWEEN:

**THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, PRUCO LIFE  
INSURANCE COMPANY AND PRUDENTIAL RETIREMENT INSURANCE AND  
ANNUITY COMPANY**

Applicants

- and -

**PRISZM INCOME FUND, PRISZM CANADIAN OPERATING TRUST, PRISZM INC.,  
KIT FINANCE INC. AND PRISZM LP**

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY  
ACT, R.S.C. 1985, C. B-3, AS AMENDED**

**SUBSTITUTION ORDER**

**THIS MOTION** made by RAP Inc. was heard this day at 330 University Avenue, Toronto, Ontario.

**UPON READING** the motion materials of RAP Inc., including the Affidavit of Robert David Kofman, sworn December 12, 2011, together with the exhibits attached thereto, filed, and upon hearing the submissions of counsel for RAP Inc. and counsel to Duff & Phelps Canada Restructuring Inc. ("**Duff & Phelps**"), no one else appearing or having been served:

**BIA ESTATES**

1. **THIS COURT ORDERS** that Duff & Phelps be and hereby is substituted in place of RSM Richter Inc. ("**Richter**"), as Trustee in Bankruptcy or Proposal Trustee ("**Trustee**"), of the estate files listed on Schedule A hereto (the "**BIA Estates**"), with effect from the date of this Order.

2. **THIS COURT ORDERS AND DIRECTS** that all real and personal property wherever situate of the BIA Estates is hereby vested in Duff & Phelps in its capacity as Trustee, to be dealt with by Duff & Phelps in accordance with the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), pursuant to its powers and obligations as Trustee of the BIA Estates.

3. **THIS COURT ORDERS** that Duff & Phelps is authorized and directed to continue and to complete the administration of the BIA Estates and to deal with the BIA Estates' property, in accordance with the duties and functions of a Trustee, as the case may be, as set out in the BIA, and to receive all remuneration of the Trustee in the BIA Estates for services performed from the commencement of each of the BIA Estates until the discharge of the Trustee, less any remuneration already received by Richter in accordance with the provisions of the BIA.

4. **THIS COURT ORDERS** that the requirement and responsibility for taxation of the Trustee's accounts in respect of the BIA Estates with respect to all work performed in respect of such BIA Estates from the initial appointment of Richter or any other party, through to the completion of the administration of such BIA Estates and discharge of Duff & Phelps as the new Trustee, is hereby assigned and transferred to Duff & Phelps.

5. **THIS COURT ORDERS AND DIRECTS** that Richter be discharged as Trustee, as the case may be, of the BIA Estates, (i) without prejudice to the rights of the Superintendent of Bankruptcy or other professional body, to commence or pursue any professional conduct matters relating to the BIA Estates, (ii) without Richter being required to certify to the Court that it has observed all of the terms as provided by Rule 61(2) of the BIA; (iii) without Richter being required to undertake to keep all estate books, records and documents as provided by Rule 68 of the BIA; and (iv) for greater certainty and notwithstanding the specific obligations and provisions of the BIA referenced herein, except as otherwise provided in this Order, Richter shall have no obligations following the effective date of this Order in respect of its capacity as former



Trustee of the BIA Estates and no liabilities for events transpiring after the effective date of this Order in respect of the BIA Estates.

6. **THIS COURT ORDERS AND DIRECTS** that Duff & Phelps is hereby required, in respect of the BIA Estates, to (i) observe all of the terms provided by Rule 61(2) of the BIA, (ii) keep all estate books, records and documents as provided by Rule 68 of the BIA, and (iii) obtain from Richter as the former Trustee all books, estate records, documents within its control including work in progress, billing or time records in support of any claims made for time charges and advances on fees made by the former trustee, and detailed trial balances (electronic or otherwise) from the date of bankruptcy showing all the funds received and disbursed since the date of bankruptcy notwithstanding Duff & Phelps assuming responsibility for the BIA Estates as at the date of effect of this Order.

7. **THIS COURT ORDERS AND DIRECTS** to the extent that Richter has given security in cash or by bond of a guarantee company pursuant to s.16(1) of the BIA (the "**Security**"), such Security shall be transferred from Richter to Duff & Phelps and any party holding such Security is hereby directed to take all steps necessary to effect such transfer. Upon transfer, Duff & Phelps shall assume, and Richter shall be relieved of, all obligations respecting the Security.

#### **RECEIVERSHIP AND CCAA PROCEEDINGS**

8. **THIS COURT ORDERS** that Duff & Phelps be and is hereby substituted in place of Richter as the Monitor and Information Officer in respect of the mandates listed on Schedule B hereto (the "**CCAA Proceedings**") and Receiver, Receiver and Manager, or Interim Receiver (collectively, "**Receiver**") in respect of the mandates listed in Schedule C hereto (the "**Receivership Proceedings**") with effect from the effective date of this Order. Collectively, the BIA Estates, the Receivership Proceedings and the CCAA Proceedings are referred to herein as the "**Transferred Mandates**".



9. **THIS COURT ORDERS** that Duff & Phelps (and its legal counsel and representatives, as applicable) will have all rights, benefits, protections and obligations granted to such court officer (and its legal counsel and representatives, as applicable) under any order made in the Transferred Mandates or any statute applicable to the now Transferred Mandates or any contract or agreement to which Richter is a signatory in the Transferred Mandates. For greater certainty and without limitation, this includes the benefit of any indemnity, charge or priority granted in the Transferred Mandates and relief from the application of any statute including the *Personal Information Protection and Electronic Documents Act* (Canada) (the "**PIPEDA**").

10. **THIS COURT ORDERS** that Richter be and is hereby discharged from its duties and obligations as Monitor, Information Officer or Receiver in respect of the Receivership & CCAA Proceedings with effect from the date of this Order, provided that Richter shall continue to have the rights, benefits and protections under any orders made in the Transferred Mandates.

11. **THIS COURT ORDERS AND DECLARES** that Duff & Phelps shall not be liable for any act or omission on the part of Richters prior to the date of this Order with respect to the Transferred Mandates, including, without limitation, with respect to any information disclosed, any act or omission pertaining to the discharge of duties.

12. **THIS COURT ORDERS AND DECLARES** that from the date of this Order, Richter shall have no further obligation or responsibility for the Receivership & CCAA Proceedings and shall not be liable for any act or omission on the part of Duff & Phelps with respect to the Receivership & CCAA Proceedings, including without limitation, with respect to any information disclosed, any act or omission pertaining to the discharge of duties.

13. **THIS COURT ORDERS** that to the extent required by the applicable Receivership & CCAA Order, the accounts of Richter and its legal counsel in respect of the Receivership & CCAA Proceedings shall be passed in accordance with the applicable Receivership & CCAA Orders on the application of Duff & Phelps.

**ACCOUNTS**

14. **THIS COURT ORDERS** that Richter is hereby authorized to transfer to Duff & Phelps all funds that remain in its consolidated trust bank accounts and all other trust bank accounts that belong or related to the Transferred Mandates, and Richter and Duff & Phelps are hereby authorized to take all steps and execute any instrument required for such purpose.

15. **THIS COURT ORDERS AND DIRECTS** that Duff & Phelps is hereby authorized to endorse for deposit, deposit, transfer, sign, accept or otherwise deal with all cheques, bank drafts, money orders, cash or other remittances received in relation to any of the Transferred Mandates where such cheques, bank drafts, money orders, cash or other remittances are made payable or delivered to Richter, in relation to the same, and any bank, financial institution or other deposit-taking institution with which Duff & Phelps may deal is hereby authorized to rely on this Order for all purposes of this paragraph.

**REAL PROPERTY**

16. **THIS COURT ORDERS AND DIRECTS** that the Registrar of Land Titles, in any Land Title District wherein any registration was previously made by Richter in its capacity as Trustee or Receiver of Transferred Mandates, is hereby authorized and directed to amend any such registration to reflect the substitution of Duff & Phelps for Richter as Trustee or Receiver, as the case may be.

**GENERAL**

17. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the PIPEDA and any substantially similar legislation, Richter is authorized and permitted to disclose and transfer to Duff & Phelps all employee records within its control. Duff & Phelps shall maintain and protect the privacy of any personal information contained in the employee records and shall be entitled to collect and use the personal information provided to it for the same purpose(s) as such information was used by Richter.



18. **THIS COURT ORDERS** that Richter will deliver all files, papers, books, records and property within its control relating to the Transferred Mandates to Duff & Phelps as soon as practicable.

19. **THIS COURT ORDERS** that the requirement notification of the discharge of Richter in respect of the Transferred Mandates, including without limitation other statutory notices, to proven creditors within the BIA Estates, the applicable bankrupts or debtors within the BIA Estates, the Court, the Office of the Superintendent of Bankruptcy and any other person, is hereby waived.

20. **THIS COURT ORDERS** that all public documents relating to the Transferred Mandates shall remain on and continue to be posted on the [www.rsmrichter.com](http://www.rsmrichter.com) website (the "**Richter Website**") until no later than January 31, 2012 and Duff & Phelps shall post all such documents on its website at [www.duffandphelps.ca](http://www.duffandphelps.ca) by no later than January 31, 2012. Upon such public documents being posted on Duff & Phelps website, they shall be removed from the Richter Website.

21. **THIS COURT ORDERS** that this Order shall be effective in all judicial districts in Ontario which govern any of the Transferred Mandates.

22. **THIS COURT ORDERS** that the requirement for a separate Notice of Motion and supporting Affidavit to be filed in the Court file of each of the Transferred Mandates is hereby waived.

23. **THIS COURT ORDERS** that the requirement for service or notification of this motion on any interested party in the Transferred Mandates including, without limitation, proven creditors within the BIA Estates, the applicable bankrupts or debtors within the BIA Estates, and any other person is hereby waived.

24. **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 Richter and Duff & Phelps 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 Richter and Duff & Phelps, as may be necessary or desirable to give effect to this Order, or to assist Richter and Duff & Phelps and their respective agents in carrying out the terms of this Order.

  
\_\_\_\_\_

ENTERED AT / INSERIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

DEC 12 2011

PER/PAR



SCHEDULE A



**RSM Richter**  
**Schedule of Court Orders (Bankruptcy/NOI/Proposals)**

Client	Comments	Type of File	Court File No.	Jurisdiction
1079059 Ontario Inc.		Bankruptcy	05-CL-5704	Ontario
1587930 Ontario Inc. ("Holdco")		Bankruptcy	05-CL-5864	Ontario
1730960 Ontario Inc.	"CL" # not issued	Bankruptcy	OSB No.: 31-1159124	Ontario
1787230 Ontario Limited (formerly Milacron Canada Ltd.)	"CL" # not issued	Bankruptcy	OSB No.: 31-1477486	Ontario
2031903 Ontario Inc. ("Ownco")	same as "Holdco"	Bankruptcy	05-CL-5864	Ontario
2515080 Nova Scotia Company		Bankruptcy	Court No.: 09-CL-7960 OSB No.: 32-1501841	Ontario
4114159 Canada Inc. (o/a Polar Ice Diamonds)	"CL" # not issued	Bankruptcy	OSB No.: 31-1515544	Ontario
9135-8242 Quebec Inc. (o/a Polar Bear Diamonds)	"CL" # not issued	Bankruptcy	OSB No.: 31-1515543	Ontario
Canadian Shipbuilding & Engineering Ltd.		Bankruptcy	OSB No.: 32-157150	Ontario
Cole, Henry George		Bankruptcy	31-OR-207806-T	Ontario
Concave Holdings Inc.	"CL" # not issued	Bankruptcy	OSB No.: 31-1459158	Ontario
Dylex Limited		Bankruptcy	OSB No.: 31-394548	Ontario
EnerNorth Industries Inc.	"CL" # not issued	Bankruptcy	OSB No.: 31-454694	Ontario
Estate of the Late Ana Maria Medeiros	"CL" # not issued	Bankruptcy	31-456940	Ontario
Grafikom Limited Partnership (consolidated)		Bankruptcy	31-455773	
Image Craft Inc.		Bankruptcy	31-OR-207397-T	Ontario
Innua Canada Ltd.	"CL" # not issued	Bankruptcy	OSB No.: 32-158070	Ontario
Leaseway Motorcar Transport Canada Ltd.	"CL" # not issued	Bankruptcy	OSB No.: 31-1103744	Ontario
Linen 'N Things Canada Corp.	"CL" # not issued	Bankruptcy	OSB No.: 31-1121528	Ontario
Loretta Food Group Inc., et al		Proposal	07-CL-6868	Ontario
Maser Canada, Inc.	"CL" # not issued	Bankruptcy	OSB No.: 31-1191838	Ontario
Metaldyne Machining and Assembly Mfg. Co. (Canada) Ltd.	"CL" # not issued	Bankruptcy	OSB No.: 35-1420865	Ontario (Division - Windsor)
MMFX Technologies Corporation	"CL" # not issued	Bankruptcy	OSB No.: 32-1434879	Ontario
MonoGen, Inc.	"CL" # not issued	Bankruptcy	OSB No.: 31-1148649	Ontario
Nexient Learning Inc.	"CL" # not issued	Bankruptcy	OSB No.: 31-1462790	Ontario
NMC Canada, Inc.		Bankruptcy	Court No.: 09-CL-7960 OSB No.: 32-1501836	Ontario



Client	Comments	Type of File	Court File No.	Jurisdiction
Noble Metal Processing Canada Inc.	"CL" # not issued	Bankruptcy	OSB No.: 32-1201302	Ontario
Orbus Pharma Inc.	"CL" # not issued	NOI/Proposal	OSB No.: 31-1360312	Ontario
Ravelston Management Inc.		Bankruptcy	31-OR-207357-T	Ontario
Robgreen Investments Limited	"CL" # not issued	Bankruptcy	OSB No.: 31-1316923	Ontario
ST Equipment Inc.	"CL" # not issued	Bankruptcy	OSB No.: 32-1434886	Ontario
ST Welland Real Estate Inc.	"CL" # not issued	Bankruptcy	OSB No.: 32-1434894	Ontario
Salgreen Investments Limited	"CL" # not issued	Bankruptcy	OSB No.: 31-1316928	Ontario
SKD Company		Bankruptcy	Court No: 09-CL-7960 OSB No.: 32-158287	Ontario
Stewart House Inc./Stewart House Distribution Services Inc.	Consolidated "CL" # not issued	Bankruptcy	Estate No.: 31-414874 and 31-414875	Ontario
Talhin/T Corporation	"CL" # not issued	Bankruptcy	OSB No.: 31-1379082	Ontario
The Normandy Group S.A.	"CL" # not issued	Bankruptcy	OSB No.: 31-158092	Ontario
The Ravelston Corporation Limited		Bankruptcy	31-OR-207358-T	Ontario
Tiger Brand Holdings Corp.	"CL" # not issued	Bankruptcy	OSB No.: 35-118022	Ontario
Trinity Real Estate Partners Inc.		Bankruptcy	31-OR-207805-T	Ontario
Ultrametal Inc.	"CL" # not issued	Bankruptcy	OSB No.: 35-1386161	Ontario
Press Direct Inc.	"CL" # not issued	Bankruptcy	OSB No.: 32-134520	Ontario
Imagiflex Plate Services Inc.	"CL" # not issued	Bankruptcy	OSB No.: 32-134521	Ontario
Imaginex Incorporated	"CL" # not issued	Bankruptcy	OSB No.: 32-134522	Ontario
566382 Ontario Inc.	"CL" # not issued	Bankruptcy	OSB No.: 32-157363	Ontario
601674 Ontario Ltd.	"CL" # not issued	Bankruptcy	OSB No.: 32-068802	Ontario
Vistar Telecommunications Inc.	"CL" # not issued	Bankruptcy	OSB No.: 33-149850	Ontario
Magrosa Credit Union Limited		Bankruptcy	OSB No. 31-1570748	Ontario



**RSM Richter**  
**Schedule of Court Orders (Report 13 – Open Estates)**

Client	Comments	Type of File	Court File No.	Jurisdiction
1187034 Ontario Limited		Bankruptcy	OSB No.: 31-438013	Ontario
134242 Canada Inc.		Bankruptcy	OSB No.: 31-345392	Ontario
167830 Canada Inc.		Bankruptcy	OSB No.: 32-096951	Ontario
1161798 Ontario Inc.		Bankruptcy	OSB No.: 32-111619	Ontario
673367 Ontario Ltd.		Bankruptcy	OSB No.: 31-390942	Ontario
739330 Ontario Limited		Bankruptcy	OSB No.: 31-438009	Ontario
742372 Ontario Inc.		Bankruptcy	OSB No.: 32-121480	Ontario
932342 Ontario Inc.		Bankruptcy	OSB No.: 31-438010	Ontario
956857 Ontario Inc.		Bankruptcy	OSB No.: 31-360044	Ontario
991658 Ontario Limited		Bankruptcy	OSB No.: 31-438011	Ontario
A Buck or Two Realty Inc.		Bankruptcy	OSB No.: 31-438016	Ontario
A Buck or Two Realty Ltd.		Bankruptcy	OSB No.: 31-438017	Ontario
A Buck or Two Stores Ltd.		Bankruptcy	OSB No.: 31-438019	Ontario
Abot Francise Inc.		Bankruptcy	OSB No.: 31-438018	Ontario
Automatic Teller Machines Canada Inc.		Bankruptcy	OSB No.: 32-158215	Ontario
Buck or Two Corporation		Bankruptcy	OSB No.: 31-438014	Ontario
Denninghouse Realty Ltd.		Bankruptcy	OSB No.: 31-438015	Ontario
Denninghouse Realty Inc.		Bankruptcy	OSB No.: 31-438020	Ontario
Erisan Inc.		Bankruptcy	OSB No.: 31-438012	Ontario
Netron Inc.		Bankruptcy	OSB No.: 31-394874	Ontario
Suzanne Simmonds		Bankruptcy	OSB No.: 31-366838	Ontario
David Simmonds		Bankruptcy	OSB No.: 31-366839	Ontario
SLMsoft Inc.		Bankruptcy	OSB No.: 31-420519	Ontario
Van Horne Fish Distributors (Ontario) Inc.		Bankruptcy	OSB No.: 31-343346	Ontario
Villman & Stern Investments Ltd.		Bankruptcy	OSB No.: 31-332574	Ontario



SCHEDULE B

**RSM Richter**  
**Schedule of Court Orders (CCAAs and Information Officer)**

Client	Comments	Type of File	Court File No.	Jurisdiction
2515080 Nova Scotia Company		CCAA	Court No: 09-CL-7960 OSB No.: 32-1501841	Ontario
Denninghouse Inc.		CCAA	04-CL-5523	Ontario
DDR Group of Companies		CCAA	CV-09-8498-00CL	Ontario
Eddie Bauer of Canada Inc. and Eddie Bauer Customer Services Inc.		CCAA	09-8240-CL	Ontario
Lear Canada, Lear Canada Investments Ltd. and Lear Corporation Canada Ltd.		Information Officer	CV-09-00008269-00CL	Ontario
Milacron Canada Ltd.		CCAA	CV-09-8060-00CL	Ontario
Mondrian-Hall Inc.		CCAA	09-8265-00CL	Ontario
NMC Canada, Inc.		CCAA	Court No: 09-CL-7960 OSB No.: 32-1501836	Ontario
Pillowtex Canada Inc.		CCAA	03-CL-5095	Ontario
Plassein International of Newmarket Inc.		CCAA	03-CL-5006	Ontario
SKD Company		CCAA	Court No: 09-CL-7960 OSB No.: 32-158287	Ontario
Unique Broadband Systems, Inc.		CCAA	CV-11-9283-00CL	Ontario
Upper Crust Ltd./1718326 Ontario Inc./Par-Baked Inc.	Consolidated	CCAA	08-CL-7401	Ontario
Windsor Machine Group		CCAA	CV-08-7672-00CL	Ontario

SCHEDULE C



**RSM Richter**  
**Schedule of Court Orders (Receiverships)**

Client	Comments	Type of File	Court File No.	Jurisdiction
4114159 Canada Inc. (o/a Polar Ice Diamonds) and 9135-8242 Quebec Inc. (o/a Polar Bear Diamonds)		Receivership	CV-10-8967-00CL	Ontario
2515080 Nova Scotia Company		Receivership	Court No: 09-CL-7960 OSB No.: 32-1501841	Ontario
Armco Inc.		Receivership	04-CL-5455	Ontario
Borderware Technologies Inc.		Receivership	CV-09-8284-00CL	Ontario
CO Capital Growth Corp., Peter Sbaraglia, Mandy Sbaraglia, 91 Days Hygiene Services Inc.		Receivership	CV-10-8883-00CL	Ontario
Distributionco Inc.		Receivership	99-CL-3514	Ontario
Entertainment World Holdings Inc.		Receivership	CV-08-00007540-00CL	Ontario
Graceway Canada Company		Receivership	CV-11-9411CL	Ontario
Grafikom Limited Partnership		Receivership	08-CL-7840	Ontario
Innua Canada Ltd. & Normandy Group SA		Receivership	09-CL-8069	Ontario
JRM Tube Inc.		Receivership	03-CL-4981	Ontario
Linen 'N Things Canada Corp.		Receivership	CV-08-7808-00CL	Ontario
M.J.'s Fine Foods Inc.		Receivership	CV-09-8416-00CL	Ontario
MapFusion Corp.		Receivership	06-CL-6687	Ontario
NMC Canada, Inc.		Receivership	Court No: 09-CL-7960 OSB No.: 32-1501836	Ontario
Norfolk Co-operative Co. Ltd.		Receivership	09-CL-7957	Ontario
Polar Ice Diamonds et al		Receivership	CV-10-8967-00CL	Ontario
Pride of Paris Fabrics Limited	"CL" # not issued	Receivership	OSB No.: 32-076830	Ontario
Prizm Income Fund, Prizm Canadian Operating Trust, Prizm Inc., KIT Finance Inc and Prizm LP		Receivership	CV-11-9375-00CL	Ontario
Retrocom Growth Fund Inc.	"CL" # not issued	Receivership	OSB No.: 31-452496	Ontario
Rink Partners Corporation		Receivership	CV-11-9408-00CL	Ontario
Christine Brooks as Executor of the Estate of Robert Mander, Deceased and E.M.B. Asset Group Inc.		Receivership	10-8619-00CL	Ontario
SKD Company		Receivership	Court No: 09-CL-7960 OSB No.: 32-158287	Ontario
Talhin/T Corporation	"CL" # not issued	Receivership	10-8816-00CL	Ontario
Worldwide Tobacco Distribution Inc./2060117 Ontario Inc.	Consolidated	Receivership	10-8611-00CL	Ontario



## Appendix “G”

Court File No. CV-15-11085-00CL

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

THE HONOURABLE

*JUSTICE HAINEY*

)

FRIDAY, THE 10<sup>TH</sup> DAY

)

OF JULY, 2015

BETWEEN:

KSV KOFMAN INC.

Applicant

-AND-

D&amp;P CANADA ACQUISITION CORP.

Respondent

Application under Rule 14.05(3)(h) of the *Rules of Civil Procedure*

**SUBSTITUTION ORDER**

THIS APPLICATION made by KSV Kofman Inc. ("KSV") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Application Record of KSV, including the Affidavit of Robert Kofman sworn July 3, 2015, together with the exhibits attached thereto (the "Affidavit"), and on hearing the submissions of counsel for KSV and counsel listed on the Counsel Slip, no one else appearing although served as evidenced by the Affidavit of Service:

1. THIS COURT ORDERS that the effective date of this order (the "Effective Date") shall be June 30, 2015, being the effective date of the amalgamation of KSV and Duff & Phelps Canada Restructuring Inc. ("D&P Restructuring").

**BIA ESTATES**

2. **THIS COURT ORDERS** that KSV be and is hereby substituted in place of D&P Restructuring as Trustee in Bankruptcy or Proposal Trustee (the "**Trustee**") of the estate files listed on **Schedule "A"** hereto (the "**BIA Estates**").

3. **THIS COURT ORDERS AND DIRECTS** that all real and personal property wherever situate of the BIA Estates be and is hereby vested in KSV in its capacity as Trustee, to be dealt with by KSV in accordance with the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), pursuant to its powers and obligations as Trustee of the BIA Estates.

4. **THIS COURT ORDERS** that KSV is authorized and directed to continue and complete the administration of the BIA Estates, to deal with the BIA Estates' property in accordance with the duties and functions of the Trustee as set out in the BIA and to receive all remuneration of the Trustee in the BIA Estates for services performed from the commencement of each of the BIA Estates until the discharge of the Trustee, less any remuneration already received by D&P Restructuring in accordance with the provisions of the BIA, or otherwise payable to D&P Restructuring to the date of closing of the Transaction (as defined in the Affidavit).

5. **THIS COURT ORDERS** that the requirement and responsibility for taxation of the Trustee's accounts in respect of the BIA Estates with respect to all work performed in respect of such BIA Estates from the initial appointment of D&P Restructuring or any other party, through to the completion of the administration of such BIA Estates and discharge of KSV as the new Trustee, be and is hereby assigned and transferred to KSV.

6. **THIS COURT ORDERS AND DIRECTS** that KSV be and is hereby required, in respect of the BIA Estates, to (i) observe all of the terms provided by Rule 61(2) of the BIA Rules, (ii) keep all estate books, records and documents as provided by Rule 68 of the BIA Rules, and (iii) retain all books, estate records, documents within its control including work in progress, billing or time records in support of any claims made for time charges and advances on fees made by D&P Restructuring, and detailed trial



balances (electronic or otherwise) from the date of bankruptcy showing all the funds received and disbursed since the date of bankruptcy notwithstanding KSV assuming responsibility for the BIA Estates as at the Effective Date.

7. **THIS COURT ORDERS AND DIRECTS** to the extent that D&P Restructuring has given security in cash or by bond of a guarantee company pursuant to section 16(1) of the BIA (the "**Security**"), such Security shall be transferred from D&P Restructuring to KSV and any party holding such Security be and is hereby directed to take all steps necessary to effect such transfer. Upon transfer, KSV shall assume, and D&P Restructuring shall be relieved of, all obligations respecting the Security.

#### **RECEIVERSHIP AND CCAA PROCEEDINGS**

8. **THIS COURT ORDERS** that KSV be and is hereby substituted in place of D&P Restructuring as the Receiver, Receiver and Manager, or Interim Receiver (collectively, "**Receiver**") in respect of the mandates listed in **Schedule "B"** hereto (the "**Receivership Proceedings**") and the Monitor and Information Officer in respect of the mandates listed on **Schedule "C"** hereto (the "**CCAA Proceedings**").

#### **OBICA PROCEEDINGS**

9. **THIS COURT ORDERS** that KSV be and is hereby substituted in place of D&P Restructuring as the Liquidator in respect of the mandates listed in **Schedule "D"** hereto (the "**OBICA Proceedings**"). Collectively, the BIA Estates, the Receivership Proceedings, the CCAA Proceedings and the OBICA Proceedings are referred to herein as the "**Transferred Mandates**".

10. **THIS COURT ORDERS** that KSV (and its legal counsel and representatives, as applicable) will have all rights, benefits, protections and obligations granted to such court officer (and its legal counsel and representatives, as applicable) under any order made in the Transferred Mandates or any statute applicable to the now Transferred Mandates or any contract or agreement to which D&P Restructuring is a signatory in the Transferred Mandates. For greater certainty and without limitation, this includes the benefit of any indemnity, charge or priority granted in the Transferred Mandates and relief from the application of any statute including the *Personal Information Protection and Electronic Documents Act* (Canada) ("PIPEDA").

11. **THIS COURT ORDERS** that to the extent required by the applicable Orders in the Receivership Proceedings and CCAA Proceedings, the accounts of D&P Restructuring and its legal counsel in respect of the Receivership Proceedings and CCAA Proceedings shall be passed in accordance with the applicable Orders in the Receivership Proceedings and CCAA Proceedings on the application of KSV.

#### **ACCOUNTS**

12. **THIS COURT ORDERS** that D&P Restructuring be and is hereby authorized to transfer to the name of KSV all funds that remain in its consolidated trust bank accounts and all other trust bank accounts that belong or related to the Transferred Mandates, and D&P Restructuring and KSV be and are hereby authorized to take all steps and to execute any instrument required for such purpose.

13. **THIS COURT ORDERS AND DIRECTS** that KSV be and is hereby authorized to endorse for deposit, deposit, transfer, sign, accept or otherwise deal with all cheques, bank drafts, money orders, cash or other remittances received in relation to any of the Transferred Mandates where such cheques, bank drafts, money orders, cash or other remittances are made payable or delivered to D&P Restructuring, in relation to the same, and any bank, financial institution or other deposit-taking institution with which KSV be and is hereby authorized to rely on this Order for all purposes of this paragraph.

**REAL PROPERTY**

14. **THIS COURT ORDERS AND DIRECTS** that the Registrar of Land Titles in any Land Title District wherein any registration was previously made by D&P Restructuring in its capacity as Trustee or Receiver of Transferred Mandates including, without limitation, the registration in respect of the real property described in **Schedule "E"** hereto, be and is hereby authorized and directed to amend any such registration to reflect the substitution of KSV for D&P Restructuring as Trustee or Receiver, as the case may be.

**GENERAL**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the PIPEDA and any substantially similar legislation, D&P Restructuring is authorized and permitted to disclose and transfer to KSV all employee records within its control. KSV shall maintain and protect the privacy of any personal information contained in the employee records and shall be entitled to collect and use the personal information provided to it for the same purpose(s) as such information was used by D&P Restructuring.

16. **THIS COURT ORDERS** that D&P Restructuring will deliver all files, papers, books, records and property within its control relating to the Transferred Mandates to KSV as soon as practicable following the closing of the Transaction (as defined in the Affidavit).

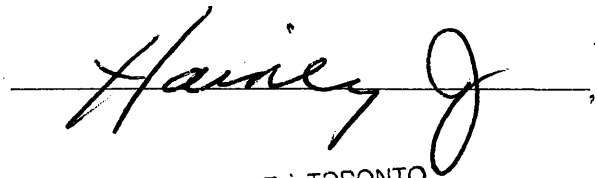
17. **THIS COURT ORDERS** that any required notification of the discharge of D&P Restructuring in respect of the Transferred Mandates, including without limitation statutory notices to proven creditors within the BIA Estates, the applicable bankrupts or debtors within the BIA Estates, the Court, the Office of the Superintendent of Bankruptcy and any other person, be and is hereby waived.

18. **THIS COURT ORDERS** that this Order shall be effective in all judicial districts in Ontario which govern any of the Transferred Mandates.

19. **THIS COURT ORDERS** that the requirement for a separate Notice of Motion and supporting Affidavit to be filed in the Court file of each of the Transferred Mandates be and is hereby waived.

20. **THIS COURT ORDERS** that the requirement for service or notification of this motion on any interested party in the Transferred Mandates including, without limitation, proven creditors within the BIA Estates, the applicable bankrupts or debtors within the BIA Estates, and any other person, be and is hereby waived.

21. **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 D&P Restructuring and KSV 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 D&P Restructuring and KSV as may be necessary or desirable to give effect to this Order, or to assist D&P Restructuring and KSV and their respective agents in carrying out the terms of this Order.

A handwritten signature in cursive script, appearing to read "Hamey J.", is written over a horizontal line.

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

JUL 13 2015  
MB

SCHEDULE A

Duff & Phelps Canada Restructuring Inc.  
 Bankruptcies to be transferred to KSV Kofman Inc.

Name	Estate File No.
2515080 Nova Scotia Company	32-1501841
252862 Ontario Inc. (formerly Tectrol Inc.)	31-1929721
Boparai, Rantej Singh	32-158782
Career Canada C.F.P. Limited	31-1963353
Cole, Henry George	31-456669
Colossus Minerals Inc.	31-1826899
CPI Corp.	32-1929730
CPI Portrait Studios of Canada Corp.	32-1929729
EnerNorth Industries Inc.	31-45469B
Everest Colleges Canada Inc.	31-1963343
Frontline Technologies Inc.	31-1696523
IceGen Inc.	31-2003505
Linens 'N Things	31-1121528
Margosa Credit Union Limited	31-1570748
NMC Canada, Inc.	32-1501836
NS Studios (7291931 Canada Inc.)	31-1783744
Premium Disc Corp.	32-158728
Revstone Industries Burlington Inc.	32-1672848
Shaw Canada, L.P.	32-158522
SKD Automotive Co.	32-158287
Stone & Webster Canada Holding One	32-158523
Stone & Webster Canada Holding Two, Inc	32-158524
Surefire Industries Ltd.	25-094411
The Ravelston Corporation Limited	31-455711
The Ravelston Management	31-456255
Trinity Real Estate Partners Inc.	31-456667
Zsemba Apron & Upholstry	31-1901005

**SCHEDULE B**

Duff & Phelps Canada Restructuring Inc.  
 Receiverships to be transferred to KSV Kofman Inc.

Name	Court File No.
1095195 Ontario Limited - Di Felice	11-9193-00CL
1650473 Ontario Inc./2328247 Ontario Inc. o/a Scrapmen	13-10386-00CL
252862 Ontario Inc. (formerly Tectrol Inc.)	31-1929721
721362 Ontario Limited	11-9193-00CL
ARXX Building Products Inc.	13-10353-00CL
CO Capital Growth Corp.	10-8883-00CL
CPI Corporation	13-10069-00CL
Di Felice, Nina & Italo	11-9193-00CL
Goudas Food Products and Investments Limited	14-10680-00CL
Graceway Canada Company	11-9411CL
Grafikom LP	08-CL-7840
Linens 'N Things	31-1121528
Mady Steeles 2011 Ltd.	15-10897-00CL
Newtek Automotive	13-9982-00CL
Priszm Group	11-9375-00CL
Quebec Lithium Inc., QLI Metaux Inc., and Sirocco Mining Inc.	500-11-047560-145
RB Energy Inc.	500-11-047560-145
Retrocom Growth Fund	31-452496
Revstone Industries Burlington Inc.	12-9542-00CL
Robgreen Investments Limited	31-456362
Robert Mander and E.M.B. Asset Group Inc.	10-8619-00CL
Sirocco Mining Inc.	500-11-047560-145
SKD Automotive Co.	09-CL-7960
Stewart v. Lawrynowicz	13-10224-00CL
Surefire Industries Ltd.	1301-11285
Tamerlane Ventures inc.	14-10417-00CL
The Ravelston Corporation Limited	31-455711
Xchange Technology Group	13-10310-00CL
Zsemba Apron & Upholstry	14-10569-00CL



**SCHEDULE C**

Duff & Phelps Canada Restructuring Inc.  
CCAA proceedings to be transferred to KSV Kofman Inc.

Name	Court File No.
Allied Systems (Canada) Company	12-CV-9757-00CL
Eddie Bauer of Canada Inc. Monitor	09-8240-CL
iMarketing Solutions Group Inc.	13-10067-00CL
Labrador Iron Mines Limited	15-10926-00CL
Pine Point Holding Corp.	13-10028-00CL
Tamerlane Ventures Inc.	13-10228-00CL
Unique Broadband Systems, Inc.	11-9283-00CL

**SCHEDULE D**

Duff & Phelps Canada Restructuring Inc.

OBCA Court proceedings to be transferred to KSV Kofman Inc.

Name	Court File No.
Diversinet Corp.	13-10282-00CL
Coventree	12-9594-00CL

**SCHEDULE E**

## SCHEDULE

## LEGAL DESCRIPTION

**PIN 06050-0199 (LT)**

PT LOTS 18 & 19, CON 5; PT ROAD ALLOWANCE BETWEEN LOTS 18 & 19 CON 5, AS CLOSED BY-LAW 406 BEING PT OF PT 1 66R12477 LYING NORTH OF PLAN 66M1996; SAVE & EXCEPT PT OF LOTS 18 & 19 CON 5 PT 1 66R16987...SUBJ. TO EASE. OVER PTS 1 & 2 66R17070 AS IN C981858. SCARBOROUGH, CITY OF TORONTO; S/T EASEMENT OVER PART 37 PL 66R23655 AS IN AT1787207; TORONTO; T/W EASEMENT OVER PT 35 PL 66R23655 AS IN AT1787250; T/W EASEMENT OVER PTS 24 & 25 PL 66R23655 AS IN AT1787250

**PIN 06050-0266 (LT)**

PT LT 20 CON 5 SCARBOROUGH DESIGNATED AS PT 1 PL 66R23210; SCARBOROUGH; CITY OF TORONTO

**PIN 06050-0263 (LT)**

PART OF LOT 19 CON 5, SCARBOROUGH, DESIGNATED AS PART 1 ON PLAN 66R-23217, CITY OF TORONTO; T/W EASEMENT OVER PT 35 PL 66R23655 AS IN AT1787250; T/W EASEMENT OVER PTS 24 & 25 PL 66R23655 AS IN AT1787250

**PIN 06050-0264 (LT)**

PART LOT 18 CON 5, SCARBOROUGH; PT RDAL BTN LOTS 18 AND 19, CON 5, SCARBOROUGH (CLOSED BY BY-LAW NO. 406 AS IN SC608215), CITY OF TORONTO, DESIGNATED AS PART 2 ON PLN 66R-23217; S/T EASEMENT OVER 38 PL 66R23655 AS IN AT1787207; TORONTO; T/W EASEMENT OVER PT 35 PL 66R23655 AS IN AT1787250; T/W EASEMENT OVER PTS 24 & 25 PL 66R23655

PIN 06050-0272 (LT)

PT LOT 18 CON. 5 SCARBOROUGH, PT 3 PL 66R23217 SAVE AND EXCEPT PT 32 PL 66R23655; CITY OF TORONTO; S/T EASEMENT OVER PT 36 66R23655 AS IN AT1787207; T/W ROW OVER PT 32 66R23655 AS IN AT1787644; T/W EASEMENT OVER PT 35 66R23655 AS IN AT1787250; T/W EASEMENT OVER PTS 24 & 25 PL 66R23655 AS IN AT1787250

KSV KOFMAN INC.  
Applicant

D&P CANADA ACQUISITION CORP.  
Respondent

and

Court File No: CV-15-11025-0001

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding Commenced At Toronto

**ORDER**

**112**

**Davies Ward Phillips & Vineberg LLP**  
155 Wellington Street West  
Toronto, ON M5V 3J7

**Jay A. Swartz / Dina Milivojevic**  
(LSUC #: 15417L / 64521U)

Telephone: 416.863.0900  
Facsimile: 416.863.0871

**Lawyers for KSV Kofman Inc.**



**IN THE MATTER OF THE BANKRUPTCY OF SKD COMPANY, A PARTNERSHIP  
OF NMC CANADA, INC. AND 2515080 NOVA SCOTIA COMPANY**

Bankruptcy File No.: BK-11-00158287-0032

	<p><b>ONTARIO</b></p> <p><b>SUPERIOR COURT OF JUSTICE</b></p> <p><b>[IN BANKRUPTCY &amp; INSOLVENCY]</b></p> <p><b>Proceedings commenced at Toronto</b></p> <p><b>MOTION RECORD OF</b></p> <p><b>KSV RESTRUCTURING INC.</b></p> <p><b>(returnable August 13, 2024)</b></p>
<p><b>GOODMANS LLP</b></p> <p>Bay Adelaide Centre</p> <p>333 Bay Street, Suite 3400</p> <p>Toronto, ON M5H 2S7</p> <p><b>L. Joseph Latham</b> LSO# 32326A</p> <p>jlatham@goodmans.ca</p> <p><b>Meghan de Snoo</b> LSO# 80030P</p> <p>mdesnoo@goodmans.ca</p> <p>Tel: 416-979-2211</p> <p>Lawyers for KSV Restructuring Inc.</p>	<p><b>113</b></p>