

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) FRIDAY, THE 3RD DAY  
 ) OF APRIL, 2009  
 )  
JUSTICE MORAWETZ )

**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 the applicants, NMC Canada Inc. and 2515080 Nova Scotia Company (the "**Applicants**"), 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 Initial Order of this Court dated January 21, 2009, as extended from time to time (the "**Initial Order**"), the affidavit of John Chen sworn March 31, 2009, (the "**Chen Affidavit**") and the Sixth Report (the "**Sixth Report**") of RSM Richter Inc., the Monitor of the Applicants (the "**Monitor**"), and on hearing submissions from counsel for the Applicants and SKD Company, 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**"), counsel for the Monitor, as well as counsel for Comerica Bank ("**Comerica**"), 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, "**Honda**"), Ford Motor Company ("**Ford**") and Chrysler LLC, Chrysler Motors LLC and Chrysler Canada Inc. (collectively, "**Chrysler**" and, together with Ford and Honda, the "**Customers**"), the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union (the "**USW**"), the National Automobile, Aerospace, Transportation and General Workers of Canada and its Local 1285 (the "**CAW**"), Martinrea Jonesville LLC ("**Martinrea Jonesville**") and Martinrea International Inc. ("**Martinrea International**"), ~~and Orlando Corporation~~, no one else on the service list appearing:

1. **THIS COURT ORDERS** that the time for service of the notice of motion and motion record herein is abridged, that this motion is properly returnable today and that further service is dispensed with, having been affected in accordance with paragraph 53 of the Initial Order.

#### **APPROVAL OF SALES TRANSACTIONS**

2. **THIS COURT ORDERS** that SKD Company, by the Applicants as its general partners, be and it is hereby authorized and empowered to enter into the following agreements:

- (a) An asset purchase agreement between SKD Company and Martinrea Jonesville, substantially in the form of the agreement attached as Appendix "A" to the Sixth Report (the "**Honda Assets Purchase Agreement**"), for the purchase of the Assets, as defined in Section 1.1(d) of the Honda Assets Purchase Agreement (collectively, the "**Honda Assets**");

- (b) An asset purchase agreement between SKD Company and Martinrea International, substantially in the form of the agreement attached as Appendix “B” to the Sixth Report (the “**Ford Assets Purchase Agreement**”), for the purchase of the Assets, as defined in Section 1.1(d) of the Ford Assets Purchase Agreement (collectively, the “**Ford Assets**”); and
- (c) An asset purchase agreement between SKD Company and Martinrea International, substantially in the form of the agreement attached as Appendix “C” to the Sixth Report (the “**Chrysler Assets Purchase Agreement**”), for the purchase of the Assets, as defined in Section 1.1(d) of the Chrysler Assets Purchase Agreement (collectively, the “**Chrysler Assets**”).
3. **THIS COURT ORDERS** that the CCAA Parties are hereby authorized and directed to complete the transactions contemplated by the Honda Assets Purchase Agreement, the Ford Assets Purchase Agreement and the Chrysler Assets Purchase Agreement (collectively, the “**Purchase Agreements**”) and to take such steps and actions and execute and deliver such bills of sale, assignments, ancillary agreements, directions, consents, certificates, licenses, acknowledgements and other documents and assurances as are necessary or incidental thereto.
4. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to carry out the activities and functions of the Monitor set out in the Purchase Agreements, including, without limitation, retention and payment of the Purchase Prices and the filing with the Court of Monitor’s Certificates in accordance with the terms of the Purchase Agreements.

5. **THIS COURT ORDERS AND DECLARES** that, effective immediately upon the filing by the Monitor with this Court of a certificate, substantially in the form of the certificate attached as Schedule “A” to this Order (each such certificate, a “**Monitor’s Certificate**”), all right, title and interest in and to those of the Honda Assets, the Ford Assets and the Chrysler Assets that are described in the schedule attached to such Monitor’s Certificate (hereinafter referenced as the “**Purchased Assets**”) shall vest absolutely in Martinrea Jonesville or Martinrea International, as applicable (each or either such purchaser, hereinafter referred to as the “**Applicable Purchaser**”), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, including all options to purchase all or any of the Purchased Assets pursuant to any agreement to which SKD Company is a party (collectively, the “**Claims**”), including, without limiting the generality of the foregoing, the Claims held by or in favour of the entities, or their solicitors, served with the Notice of Motion relating to the Order, and including, without limiting the generality of the foregoing: (i) all charges created by the Initial Order; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Repair and Storage Liens Act* (Ontario) and any other personal property registry system; (iii) all security interests, options, rights and interests of any of the Customers pursuant to a certain Accommodation Agreement between SKD Company, the Customers and Comerica Bank dated January 21, 2009, as subsequently amended, and a certain Access and Security

Agreement between SKD Company and the Customers dated January 21, 2009, as subsequently amended (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the sale proceeds of the Purchased Assets, net of applicable sales taxes and any purchase price adjustments pursuant to the Purchase Agreements (the “**Net Sales Proceeds**”), described in the schedule attached to each Monitor’s Certificate shall stand in the place and stead of such Purchased Assets, and that from and after the date of delivery of any such Monitor’s Certificate all Claims and Encumbrances in relation to the Purchased Assets described in the schedule attached to the Monitor’s Certificate shall attach to the Net Sales Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the completion of their sale to the Applicable Purchaser, as if the Purchased Assets had not been sold or delivered to the Applicable Purchaser and remained in the possession or control of the person having that possession or control immediately prior to the sale.
7. **THIS COURT ORDER AND DECLARES** that the sales of the Purchased Assets to the Applicable Purchaser pursuant the Purchase Agreements shall be exempt from the application of the *Bulk Sales Act* (Ontario).

## **UNION AGREEMENTS**

8. **THIS COURT ORDER AND DECLARES** that SKD Company, by the Applicants as its general partners, be and it hereby authorized and empowered to:

(a) enter into an agreement with the USW in relation to the closure of the operations of SKD Company at its Milton, Ontario facilities, substantially in the form of the memorandum of agreement and related documents attached as Exhibit "C" to the Chen Affidavit (the "**Milton Memorandum**");

(b) enter into an agreement with the Teamsters Local Union 419 (the "**Teamsters**" and, together with the USW and the CAW, the "**Unions**" and, any one, a "**Union**") in relation to the closure of the operations of SKD Company at its Mississauga, Ontario facilities, substantially in the form of the memorandum of agreement and related documents attached as Exhibit "D" to the Chen Affidavit (the "**Mississauga Memorandum**"); and

(c) enter into an agreement with the CAW in relation to the run out of the operations of SKD Company at its Brampton, Ontario facilities, substantially in the form of the memorandum of agreement and related documents attached as Exhibit "E" to the Chen Affidavit (the "**Brampton Memorandum**") *and Appendix "G" to the Sixth Report.*

9. **THIS COURT ORDERS** that SKD Company is hereby authorized and empowered to enter into and to perform its obligations under the Milton Memorandum, the Mississauga Memorandum and the Brampton Memorandum (collectively, the "**Memoranda**"), to take such steps and other actions as are contemplated, required or permitted by the Memoranda and to execute such ancillary directions, agreements, other documents and assurances as are necessary or incidental to give effect thereto, provided that nothing in

this Order shall require SKD Company to make the payments contemplated pursuant to any Memorandum unless sufficient funds are deposited by or on behalf of the applicable Customers into an escrow account for disbursement pursuant to the terms of the applicable Escrow Agreement (as defined below).

10. **THIS COURT ORDERS** that SKD Company be and it is hereby authorized and empowered, should and as at such time as it consider such actions necessary or appropriate, to give a written notice of proposal to wind-up, and take all such steps and actions as it and the Applicants consider necessary or appropriate to wind-up, the following registered pension benefit plans:

- (a) the SKD Company Pension Plan for the Hourly Employees of the Milton Division;
  - (b) the SKD Company Pension Plan for Salaried Employees; and
  - (c) the SKD Company Pension Plan for Hourly Employees of the Brampton Division
- (collectively, the “**Pension Benefit Plans**”).

## **ESCROW AGREEMENTS**

11. **THIS COURT ORDERS** that the escrow agreements established to fund payment of certain obligations provided for in each of the Memoranda, substantially in the form of the agreements annexed as Appendices “~~F~~”, “~~G~~” and “~~H~~” to the Sixth Report (collectively, the “**Escrow Agreements**” and, any one, an “**Escrow Agreement**”) be and they are each hereby approved and that SKD Company, by the Applicants as its general partners, be

authorized and empowered to enter into and perform its obligations under the Escrow Agreements, to take such steps and actions as are contemplated by the Escrow Agreements and to execute such directions, agreements, other documents and assurances as are necessary or incidental to give effect thereto.

12. **THIS COURT ORDERS** that the Monitor be and it is hereby directed and empowered to act as the escrow agent in accordance with and pursuant to each of the Escrow Agreements and be and is hereby directed to execute and deliver the Escrow Agreements.
13. **THIS COURT ORDERS AND DECLARES** that the Monitor shall:
  - (a) be under no liability or obligation to the Applicants, SKD Company, the Customers, GM, any Union, any member of any Union or any existing or former employee of SKD Company, on any basis whatsoever merely as a result of carrying out its responsibilities as the escrow agent under the Escrow Agreements, including for any action taken or omitted to be taken by it in good faith and in the exercise of its own judgment, unless such action involves any gross negligence or wilful misconduct on its part, in which case the Monitor's liability shall be limited to the fees and expenses of the Monitor incurred in its capacity as escrow agent;
  - (b) not be nor be construed to be the employer of any employee of SKD Company merely by virtue of acting as escrow agent under any of the Escrow Agreements;  
and
  - (c) be entitled, in its capacity as escrow agent under the Escrow Agreements, to (i) all of the protections afforded to the Monitor under the Initial Order and the CCAA,



and (ii) the benefit of the Administration Charge (as defined in the Initial Order) in respect of its fees and expenses incurred in its capacity as escrow agent.

14. **THIS COURT ORDERS AND DECLARES** that the Customers shall be under no liability or obligation to any Union, any member of any Union, or any existing or former employee of SKD Company, on any basis whatsoever merely as a result of such Customer having provided any funding pursuant to the Escrow Agreements, or any of them, nor shall the Customers, or any of them, be nor be construed to be the employer of any existing or former employee of SKD Company merely by virtue of their having provided any such funding to permit any of the payments contemplated by any of the Escrow Agreements to be made by or on behalf of SKD Company.
15. **THIS COURT ORDERS AND DECLARES** that that the Customers, in providing the monies to fund the escrow accounts contemplated by the Escrow Agreements (the “**Escrow Funds**”), and the Monitor and Escrow Agent, in disbursing any of the Escrow Funds pursuant to the terms of the Escrow Agreements, shall have and be under no further liability to the Unions or any members of the Unions on any basis whatsoever in relation to any of the CCAA Parties.

#### **OTHER**

16. **THIS COURT ORDERS AND DECLARES** that, notwithstanding:
  - (a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Applicants or SKD Company and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Applicants or SKD Company:

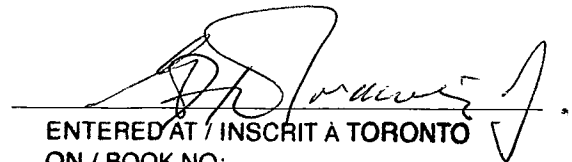
- (i) the Purchase Agreements and the sale of any of the Purchased Assets to the Applicable Purchaser pursuant to the Purchase Agreements;
- (ii) the vesting of title in and to any of the Purchased Assets in the Applicable Purchaser pursuant to this Order;
- (iii) the Escrow Agreements;
- (iv) the Memoranda; and
- (v) the provisions of this Order,

shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and/or SKD Company and shall not be void or voidable by creditors of the Applicants or SKD Company, nor shall they constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall any of the foregoing constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

17. **THIS COURT ORDERS** that the Access and Security Agreement dated January 21, 2009 be and the same is hereby terminated and is of no further force and effect in relation to the any of the facilities of SKD Company located in Mississauga and Milton, Ontario, provided that, for greater certainty, nothing in this Order shall terminate or affect the Access and Security Agreement in respect of the facilities of SKD Company located in Brampton, Ontario.

**APPROVAL OF THE ACTIONS OF THE MONITOR**

18. **THIS COURT ORDERS** that the Sixth Report, and the actions and activities of the Monitor as reported therein, be and are hereby approved, *provided that such approval is not effective until April 14, 2009.*



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

APR 03 2009

PER / PAR: 

**Schedule “A” –Monitor’s Certificate**

**Court File No. 09-CL-7960**

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SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

Applicants

**MONITOR’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Campbell of the Ontario Superior Court of Justice (the “**Court**”) dated January 21, 2009, RSM Richter Inc. was appointed as the monitor of NMC Canada Inc. and 2515080 Nova Scotia Company (the “**Monitor**”).

B. Pursuant to an Order of the Court dated [DATE], 2009, the Court approved an agreement of purchase and sale (the “**Purchase Agreement**”) between SKD Company (the “**Debtor**”), by its general partners, NMC Canada Inc. and 2515080 Nova Scotia Company, and [INSERT NAME OF APPLICABLE PURCHASER] (the “**Purchaser**”), for the purchase by the Purchaser from the Debtor of certain property and assets used to produce component parts by the Debtor for [INSERT NAME OF APPLICABLE CUSTOMER].

C. Pursuant to the Purchase Agreement, the vesting in the Purchaser of the right, title and interest in and to any property and assets pursuant to the Purchase Agreement is to be effective with respect to such property and assets only upon the filing by the Monitor with this Honourable Court of one or more certificates, each of which attaches a schedule that describes the particular

assets that have been purchased in accordance with the Purchase Agreement (such assets, the “**Purchased Assets**”), which certificate confirms (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets, by delivery to the Monitor of said Purchase Price to be held by the Monitor in accordance with the Purchase Agreement; (ii) that each of the conditions to Closing as set out in sections 4.1, 4.2 and 4.3 of the Purchase Agreement have been satisfied or waived by the Debtor and/or the Purchaser, as applicable; (iii) in the case of Purchased Assets constituting Equipment, the Equipment has been removed from the Premises as confirmed by the delivery of a Removal Certificate to the Monitor; and (iv) the Monitor is satisfied that the Transaction relating to the Purchased Assets has otherwise been completed in accordance with the Purchase Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

**THE MONITOR HEREBY CERTIFIES** the following:

1. The Purchased Assets are as described in Schedule “A” attached to this Certificate.
2. The Purchaser has paid and the Monitor has received the Purchase Price for the Purchased Assets;
3. The conditions to the Closing as set out in sections 4.1, 4.2 and 4.3 of the Purchase Agreement have been satisfied or waived by the Debtor and/or the Purchaser, as applicable;
4. The Monitor has received a Removal Certificate confirming that the Equipment described in Schedule “A” has been removed from the Premises (as defined in the Purchase Agreement; and *[Note: Unless Equipment is being removed on the Closing Date, this paragraph would only be inserted in Monitor’s Certificates relating to Equipment that are filed following the Closing Date.]*

5. The Monitor is satisfied that the Transaction relating to the Purchased Assets has been completed in accordance with the Purchase Agreement.

Dated at Toronto this        day of        , 2009.

**RSM Richter Inc., in its capacity as the court-  
appointed Monitor of NMC Canada Inc. and  
2515080 Nova Scotia Company and not in its  
personal or corporate capacity**

Per: \_\_\_\_\_

Name:

Title: