

*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**"), ~~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 SALE TRANSACTION**

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 transaction described in the bill of sale between SKD Company and Ford, substantially in the form attached as Exhibit "**B**" to the Chen Affidavit (the "**Ford Bill of Sale**"), for the purchase by Ford of certain property and assets described in Schedule "A" to the Ford Bill of Sale (the "**Additional Ford Assets**").

3. **THIS COURT ORDERS** that the CCAA Parties are hereby authorized and directed to complete the transactions contemplated by the Ford Bill of Sale 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 Ford Bill of Sale, including, without limitation, retention and payment of the Purchase Price as defined in the Ford Bill of Sale and the filing with the Court of the Monitor's Certificate (as defined below) in accordance with the terms of this Order.

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 (the "**Monitor's Certificate**"), all right, title and interest in and to the Additional Ford Assets that are described in the schedule attached to such Monitor's Certificate shall vest absolutely in Ford 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 Additional Ford 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 this 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 Additional Ford Assets.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the ~~net~~ proceeds of the sale of the Additional Ford Assets, shall stand in the place and stead of such Additional Ford Assets, and that from and after the date of delivery of the Monitor's Certificate all Claims and Encumbrances in relation to the Additional Ford Assets described in the schedule attached to the Monitor's Certificate shall attach to the net proceeds ~~from the sale of such Additional Ford Assets~~ with the same priority as they had with respect to the Additional Ford Assets immediately prior to the completion of their sale to Ford, as if the Additional Ford Assets had not been sold or delivered to Ford and remained in the possession or control of the person having that possession or control immediately prior to the sale.

Handwritten notes in the right margin: "net of applicable sales less and purchase adjustments pursuant to the Ford Bill of Sale (the 'Net Sale Proceeds')".

Handwritten note: "Net Sale Proceeds" with a circled 'B' and a signature.


7. **THIS COURT ORDER AND DECLARES** that the sale of the Additional Ford Assets to Ford pursuant the Ford Bill of Sale shall be exempt from the application of the *Bulk Sales Act* (Ontario).

8. **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 Ford Bill of Sale and the sale of any of the Additional Ford Assets to Ford pursuant to the Ford Bill of Sale;
  - (ii) the vesting of title in and to any of the Additional Ford Assets in Ford pursuant to this Order; and
  - (iii) 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.

  
ENTERED AT / INSCRIT À 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**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE *COMPANIES’ CREDITORS  
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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 April 3, 2009, (the “**Approval and Vesting Order**”) the Court approved the transaction described in a bill of sale (the “**Ford Bill of Sale**”) between SKD Company (the “**Debtor**”), by its general partners, NMC Canada Inc. and 2515080 Nova Scotia Company, and Ford Motor Company (“**Ford**”), for the purchase by Ford from the Debtor of certain property and assets.

C. Pursuant to the Approval and Vesting Order, the vesting in Ford of the right, title and interest of the Debtor in and to any property and assets purchased by Ford pursuant to the Ford Bill of Sale is to be effective with respect to such property and assets only upon the filing by the Monitor with this Honourable Court of a certificate (the “**Monitor’s Certificate**”) that attaches a

schedule describing the particular assets that have been purchased in accordance with the Ford Bill of Sale (such assets, the “**Additional Ford Assets**”), which Monitor’s Certificate confirms:

- (i) delivery to the Monitor of the executed Ford Bill of Sale to be held by the Monitor until the filing of this Monitor’s Certificate;
- (ii) the payment by Ford of the purchase price for the Additional Ford Assets payable in accordance with the Ford Bill of Sale, including all applicable Goods and Services Tax and Ontario Retail Sales Tax payable thereon (the “**Purchase Price**”), by delivery to the Monitor of the said Purchase Price to be held by the Monitor in accordance with the provisions of the Ford Bill of Sale; and
- (iii) that the Monitor is satisfied that the transaction relating to the Additional Ford Assets has otherwise been completed in accordance with the Ford Bill of Sale.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Ford Bill of Sale.

**THE MONITOR HEREBY CERTIFIES** the following:

1. The Additional Ford Assets are as described in Schedule “A” attached to this Certificate;
2. Ford has delivered the executed Ford Bill of Sale to the Monitor;
3. Ford has paid to the Monitor the Purchase Price for the Additional Ford Assets; and
4. The Monitor is satisfied that the transaction relating to the Additional Ford Assets has been completed in accordance with the Ford Bill of Sale.

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:



**Schedule "A"**

Description of Purchased Assets

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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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**ORDER**

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