

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

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MOTION RECORD

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

NOTICE OF MOTION

The applicants named in this application (collectively, the “**Applicants**” and, any one, an “**Applicant**”) will make a motion to a judge presiding on the Commercial List on Tuesday, March 31, 2009 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto.

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

THIS MOTION IS FOR:

1. an order:
 - (a) abridging the time for service of the notice of motion and motion record and dispensing with further service;
 - (b) extending the Stay Period (the “**Stay Period**”), as defined in paragraph 17 of the Order of the Honourable Mr. Justice Campbell made in these proceedings on January 21, 2009 (the “**Initial Order**”), as extended by Orders of this Court made

February 18, 2009, February 27, 2009 (the "**February 27 Order**"), March 9, 2009, March 10, 2009 and March 11, 2009, until and including April 30, 2009;

- (c) authorizing and directing SKD Company to enter into and performs its obligations under the escrow agreement dated as of March 19, 2009, entered into by SKD Company and SKD Automotive Group, Limited Partnership, as employer, and 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**"), Chrysler LLC, Chrysler Motors LLC and Chrysler Canada Inc. (collectively, "**Chrysler**" and, together with Honda and Ford, the "**Customers**"), General Motors Corporation ("**GM**") and RSM Richter Inc., the monitor of the Applicants (the "**Monitor**"), in the form of the escrow agreement (the "**Employee Retention Plan Escrow Agreement**") annexed as Appendix "**A**" to the report to be filed by the Monitor, in relation to this motion (the "**Fifth Report**");
- (d) directing and empowering the Monitor to execute and deliver, and to act as the escrow agent pursuant to the Employee Retention Plan Escrow Agreement;
- (e) declaring that the Monitor shall be under no liability to the Applicants, SKD Company, the Customers, GM, any of 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**") or the Teamsters Local Union No. 419 (the "**Teamsters**" and, together with the CAW and USW, the "**Unions**"), or any member of any Union, as a result of carrying out its responsibilities as the escrow agent under the Employee Retention Plan Escrow Agreement, shall not be construed to be the employer of any employee of SKD Company by virtue of acting as escrow agent under the Employee Retention Plan Escrow Agreement, and shall be entitled in its capacity as escrow agent to all of the protections afforded to the Monitor under the Initial Order and the *Companies' Creditors*

Arrangement Act (the “CCAA”), and 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;

- (f) declaring that the Customers and GM shall be under no liability or obligation to any Union or any member of any Union, or any existing or former employee of SKD Company, and shall not be construed to be the employer of any employee of SKD Company, as a result of such Customer or GM having provided any funding pursuant to the Employee Retention Plan Escrow Agreement;
- (g) approving the Fifth Report to be filed by Monitor, and the actions and activities of the Monitor as reported therein; and

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

THE GROUNDS FOR THE MOTION ARE:

- (a) The Applicant, NMC Canada, Inc. (“NMC”), is incorporated under the Ontario *Business Corporations Act*. The Applicant, 2515080 Nova Scotia Company (“2515080”), is an unlimited liability company incorporated under the Nova Scotia *Companies Act*. NMC and 2515080 are each general partners of SKD Company, a general partnership registered under the Ontario *Partnership Act*. NMC is the managing partner of SKD Company;
- (b) SKD Company is a Tier I automotive parts supplier that designs and manufactures metal components and weldments for automakers in the North American automotive industry, including the Customers, from facilities located in Mississauga, Milton and Brampton, Ontario;
- (c) on January 21, 2009 the Applicants commenced an application under the CCAA, and on that date obtained the Initial Order of this Honourable Court;

- (d) by Order of the Honourable Mr. Justice Campbell dated February 18, 2009, the Stay Period as defined in the Initial Order was extended until and including February 27, 2009;
- (e) pursuant to the February 27 Order, the Stay Period as defined in the Initial Order was further extended until and including March 9, 2009;
- (f) by Orders of the Honourable Mr. Justice Campbell dated March 9, 2009, March 10, 2009 and March 11, 2009, the Stay Period as defined in the Initial Order was further extended until and including March 31, 2009;
- (g) the Applicants are seeking a further extension of the Stay Period to April 30, 2009, to permit SKD Company to conclude arrangements for the wind-down of SKD Company's operations and the orderly liquidation of its remaining assets;
- (h) the Applicants have been acting in good faith and with due diligence in fulfilling their obligations under the Initial Order and the subsequent Orders made by this Honourable Court;
- (i) pursuant to paragraph 27 of the Initial Order, RSM Richter Inc. was appointed as Monitor. The rights and obligations of the Monitor are detailed in paragraph 28 of the Initial Order. It is anticipated that the Monitor will file the Fifth Report with this Honourable Court in relation to the extension of stay proceedings being sought and detailing the actions and activities of the Monitor since the date of its last report to this Honourable Court;
- (j) paragraph 53 of the Initial Order permits the Applicants to serve any motion materials in these proceedings by means of, among other methods, facsimile or electronic transmission;
- (k) the provisions of the CCAA, and in particular s.11 thereof, and the inherent and equitable jurisdiction of this Honourable Court;

- (l) Rules 2.03, 3.02, 37 and 60.11 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended, and section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended; and
- (m) such further and other grounds as counsel may advise and this Honourable Court may permit.

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

1. the affidavit of John Chen sworn March 28, 2009, and the exhibit attached thereto;
2. the Report of RSM Richter Inc. as the proposed Monitor, and the First Report, the Second Report, the Third Report, the Fourth Report and the Fifth Report of RSM Richter Inc., as Monitor; and
3. such further and other evidence as counsel may advise and this Honourable Court may permit.

Dated: March 29, 2009

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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

Court File No. 09-CL- 7960

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

NOTICE OF MOTION

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM) **TUESDAY, THE 31st DAY**
) **OF MARCH, 2009**
JUSTICE PEPALL)

**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 28, 2009 (the "**Chen Affidavit**"), and the Fifth Report (the "**Fifth 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**"), United Steelworkers 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.

EXTENSION OF STAY PERIOD

2. **THIS COURT ORDERS** that the Stay Period as defined in the Initial Order, as extended by Orders of this Court made February 18, 2009, February 27, 2009, March 9, 2009, March 10, 2009 and March 11, 2009, be and is hereby extended until and including April 30, 2009.

ESCROW AGREEMENT

3. **THIS COURT ORDERS** that the escrow agreement dated as of March 19, 2009, entered into by SKD Company and SKD Automotive Group, Limited Partnership, as employer, and Honda, Ford, Chrysler LLC, and General Motors Company ("**GM**") and the Monitor, in the form of the escrow agreement annexed as Appendix A to the Fifth Report (the "**Employee Retention Plan Escrow Agreement**"), be and is 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 Employee Retention Plan Escrow Agreement, to take such steps and actions as are contemplated by the Employee Retention Plan Escrow Agreement, and to execute such directions, agreements, other documents and assurances as are necessary or incidental to give effect thereto.

4. **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 the Employee Retention Plan Escrow Agreement, and be and is hereby directed to execute and deliver the Employee Retention Plan Escrow Agreement.

5. **THIS COURT ORDERS AND DECLARES** that the Monitor shall:

(a) be under no liability or obligation to the Applicants, SKD Company, the Customers, 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”) or the Teamsters Local Union No. 419 (the “Teamsters” and, together with the CAW and USW, the “Unions”, and any one, a “Union”), any member of any Union, or any existing or former employee of SKD Company, on any basis whatsoever as a result of carrying out its responsibilities as the escrow agent under the Employee Retention Plan Escrow Agreement, 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 by virtue of acting as escrow agent under the Employee Retention Plan Escrow Agreement; and

(c) be entitled, in its capacity as escrow agent under the Employee Retention Plan Escrow Agreement, 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.

6. **THIS COURT ORDERS AND DECLARES** that the Customers and GM 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 as a result of such Customer or GM having provided any funding pursuant to the Employee Retention Plan Escrow Agreement, nor shall the Customers or GM, or any of them, be nor be construed to be the employer of any existing or former employee of SKD Company by virtue of their having provided any such funding to permit any of the payments contemplated by the Employee Retention Plan Escrow Agreement to be made by or on behalf of SKD Company.

APPROVAL OF THE ACTIONS OF THE MONITOR

7. **THIS COURT ORDERS** that the Fifth Report, and the actions and activities of the Monitor as reported therein, be and are hereby approved.

IN THE MATTER OF THE COMPANIES' CREDITORS
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Applicants

Court File No. 09-CL- 7960

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

ORDER

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TAB 2

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SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

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

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Applicants

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MAKE OATH AND SAY:

INTRODUCTION

1. I am the President of the Applicant, NMC Canada Inc. ("NMC"), and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated to be on the information and belief of others, in which case I verily believe them to be true.
2. NMC is incorporated under the Ontario *Business Corporations Act*. The Applicant, 2515080 Nova Scotia Company ("2515080"), is an unlimited liability company incorporated under the Nova Scotia *Companies Act*. NMC and 2515080 (collectively, the "Applicants") are each general partners of SKD Company, a general partnership registered under the Ontario *Partnerships Act* ("SKD Company"). The Applicants are holding companies whose only assets and liabilities relate to SKD Company and who carry on business through SKD Company.

3. SKD Company, NMC, and 2515080 (collectively, the "CCAA Parties") are part of a group of affiliated corporations and partnerships carrying on business in Canada, the United States and Mexico (collectively, the "SKD Group").

4. SKD Company is a Tier I supplier of metal stampings and welded assemblies to automotive manufacturers in the North American automotive industry, including Chrysler Canada Inc. and Chrysler LLC (collectively, "Chrysler"), Ford Motor Company ("Ford") and Honda of America Mfg., Inc., Honda Canada Mfg., a division of Honda Canada, Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "Honda", and together with Chrysler and Ford, the "Customers"). The manufacturing operations of SKD Group are conducted by SKD Company in Canada, SKD L.P. ("SKD U.S.") in the United States and SKD de Mexico, S. de R.L. de C.V. ("SKD Mexico") in Mexico.

5. On January 21, 2009, this Honourable Court made an order (the "Initial Order") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") in relation to the Applicants, which Order also extended the stay of proceedings to and granted relief in relation to SKD Company, as if it were an Applicant.

6. The Initial Order, among other things, approved of the Forbearance Agreement, Accommodation Agreement and Access Agreement (each as defined in the Initial Order and attached as exhibits to the affidavit of John Chen sworn January 21, 2009 (the "January Chen Affidavit"), and empowered and directed the CCAA Parties to enter into these agreements.

7. The Initial Order imposed a stay of proceedings extending to and including February 19, 2009 (the "Stay Period"). By Orders of this Honourable Court dated February 18, 2009, February 27, 2009, March 9, 2009, March 10, 2009 and March 11, 2009, the Stay Period was extended to March 31, 2009.

8. This affidavit is being sworn in support of a motion to further extend the Stay Period to April 30, 2009, and to approve the Employee Retention Plan Escrow Agreement described below.

9. The background to this matter is further described in the January Chen Affidavit and my other Affidavits sworn in this proceeding on February 13, 2009, February 26, 2009 and March 11, 2009, respectively, and the Affidavit of Christopher Garrah sworn February 27, 2009.

STATUS OF SALES PROCESS

10. My previous Affidavits filed in this proceeding, and the reports filed by RSM Richter Inc., the Monitor of the Applicants (the "**Monitor**"), have described the progress of the Sales Process (as defined in the Initial Order) conducted by the Monitor pursuant to the terms of the Initial Order.

11. As the Monitor has previously reported to this Honourable Court, pursuant to the Sales Process, two offers were received for certain portions of the business from persons to whom the Customers were not interested in transitioning their business. These offers, accordingly, were not accepted. The Customers were, however, supportive of another purchaser, being the same party that purchased business operations of entities affiliated with SKD Company in the United States and Mexico. As a result, SKD Company commenced negotiations with this prospective purchaser, and continues to work diligently to reach agreement on the sales terms in order to move forward with sales transactions. SKD Company is also engaged in discussions with the Unions which represent certain of SKD Company's employees with regard to payments to SKD Company's hourly workers. SKD Company hopes to finalize the terms of these transactions and seek approval of the related agreements shortly.

APPROVAL OF ESCROW AGREEMENT

12. Pursuant to the terms of the Additional Participations and Allocations Agreement entered between the Customers and SKD and others, the Customers agreed to provide funding, through the purchase of Additional Participations under the Comerica Bank facility, to permit SKD Company to make payments to certain employees pursuant to an employee retention plan established in December 2008 (the "**Employee Retention Plan**"). The Employee Retention Plan is described in paragraph 34 of the January Chen Affidavit, and payments in relation to it were authorized pursuant to Section 7(a) of the Initial Order. To facilitate the administration of the payment of obligations pursuant to the Employee Retention Plan to employees who will not have continuing employment with SKD Company once its operations have closed, an escrow

arrangement has been agreed to, which will be administered by the Monitor. The escrowed funds in relation to the Employee Retention Plan are to be held by the Monitor for disbursement pursuant to an Escrow Agreement dated as of March 19, 2009 entered into by SKD Company, SKD Automotive Group, Limited Partnership, as employer, the Customers, General Motors Corporation ("GM") and the Monitor (the "Employee Retention Plan Escrow Agreement"). I understand that a copy of the Employee Retention Plan Escrow Agreement is to be annexed as Appendix A to the Fifth Report of the Monitor to be filed in connection with this motion.

INTERIM FUNDING AND CASH FLOW PROJECTIONS

13. SKD Company and the Customers have negotiated terms of interim funding for the period to and including April 30, 2009, which will permit SKD Company to carry out an orderly closure or run off and wind-down of the operations of SKD Company and the orderly liquidation of its remaining assets.

14. As a result of the present request for the extension of the Stay Period to April 30, 2009, SKD Company has prepared revised cash flow projections (the "April 30 Cashflow Projections") for the period ending April 30, 2009, a true copy of which is attached to my affidavit as Exhibit "A". The April 30 Cashflow Projections have been prepared based on certain assumptions, including that Comerica Bank will continue to forbear in requiring repayment in full of the indebtedness owing under the Comerica facility through to April 30, 2009, that SKD Company will be able to secure additional advances from Customers, and that Customers will continue to comply with the expedited payments as provided for under the Accommodation Agreement, as amended.

EXTENSION OF THE STAY PERIOD

15. The Applicants are seeking an extension of the Stay Period to April 30, 2009.

16. During this period, it is envisioned that the operations of SKD Company will be discontinued, and that SKD Company will proceed to complete the arrangements for its wind-down and the orderly liquidation of its remaining assets, including pursuant to the Accommodation Agreement (as amended) that has been previously approved of by this Honourable Court.

17. The extension of the Stay Period to April 30, 2009 will preserve and protect the business and assets of SKD Company in the interim period, will provide for a better outcome for creditors, the Customers and other stakeholders than would otherwise be the case and is in the best interests of the stakeholders of the CCAA Parties. I believe that the extension of the stay of proceedings as proposed will permit the CCAA Parties an opportunity to conclude the assets sales described above and related agreements, to honour their obligations under the Accommodation Agreement, as amended, and to take other steps as are appropriate in relation to the orderly wind down of their businesses.

18. The funding provided pursuant to the Employee Retention Plan Escrow Agreement permits SKD Company to honour its obligations to the employees whose continued employment was critical to the ongoing operations of SKD Company during this proceeding.

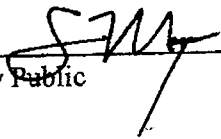
19. The Applicants have been acting in good faith and with due diligence in fulfilling their obligations under the Initial Order and subsequent Orders of this Court.

20. This affidavit is sworn in support of the motion of the Applicants for an order for the relief sought in the Notice of Motion, and for no other or improper purpose.

SWORN BEFORE ME at the)
City of)
in the State of Illinois,)
this 28th day of March, 2009)
)
)
)



John Chen



Notary Public



TAB A

SKD Canada Consolidated USS
Weekly Cash Flow Forecast

	3-Apr	10-Apr	17-Apr	24-Apr	30-Apr	Apr 2009
Receipts:						
Total Receipts	-	-	356	356	356	1,067
Disbursements						
Customer Steel Autodebit/Scrap Rebate	-	-	152	152	152	455
Accounts Payable - Trade	322	154	147	185	203	1,011
Payroll	47	525	271	301	47	1,190
Customer Setoffs	-	-	18	18	18	53
Restructuring Fees	90	138	228	228	228	912
Total Disbursements	458	817	815	884	647	3,621
Net Cash Flow	(458)	(817)	(459)	(528)	(291)	(2,554)
Opening Cash Balance	-	(458)	(1,276)	(1,735)	(2,263)	(2,263)
Closing Cash Balance	(458)	(1,276)	(1,735)	(2,263)	(2,554)	(2,554)

* This budget has been reviewed and agreed upon by the Customers' advisors and as of the date of service, the funding mechanism has not been agreed.

This is Exhibit "A" referred to in the
affidavit of JOHN CHEN
sworn before me, this 28th
day of March 20, 09
A COMMISSIONER FOR TAKING AFFIDAVITS

"OFFICIAL SEAL"
Sean Meyer
Notary Public, State of Illinois
Lake County
My Commission Expires Aug. 10, 2009



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

Court File No: 09-CL-7960

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

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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

Court File No. 09-CL-7960

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

MOTION RECORD

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