

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) THURSDAY, THE 29TH
JUSTICE CAMPBELL) DAY OF APRIL, 2010



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

APPROVAL AND VESTING ORDER

THIS MOTION, made by RSM Richter Inc., in its capacity as the receiver (the "**Receiver**") of the property, assets and undertaking of SKD Company, NMC Canada Inc. and 2515080 Nova Scotia Company (collectively the "**Debtors**"), appointed pursuant to the Order of this Court made June 11, 2009 (the "**Receivership Order**"), for an order approving the sale transaction (the "**Transaction**") contemplated by the agreement of purchase and sale between the Receiver, as vendor, and Boutin Holdings Limited, as purchaser ("**Boutin**"), accepted on April 6, 2010 as assigned by Boutin and assumed by 2240523 Ontario Inc. (the "**Purchaser**") pursuant to an assignment and assumption of agreement of purchase and sale dated as of April 15, 2010 (collectively, the "**Sale Agreement**") and appended to the Second Report of the Receiver dated April 21, 2010 (the "**Second Report**"), and vesting in the Purchaser the Debtors' right, title and interest in and to the property described in the Sale Agreement and listed on Schedule "A" hereto (the "**Purchased Property**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, filed, and on hearing the submissions of counsel for each of the Receiver, the Debtors and their respective directors and officers, Honda of America Mfg. Inc., Honda Manufacturing of Indiana, LLC and Honda Manufacturing of Alabama, LLC (collectively, "**Honda**"), Chrysler Group LLC ("**Chrysler**") and Ford Motor Company ("**Ford**") and collectively with Honda and Chrysler, the "**Customers**"), no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lela Wyner sworn April 21, 2010, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Property to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "B" hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Property shall vest absolutely in the 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 (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order or the initial Order in respect of the Debtors under the *Companies' Creditors Arrangement Act* dated January 21, 2009; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system and (iii) those Claims listed on Schedule "C" hereto (the "**Deleted Encumbrances**"). The items in (i), (ii) and (iii) above are collectively referred to as the "**Encumbrances**". This Court orders that all of the Encumbrances affecting or relating to the Purchased Property be and are hereby expunged and discharged as against the Purchased Property and that each of the Deleted Encumbrances be and are hereby deleted, expunged and vacated from title to the Purchased Property. The terms "Claims", "Deleted Encumbrances" and

“Encumbrances” shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule “D” (the “**Permitted Encumbrances**”).

3. **THIS COURT ORDERS** that, upon the registration (which, for greater certainty, includes electronic registration) in the Land Registry Office for the Land Titles Division of Peel (No. 43) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act* duly executed by the Receiver (or the Receiver’s solicitor in accordance with a written direction and/or authorization from the Receiver), the Land Registrar is hereby directed to enter the Purchaser as the registered owner of the Purchased Property in fee simple, and is hereby directed to delete and expunge from title to the Purchased Property all of the Claims listed in Schedule “C” hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Property shall stand in the place and stead of the Purchased Property, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Property with the same priority as they had with respect to the Purchased Property immediately prior to the sale, as if the Purchased Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, notwithstanding:

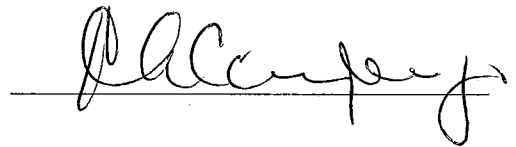
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of one or more of the Debtors;

the vesting of the Purchased Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or

voidable by creditors of the Debtors, nor shall it 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 it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

8. **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.



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

APR 29 2010

PER / PAR: 

Schedule "A" – Purchased Property

All of PINs 14096-0275 (LT) and 14096-0276 (LT), which are municipally known as 38-40 Holtby Avenue, Brampton, Ontario

Schedule "B" – Form of Receiver'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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RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Mr. Justice Campbell of the Ontario Superior Court of Justice (the "**Court**") dated June 11, 2009, RSM Richter Inc. was appointed as the receiver (the "**Receiver**") of the property, assets and undertaking of SKD Company, NMC Canada Inc., and 2515080 Nova Scotia Company (collectively the "**Debtors**").

B. Pursuant to an Order of the Court dated April 29, 2010, the Court approved the agreement of purchase and sale between the Receiver as vendor and Boutin Holdings Limited, as purchaser ("**Boutin**"), accepted on April 6, 2010 as assigned by Boutin and assumed by 2240523 Ontario Inc. (the "**Purchaser**") pursuant to an assignment and assumption of agreement of purchase and sale (collectively, the "**Sale Agreement**") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Property, which vesting is to be effective with respect to the Purchased Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the agreed purchase price for the Purchased Property; (ii) that the conditions to closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the purchase price of \$2,540,000 for the Purchased Property, subject to adjustments as agreed in the Sale Agreement;
2. The conditions to closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at _____ o'clock on _____.

RSM Richter Inc., in its capacity as Receiver of the property, assets and undertaking of SKD Company, NMC Canada Inc. and 2515080 Nova Scotia Company, and not in its personal capacity

Per: _____
Name:
Title:

Schedule "C" – Deleted Encumbrances

1. Charge by Partnership in favour of Comerica Bank registered in the Land Registry Office for the Land Titles Division of Peel (No. 43) as Instrument No. PR774234.
2. Construction Lien in favour of O'Brien Installations Ltd. registered in the Land Registry Office for the Land Titles Division of Peel (No. 43) as Instrument No. PR1584344.
3. Certificate of Action in favour of O'Brien Installations Ltd. registered in the Land Registry Office for the Land Titles Division of Peel (No. 43) as Instrument No. PR1602573.
4. Application General registered in the Land Registry Office for the Land Titles Division of Peel (No. 43) as Instrument No. PR35744 (PIN 14096-0275(LT)).

Schedule "D" – Permitted Encumbrances

With respect to both PINs 14096-0275(LT) and 14096-0276(LT):

1. Those matters referred to in Subsection 44(1) of the *Land Titles Act*, except paragraph 11 and 14, provincial succession duties and escheats or forfeiture to the Crown;
2. The rights of any person who would, but for the *Land Titles Act*, be entitled to the land or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention;
3. Any lease to which the subsection 70(2) of the *Registry Act* applies;
4. By-law VS4231;
5. Site Plan Agreement with the Corporation of the City of Brampton registered as Instrument No. PR338165;
6. Reservations, limitations, provisos and conditions, if any, expressed in any original grant from the Crown or in any comparable grant from a Person other than the Crown; and
7. Each of the items disclosed in the PINs for the Purchased Property as of the date hereof save and except for the Deleted Encumbrances.

With respect to PIN 14096-0275(LT) only:

1. Agreement with the City of Brampton registered as Instrument No. RO1115425.

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Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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