

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

THE HONOURABLE MADAM

JUSTICE MESBUR

) THURSDAY, THE 18TH
)
) DAY OF MAY, 2006

BETWEEN:



GENERAL MOTORS CORPORATION

Applicant

- and -

TIERCON INDUSTRIES INC.

Respondent

ORDER

THIS MOTION made by Royal Bank of Canada ("RBC"), in its capacity as agent (in such capacity, the "Agent") for The Bank of Nova Scotia, National Bank of Canada, Comerica Bank and RBC (collectively, the "Senior Lenders"), for an order, *inter alia*:

- (a) if necessary, abridging the time for service of notice of this motion;
- (b) authorizing and directing Zcifman Partners Inc. (the "Receiver") to distribute to the Agent net proceeds of the sale of certain assets of Tiercon Industries Inc. (the "Auction Assets") sold pursuant to an auction services agreement with Maynards Industries Ltd. made as of October 25, 2005 (the "Auction Agreement") as authorized by the Order of Justice Lederman dated October 31, 2005, and the Order of Justice Hoy dated November 22, 2005;
- (c) approving the reimbursement agreement between the Senior Lenders and the Receiver dated September 27, 2005, as amended by a letter agreement between counsel for the Senior Lenders and the Receiver dated October 25, 2005 (the "Reimbursement Agreement") *nunc pro tunc*; and

MBDOCS_1851424.8

(d) granting such further and other relief as counsel may request and this Honourable Court may permit,

was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the Motion Record, the Eighth Report of the Receiver dated February 20, 2006 and Addendum to the Eighth Report of the Receiver dated March 30, 2006 and on hearing the submissions of counsel for the Agent, counsel for the Receiver and counsel for Galanda.

1. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Order of the Honourable Justice Lederman dated October 31, 2005 (the "Lederman Order").

2. **THIS COURT ORDERS** that the time for service of the notice of motion and motion record in respect of this motion be and it is hereby abridged and that the motion is properly returnable today and further that the requirement for service of the notice of motion and motion record herein upon any other parties, other than those served, is hereby dispensed with and that the service of the notice of motion and the motion record herein is hereby validated in all respects and deemed sufficient for all purposes.

3. **THIS COURT ORDERS** that the Receiver shall ~~notwithstanding anything contained in the order of the Honourable Justice Hoy dated November 22, 2005~~ distribute to the

Senior Lenders, free and clear of all Claims, funds from the Account in accordance with paragraph 11(b) of the Lederman Order.

4. **THIS COURT ORDERS** that the Reimbursement Agreement be and it is hereby approved *nunc pro tunc*.

May 18/06.

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

MAY 18 2006

PER/PAR

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GENERAL MOTORS CORPORATION
Applicant and
TIERCON INDUSTRIES INC.
Respondent

Court File No: 05-CL-5854

May 18/06

May 18/06.
Mr. Macdonald for Senior Counsel
Mr. Moldaver for Landlord
Mrs. Moncur for GMAC
Mr. Carhart for Receiver.

On consent, Receiver to
bring a motion June 2/06
before me (30 min) for an
order re the claims determination
process to be followed in the
Receivership. The process will
include the existing litigation
as between Receiver and Robert
Haas. It is anticipated that
the claims determination process
will be an expedited process, making

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding completed at Toronto
of PLEA/DEPOSE
APR 27 2006
MOTION RECORD
(returnable April 13, 2006)

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Solicitors for Royal Bank of Canada, National
Bank of Canada, Bank of Nova Scotia and
Commerce Bank

use of affidavits for evidence
in chief, with agreed on
statements of fact to the
extent possible.

I agree with the thrust
of Ray G's addressements of
Nov 15 + 22/05 relating to the
interplay between the landlord's
concerns re ^{payment for} repairs, in their
broadest sense, & the lender's
entitlement to the
auction proceeds from the
sale of their secured assets
that were on the leased
premises. I am satisfied
that the reimbursement
agreement & GM's indemnity
agreement, coupled with
the Receiver's obligation to
pursue & obtain indemnification
& reimbursement are
sufficient to protect the

It is anticipated, that subject to instructions, Mr. Manu will produce the GM indemnity Agreement to ~~the~~ ~~our publisher~~ subject to a confidentiality Agreement.

Subject to the terms of this Indemnity, the funds may be paid out as requested to the senior leaders.

Order to go in terms of draft order, as amended, I have signed.

Mexico J.

011/011

McMillanBinchMendelsohn

05/23/2008 15:35 FAX

GENERAL MOTORS CORPORATION
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and

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

ORDER

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