

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM)
JUSTICE PEPALL)
FRIDAY, THE 8TH
DAY OF MAY, 2009

BETWEEN:

GENERAL MOTORS CORPORATION

Plaintiff

- and -

NIAGARA MACHINE PRODUCTS CORPORATION

Defendant



APPROVAL AND VESTING ORDER

THIS MOTION, made by Zeifman Partners Inc. in its capacity as the Court-appointed Receiver and Manager (the "**Receiver**") of the property, assets and undertaking of Niagara Machine Products Corporation (the "**Debtor**"), for an Order, among other things, approving the agreement of purchase and sale dated April 8, 2009 (the "**Sale Agreement**") between the Receiver and Revstone Industries, LLC ("**Revstone**") and the bill of sale (the "**Bill of Sale**") between the Receiver and Revstone Industries Niagara Inc. ("**Revstone Niagara**") substantially in the form attached as Schedule "G" to the Receiver's First Report to the Court dated May 4, 2009 (the "**Report**"), and vesting in Revstone Niagara the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**") and the assets described in the Bill of Sale (the "**HAM Inventory**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, and the submissions of counsel for Revstone and Revstone Niagara, no one appearing for any other person on the service list, although properly served:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and it is hereby abridged, if necessary, that the motion is properly returnable today, that further service thereof be and is hereby dispensed with and that all parties entitled to receive service of the Notice of Motion have been duly served.

2. **THIS COURT ORDERS** that the Report is hereby approved and that the conduct and activities of the Receiver as described in the Report are hereby approved.

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and Bill of Sale be and they are hereby approved and the transactions contemplated therein are commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement and the Bill of Sale by the Receiver be and it is hereby authorized and approved, and the Receiver be and it is hereby authorized and directed to complete the transactions contemplated by the Sale Agreement and Bill of Sale and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transactions contemplated by the Sale Agreement and Bill of Sale and for the conveyance of the Purchased Assets and the HAM Inventory to the Purchaser.

4. **THIS COURT ORDERS** that the executed unredacted copy of the Sale Agreement be and it is hereby sealed until the transaction contemplated by the Sale Agreement is closed as evidenced by the filing of the Receiver's Certificate (as described below).

5. **THIS COURT ORDERS** that the assignment of the Sale Agreement from Revstone to Revstone Niagara be and it is hereby approved.

6. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Receiver's Certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in Revstone Niagara 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 Order of the Honourable Justice Pepall dated December 22, 2008 or otherwise; (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) the Execution Certificate effective April 14, 2009 in favour of the Workplace Safety and Insurance Board.

7. **THIS COURT ORDERS** that, upon the delivery by the Receiver of the executed Bill of Sale to Revstone Niagara, all of the Debtor's right, title and interest in and to the HAM Inventory described in the Bill of Sale shall vest absolutely in Revstone Niagara 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 Order of the Honourable Justice Pepall dated December 22, 2008 or otherwise; (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) the Execution Certificate effective April 14, 2009 in favour of the Workplace Safety and Insurance Board.

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

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

10. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada), the Receiver is authorized and permitted to disclose and transfer to Revstone Niagara all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees provided for in the Sale Agreement. Revstone Niagara shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

11. **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 Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets and the HAM Inventory in Revstone Niagara pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, 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.

12. **THIS COURT ORDERS AND DECLARES** that the transactions contemplated by the Sale Agreement and Bill of Sale are exempt from the application of the *Bulk Sales Act* (Ontario).

13. **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.:

MAY 08 2009

PER / PAR: TV

Schedule A – Form of Receiver’s Certificate

Court File No. CV-08-79415-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

GENERAL MOTORS CORPORATION

Plaintiff

- and -

NIAGARA MACHINE PRODUCTS CORPORATION

Defendant

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Pepall of the Ontario Superior Court of Justice (the "**Court**") dated December 22, 2008, Zeifman Partners Inc. was appointed as the Receiver and Manager (the "**Receiver**") of the property, assets and undertaking of Niagara Machine Products Corporation (the "**Debtor**").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale dated April 19, 2009 (the "**Sale Agreement**") between the Receiver and Revstone Industries, LLC ("**Revstone**"), which Sale Agreement was assigned by Revstone to Revstone Industries Niagara Inc. ("**Revstone Niagara**"), and provided for the vesting in Revstone Niagara of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to Revstone Niagara of a certificate confirming (i) the payment by Revstone Niagara of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale

Agreement have been satisfied or waived by the Receiver and Revstone Niagara; and (iii) the sale 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. Revstone Niagara has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and Revstone Niagara;
3. the transaction contemplated by the Sale Agreement has been completed to the satisfaction of the Receiver; and
4. this Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**ZEIFMAN PARTNERS INC., in its capacity
as Court-appointed Receiver and Manager of
the property, assets and undertaking of
Niagara Machine Products Corporation, with
no personal or corporate liability.**

Per: _____
Name:
Title:

GENERAL MOTORS CORPORATION

- and -

NIAGARA MACHINE PRODUCTS CORPORATION

Applicant

Respondent

Court File No. CV-08-7915-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

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