

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

B E T W E E N:

GENERAL MOTORS CORPORATION

Applicant

- and -

ORCHID INTERNATIONAL ONTARIO DIVISION INC.

Respondent

**MOTION RECORD
(Motion for Sale Approval and Vesting Order
returnable March 2, 2010)**

February 19, 2010

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MOTION RECORD INDEX

<u>TAB</u>	<u>DESCRIPTION</u>	<u>PAGE NO.</u>
1.	Notice of Motion	1
2.	First Report to the Court of the Receiver	13
A.	Schedule A: Receivership Order dated December 24, 2009	27
B.	Schedule B: Lease agreement dated as of March 2, 2007	43
C.	Schedule C: Subordinated Participation Agreement dated as of December 23, 2009	70
D.	Schedule D: Affidavit of Glenn Chapnick sworn December 23, 2009	79
E.	Schedule E: Notice of the Receiver dated January 4, 2010	87
F.	Schedule F: Advertisement placed in The Globe & Mail newspaper on January 5, 2010	96

G.	Schedule G: Confidential Information Memorandum	97
H.	Schedule H: Agreement of Purchase and Sale executed on February 16, 2010	116
I.	Schedule I: Receiver's Interim Statement of Receipts and Disbursements for the period from December 24, 2009 to February 18, 2010	140
3.	Draft Order	141

Court File No. CV-09-8522-00CL

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ORCHID INTERNATIONAL ONTARIO DIVISION INC.

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**NOTICE OF MOTION
(returnable March 2, 2010)**

Zeifman Partners Inc. in its capacity as Court-appointed receiver and manager (the “Receiver”) of the undertaking, property and assets (collectively, the “Assets”) of Orchid International Ontario Division Inc. (“Orchid”) will make a motion to a judge of the Commercial List on March 2, 2010, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR orders substantially in the form set out in Tab 3 to the motion record herein, including:

1. Validating service of this Notice of Motion, and the Motion Record herein, and dispensing with any further or other service, such that the motion is properly returnable before the Court;

2. Approving the sale of Fuel Strap Assets (defined below) of Orchid Maple Stamping, a division of Cosma International Group of Magna International Inc. (“Maple”), approving the Sale Agreement (defined below) and vesting title in and to the Fuel Strap Assets to Maple, free and clear of all claims;
3. Approving the Receiver’s conduct and activities to date; and
4. Such further and other relief as this Honourable court may deem just.

THE GROUNDS FOR THE MOTION ARE:

5. The Receiver was appointed by an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice dated December 24, 2009 (the “Receivership Order”).
6. Subject to the terms of the Receivership Order, the Receiver was empowered, authorized and directed to take possession and control of the Assets and to conduct, manage, administer and operate the business of Orchid and to sell the Assets out of the ordinary course of business with the approval of this Honourable Court.

Background

7. Orchid was formerly known as R. Reininger & Son Limited (“Reininger”). Orchid International (“International”) purchased the Reininger business in March 2007.
8. Orchid’s business had consisted of three primary divisions:
 - (a) the manufacture of straps that secure fuel tanks to the undercarriage of motor vehicles (the “Fuel Strap Business”);

- (b) the manufacture of high volume metal components for electric motors, transfers, lighting products and automotive products requiring lamination stampings and die casting (the “Stamping Business”); and
 - (c) the manufacture of welded seat backs for seats used in motor vehicles (the “Seat Back Business”).
- 9. Orchid operates from 1240 Twinney Road, Newmarket, Ontario (the “Premises”) pursuant to a lease agreement, dated as of March 2, 2007, originally between Reininger, as tenant, and Florence and Rosa Reininger Holdings Limited (“Holdings”), as landlord (the “Lease”). Rick Reininger controls Holdings. Mr. Reininger also controls Reinrichmar Holdings Limited (“Reinrichmar”), a former shareholder and present secured creditor of Orchid.
- 10. In order to affect an orderly wind-down of the business of Orchid, General Motors Corporation (“GM”) purchased the Debt and Security (the “Loans”) from FCC, LLC, doing business as First Capital (“First Capital”), pursuant to an Assignment and Assumption Agreement dated as of December 22, 2009 (the “Assignment Agreement”).
- 11. GM is the first-ranking secured creditor with respect to all of the property, assets and undertaking of Orchid.
- 12. As a portion of the purchase consideration for the Loans from First Capital, GM agreed to issue to First Capital an undivided, last-out, subordinated interest in the Loans pursuant to a Subordinated Participation Agreement dated as of December 23, 2009 (the “Subordinated Participation Agreement”).

13. Reinrichmar is a secured creditor of Orchid pursuant to the purchase of Reininger by International. First Capital, Orchid, and Reinrichmar entered into a debt and subordination agreement on March 2, 2007 (the "Subordination Agreement"), wherein Reinrichmar agreed that all amounts owing to First Capital by Orchid are at all times prior and superior to a lien Reinrichmar may have against the collateral of Orchid. The Subordination Agreement was assigned to GM as part of the transaction to purchase the Loans.
14. Other secured creditors of Orchid include Venture Steel Inc., Export Development Canada ("EDC") and others who have produced financing statements under the *Personal Property Securities Act* ("PPSA"). All those with PPSA registrations will be served with the within motion record.

Funding of the Receivership

15. Paragraph 20 of the Receivership Order provided that the Receiver with the authority to borrow up to \$5 million and provided for a fixed and specific first charge against the assets of Orchid with respect to such borrowings. Pursuant to Paragraph 4 of the Subordinated Participation Agreement, any loans or advances made by GM to the Receiver during the term of the receivership to cover operating losses shall rank in third place, behind Orchid's indebtedness to GM in first place and First Capital in second place.
16. As at the date of this report, the Receiver has issued Receiver's borrowing certificates to GM in the amount of \$113,387 CAD and \$949,244 US with respect to direct funding for operating losses.

Activities of the Receiver

17. The Receiver has overseen the day-to-day management of Orchid's business since the date of its appointment.
18. The Receiver also sought to stabilize operations and undertook certain conservatory and protective measures.
19. The post receivership production plan was primarily in respect to the Fuel Strap Business. Orchid's Fuel Strap Business consists of purchase contracts with GM and Automotive Component Holdings ("ACH").
20. On December 29, 2009, given the limited production at Orchid and pursuant to paragraph 13 of the Receivership Order, the Receiver terminated on behalf of Orchid approximately seventy-six employees. Orchid currently has approximately sixty employees.
21. The Receiver is continuing to operate Orchid by, among other things:
 - (a) continuing production with respect to GM and ACH regular production requirements as well as scheduled bank builds;
 - (b) working with Orchid management and GM with respect to the launch of various new tooling and parts programs relating to the Fuel Strap Business;
 - (c) completing the sale of remaining inventories at Orchid to non-GM customers in the process of exiting the Premises; and
 - (d) collecting remaining accounts receivable.

Sales Process

22. Pursuant to an agreement between GM and Orchid, the Receiver conducted a marketing and sales process with respect to certain assets of Orchid relating to the Fuel Strap Business (the "Fuel Strap Assets").
23. The Receiver with assistance from International prepared a Confidential Information Memorandum ("CIM") for distribution to qualified parties.
24. Interested parties were required to execute confidentiality agreements as well as provide evidence of available funding in the amount of approximately \$3 million as conditions to the provision of the CIM. The Receiver distributed approximately twelve copies of the CIM.
25. The Receiver worked with Orchid management with respect to the coordination of scheduled tours and inspections of the Fuel Strap Assets. Approximately six qualified parties attended the Orchid premises to tour and inspect Fuel Strap Assets.
26. The Receiver provided customer contact information with respect to GM and ACH to all qualified parties in order to facilitate discussions regarding the potential to procure customer purchase order contracts.
27. Between February 4, 2010, and February 5, 2010, the Receiver received three offers to purchase the Fuel Strap Assets. All three offers were unsatisfactory in quantum. In addition, two of the three offers received failed to comply with the terms and conditions of the sale as was reflected in the CIM.

28. On February 12, 2010, the Receiver received two revised offers. The Maple offer is significantly superior to its competitor.
29. The Receiver and Maple engaged in a number of discussions and negotiations and, as a result, an Agreement of Purchase and Sale was executed by Maple and the Receiver on February 16, 2010 (the "Sale Agreement").
30. Maple's repair obligation in connection with the removal of the Fuel Strap Assets from the Premises is consistent with Orchid's obligations under the terms of the Lease.

Export Development Canada

31. Upon the appointment of the Receiver, EDC held security against certain tooling financed by EDC and manufactured by a tool shop in accordance with Orchid purchase orders on behalf of various customers.
32. Over the course of the Receivership, certain tooling subject to EDC security which was contracted by Orchid to be built on behalf of GM was required by GM to be relocated to its resourced supplier. Accordingly, GM paid the Receiver the purchase order price for the particular tooling and the Receiver then paid EDC in satisfaction of amounts owing to EDC with respect to the particular tooling. After receiving payment, EDC provided GM with Receipt, Discharge, and Release forms with respect thereto.
33. Orchid currently has amounts owing to EDC with respect to the manufacture of certain tooling on behalf of Eberspaecher North America Inc. ("ENA"). While the tooling is in the possession of the Receiver, the Receiver has determined that there is no equity

in the tooling for the Receiver and has therefore left all negotiations relating to the completion of the contacts to EDC and ENA.

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

1. The First Report of the Receiver; and
2. Such further and other material as counsel may submit and this Honourable Court may permit.

February 19, 2010

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General Motors Corporation
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Court File No: CV-09-8522-00CL

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Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE MARCH 2, 2010)**

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