

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**S U P E R I O R C O U R T  
(Commercial Division)**

**No.:**

**IN THE MATTER OF THE BANKRUPTCY  
OF:**

**3476600 CANADA INC., a legal person duly  
constituted having its domicile at 161 Sterling  
Avenue, in the city of Lasalle, district of Montréal,  
province of Québec, H8R 3P3**

**Debtor**

**-and-**

**HSBC BANK CANADA, a legal person having a  
place of business at 2001 McGill College, in the city  
and district of Montréal, province of Quebec, H3A  
1G1**

**Petitioner**

**-and-**

**RSM RICHTER INC., a legal person having a  
place of business at 2 Place Alexis Nihon, suite  
2200, in the city and district of Montreal, province  
of Quebec H3Z 3C2**

**Monitor/Trustee**

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**PETITION IN BANKRUPTCY  
(Sections 42 and ss. of the *Bankruptcy and Insolvency Act*)**

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**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN  
BANKRUPTCY DIVISION FOR AND IN THE DISTRICT OF MONTRÉAL, OR TO  
THE REGISTRAR OF THIS HONOURABLE COURT, PETITIONER, HSBC BANK  
CANADA, RESPECTFULLY SUBMITS THAT:**

**1. INTRODUCTION**

- 1. The Petitioner HSBC Bank Canada ("Petitioner") is hereby requesting this Court to issue a receiving order against the assets of 3476600 Canada Inc. ("Debtor") given that Debtor is insolvent and is unable to meet its liabilities has they become due and has admitted same.**

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2. Concurrently to the presentation of this Petition in Bankruptcy, Petitioner is also seeking the appointment of a receiver to act as receiver of the assets of Patella Manufacturing Inc. ("Patella").

2. **RELATIONSHIP BETWEEN THE PARTIES**

3. Petitioner is a Canadian chartered bank duly constituted and having a place of business at 2001 McGill College Avenue, in the city and district of Montréal, province of Quebec, H4N 3K1.
4. In the normal course of business, Petitioner had business dealings with Patella and Debtor.
5. Debtor is incorporated under the laws of Canada and has the same head office and domicile then Patella.
6. Debtor is controlling directly or indirectly Patella, as well as other related companies incorporated (together with Debtor and Patella, the "Patella Group"). An organization chart of the Patella Group is communicated herewith as Exhibit R-1.
7. On April 30, 2010, Patella entered into a facility letter (the "Credit Facility"), with Petitioner providing for various credit facilities, the whole as appears from a copy of the Credit Facility communicated herewith as Exhibit R-2.
8. As at October 28, 2010, Patella is indebted under the Credit Facility in an amount of at least CDNS\$6,128,088.18 (the "Indebtedness").
9. The Indebtedness is guaranteed by, *inter alia*, a corporate guarantee for an unlimited amount from Debtor (the "Guarantee"), the whole as appears from a copy of said Guarantee communicated herewith as Exhibit R-3.

3. **RELEVANT BACKGROUND**

10. During the last 2 years, Patella did not make any profit and incurred a loss of approximately \$6.5 million in 2009 and the expected loss for 2010 is \$5.5 million.
11. Given that Petitioner was dissatisfied with Patella's financial and security position, it requested a meeting with them.
12. On October 12, 2010, a meeting took place amongst the Patella Group (represented by Mr. Perlinger), Petitioner (represented by Mr. Brian Petit and Mr. Stephen Wayland) and RSM Richter Inc. in its capacity as consultant to Petitioner (represented by Philip Manel) as well as the Patella Group and Petitioner legal advisors.
13. During said meeting, the Patella Group advised Petitioner of the following:
  - (i) Patella does not have the money required to provide for the payroll of October 14 and will be forced to lay off the employees if they cannot meet the payroll;

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- (ii) the shareholders and principal directors of the Patella Group do not intend to invest any further money in the Patella Group;
  - (iii) Patella will be forced to terminate its operations if it does not find new money and for the time being cannot foresee any such funds as forthcoming;
  - (iv) Patella and the Debtor are insolvent; and
  - (v) Patella and the Debtor cannot meet their obligations as they become due.
14. Given the foregoing, the situation became unacceptable to Petitioner and it immediately served by hand to Patella on October 12, 2010 a Notice of Intention to Enforce its Securities pursuant to section 244 BIA (the "Notice"), the whole as appears from copies of said Notice communicated herewith as **Exhibit R-4**.
15. On the same day, Petitioner also gave by hand to Patella a demand letter asking for the repayment of the Indebtedness given *inter alia* the following defaults:
- (i) the financial ratios have not been met for quite some time;
  - (ii) Patella is unable to meet its obligations as they become due;
  - (iii) Patella has exceeded its authorized advance limit; and
  - (iv) Patella has admitted its insolvency.

the whole as more fully appears from a copy of the letter dated October 12, 2010 communicated herewith as **Exhibit R-5**.

16. On October 13, Patella (i) acknowledged that the amount mentioned in the Notice are due and payable and that it cannot pay the amount due, (ii) waived any delay of repayment of the Indebtedness and (iii) consented to the immediate enforcement by the Petitioner of its securities, the whole as appears from **Exhibit R-5**.
17. On the same day, Petitioner served upon Debtor a demand of immediate payment for the Indebtedness (the "**Demand Letter**"), the whole as more fully appears from copy of said Demand Letter communicated herewith as **Exhibit R-6**.

#### 4. **ACTS OF BANKRUPTCY**

18. As of the date hereof, Debtor is, as a guarantor of Patella pursuant to the Guarantee, truly and justly indebted to Petitioner in an amount of no less than the Indebtedness (excluding any professional fees) (the "**Indebtedness**"), the whole as more fully appears from a Statement of Account communicated herewith as **Exhibit R-7**.
19. Debtor has refused or neglected to pay the Indebtedness to Petitioner as requested pursuant to the Demand Letter and will be unable to pay Petitioner the full amount of the Indebtedness.

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20. Debtor failed to meet its liabilities generally as they become due and hence committed an act of bankruptcy.
21. Debtor admitted that it is insolvent and that it committed an act of bankruptcy.
22. Petitioner proposes that RSM Richter Inc., licensed trustee of the District of Montréal, through its representative, Mr. Philip Manel, CA, CPA, who has consented to act as trustee and is acceptable to Petitioner, be appointed trustee to the estate of Debtor.
23. The present motion is well-founded in facts and in law.

**WHEREFORE PETITIONER REQUESTS THAT THIS HONOURABLE COURT:**

- [1] **GRANT** the present Petition in Bankruptcy;
- [2] **ISSUE** a receiving order against the assets of 3476600 Canada Inc.
- [3] **APPOINT** RSM Richter Inc., through its representative, Mr. Philip Manel, CA, CPA, trustee in bankruptcy to the estate of 3476600 Canada Inc.

**THE WHOLE**, with costs.

MONTREAL, November 2, 2010

  
\_\_\_\_\_  
**DAVIES WARD PHILLIPS & VINEBERG LLP**  
Attorneys for Petitioner, **HSBC BANK CANADA**

**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT  
(Commercial Division)**

**No.:**

**IN THE MATTER OF THE BANKRUPTCY  
OF:**

**3476600 CANADA INC.**

**Debtor**

**-and-**

**HSBC BANK CANADA**

**Petitioner**

**-and-**

**RSM RICHTER INC.**

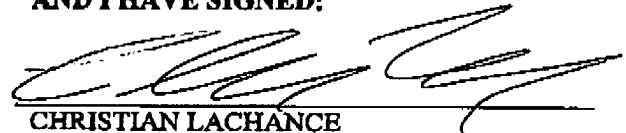
**Monitor/Trustee**

**ATTESTATION OF AUTHENTICITY**

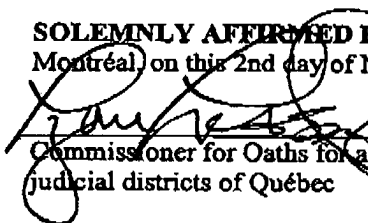

I, the undersigned, Christian Lachance, attorney, practising my profession with the law firm of Davies Ward Phillips & Vineberg LLP, having its principal place of business at 1501 McGill College Avenue, 25<sup>th</sup> Floor, in the City and District of Montréal, Province of Québec, solemnly affirm that:

1. On November 2, 2010, at 2:23 p.m., Davies Ward Phillips & Vineberg LLP received by email an Affidavit signed by Stephen Wayland dated November 2, 2010, a copy of such Affidavit is attached to this Attestation of Authenticity;
2. All the facts alleged herein are true.

**AND I HAVE SIGNED:**

  
**CHRISTIAN LACHANCE**

**SOLEMNLY AFFIRMED BEFORE ME, at  
Montréal on this 2nd day of November 2010**

  
**Commissioner for Oaths for all  
judicial districts of Québec**  


**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**S U P E R I O R C O U R T  
(Commercial Division)**

**No.:**

**IN THE MATTER OF THE BANKRUPTCY  
OF:**

**3476600 CANADA INC.**

**Debtor**

**-and-**

**HSBC BANK CANADA**

**Petitioner**

**-and-**

**RSM RICHTER INC.**

**Monitor/Trustee**

**AFFIDAVIT OF STEPHEN WAYLAND**

I, the undersigned, STEPHEN WAYLAND, Assistant Vice-President, Special Credit, exercising my occupation at, 70 York Street, 3<sup>rd</sup> Floor, Toronto, Ontario, M5J 1S9, solemnly declare as follows:

1. I am an Assistant Vice-President, Special Credit of the Petitioner, HSBC Bank Canada;
2. All the facts alleged in the attached *Petition in Bankruptcy* are true.

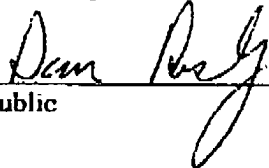
AND I HAVE SIGNED:



STEPHEN WAYLAND

SOLEMNLY DECLARED BEFORE ME,  
in the City of Toronto, Province of Ontario  
on this 2<sup>nd</sup> day of November, 2010

Notary Public



**CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

**SUPERIOR COURT  
(Commercial Division)**

**No.:**

**IN THE MATTER OF THE BANKRUPTCY  
OF:**

**3476600 CANADA INC.**

**Debtor**

**-and-**

**HSBC BANK CANADA**

**Petitioner**

**-and-**

**RSM RICHTER INC.**

**Monitor/Trustee**

**NOTICE OF PRESENTATION**

**TO: Me Luc Béliveau  
FASKEN MARTINEAU DUMOULIN LLP  
800 Squatre Victoria, Suite 3700  
Montréal QC H4Z 1E9  
Attorneys for Debtor**

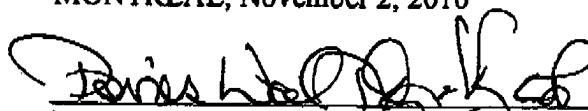
**AND TO: Mr. Philip Manel  
RSM Richter Inc.  
2 Place Alexis Nihon, suite 2200  
Montréal QC H3Z 3C2  
Trustee**

**AND TO: Superintendent  
5 Place Ville Marie, 8th Floor  
Montréal QC H3B 2G2**

**TAKE NOTICE that the attached *Petition in Bankruptcy* shall be presented before one of the Honourable Judge of the Superior Court for the District of Montréal, at the Montréal Courthouse located at 1 Notre-Dame Street East, in the City of Montréal, Province of Québec, in room 16.10, on November \_\_\_\_, 2010 at 9:00 a.m., or so soon thereafter as counsel can be heard.**

**DO GOVERN YOURSELVES ACCORDING.**

**MONTRÉAL, November 2, 2010**



**DAVIES WARD PHILLIPS & VINEBERG LLP  
Attorneys for the Petitioner HSBC Bank Canada**

No.  
**S U P E R I O R C O U R T**  
 (Commercial Division)  
 District of Montréal

**IN THE MATTER OF THE BANKRUPTCY  
 OF**

**3475500 CANADA INC.**

Debtor

and

**HSBC BANK CANADA**

Petitioner

and

**RSM RICHTER INC.**

Trustee

**PETITION IN BANKRUPTCY, AFFIDAVIT  
 AND NOTICE OF PRESENTATION**

**ORIGINAL**

Attorneys for Petitioner  
 Per: Me Denis Ferland  
       Me Christian Lachance  
 Dir 514 841 6423  
 O/F 233566



**DAVIES WARD PHILLIPS & VINEBERG LLP**

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 26<sup>th</sup> Floor  
 Montréal Canada H3A 3N9  
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