

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T

No. 500-11-039364-100

IN THE MATTER OF THE RECEIVERSHIP OF:

MULTINA INC.

Debtor /Respondent

-and-

ROYAL BANK OF CANADA

-and-

ROYNAT INC.

Petitioners

-and-

RSM RICHTER INC.

Receiver

-and-

THE REGISTRAR OF THE REGISTER OF
PERSONAL AND MOVABLE REAL RIGHTS

Mis-en-cause

**MOTION SEEKING THE AUTHORIZATION TO SELL
PROPERTY OF THE DEBTOR AND THE ISSUANCE OF A
VESTING ORDER**

(Section 243 of the *Bankruptcy and Insolvency Act* (“BIA”))

THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING :

I. INTRODUCTION

1. By this *Motion Seeking the Authorization to Sell Property of the Debtor and the issuance of a Vesting Order* (the “**Motion**”), the Petitioners, Royal Bank of Canada and Roynat Inc. (collectively the “**Petitioners**”) are respectfully asking this Court, *inter alia*, to (i)

approve the sale of Multina Inc.'s (the "**Debtor**") assets more fully detailed below and (ii) issue the Vesting Order sought herein.

II. FACTUAL BACKGROUND THE DEBTOR

2. The Debtor is a privately-held specialized manufacturer primarily serving customers in the transportation industry with roots tracing back to 1963.
3. The Debtor focuses on seating for railway cars, public transit and recreational vehicles.
4. The Debtor also provides structural elements for buses as well as the frames in the transport, aerospace and medical sectors.
5. The services offered by the Debtor range from simple assembly of pre-designed and pre-manufactured parts, to an integrated design, production and assembly.
6. The Debtor serves numerous multinational organizations. It also used to employ over 600 people (more than 500 in Québec) and had a total of five production plants in North America (including through its subsidiaries), namely:
 - (i) a 121,000 square feet facility located in the city of Drummondville which serves as the headquarters of the Debtor's operations where the top management is based (the "**Drummondville Facility**");
 - (ii) a 102,000 square feet facility located in the city of Saint-Nicéphore;
 - (iii) a 91,000 square feet facility located in the city of Sainte-Clotilde (the "**Ste-Clotilde Facility**");
 - (iv) a 75,000 square feet facility located in the city of Plattsburgh in upstate New York; and
 - (v) a 30,000 square feet facility located in the city of Tultitlan, a municipality that is part of the Greater Mexico City urban area.

III. THE RELATIONSHIP BETWEEN THE DEBTORS AND THE PETITIONERS

(i) Royal Bank of Canada

7. Petitioner Royal Bank of Canada ("**RBC**") is a Canadian chartered bank duly constituted and having a branch at 1 Place Ville-Marie, 9th Floor, West Tower, in the City of Montréal, Province of Québec, H3C 3A9.
8. In the normal course of business, RBC had business dealings with the Debtor. RBC is the principal banker of the Debtor and is the first ranking secured creditor on the receivables and the inventory of the Debtor.

9. The indebtedness of the Debtor towards RBC is secured by various hypothecs, the whole as appears from a copy of said hypothecs communicated herewith *en liasse* as **Exhibit R-1**.
10. On July 16, 2010, RBC served upon the Debtor its *Notice of Intention to Enforce a Security* pursuant to Section 244 *BIA*, the whole as appears from a copy of said notice communicated herewith as **Exhibit R-2**.
11. At that time, the indebtedness of the Debtor towards RBC was of at least CDN\$8,342,241.78 and USD\$5,504,722.00
12. On the same day, the Debtor acknowledged that it could not pay the amounts due, waived any delay of repayment and consented to the immediate enforcement by RBC of its securities, the whole as appears from Exhibit R-2.

(ii) Roynat

13. Petitioner Roynat Inc. ("**Roynat**") is an institutional lender having a place of business at 1002 Sherbrooke Street West, Suite 1105, in the City of Montréal, Province of Québec, H3A 3L6.
14. In the normal course of business, Roynat had business dealings with the Debtor. Roynat is the second most significant lender of the Debtor and is the first ranking secured creditor on the equipment of the Debtor and the second ranking secured creditors on the receivables and the inventory.
15. The indebtedness of the Debtor towards Roynat is secured by various hypothecs, the whole as appears from a copy of said hypothecs communicated herewith *en liasse* as **Exhibit R-3**.
16. On July 19, 2010, Roynat served upon the Debtor its *Notice of Intention to Enforce a Security* pursuant to Section 244 *BIA*, the whole as appears from a copy of said notice communicated herewith as **Exhibit R-4**.
17. At that time, the indebtedness of the Debtor towards Roynat was of at least CDN\$7,125,400.00.
18. The Debtor acknowledged that it could not pay the amounts due to Roynat, waived any delay of repayment and consented to the immediate enforcement by Roynat of its securities, the whole as appears from Exhibit R-4.

IV. THE DEBTOR RESTRUCTURING EFFORTS & THE SALE PROCESS

19. In 2007 and 2008, the Debtor suffered important financial losses.
20. In the fall of 2008, the Debtor began the restructuring of its operations and finances based on the following guiding principles:

- (i) ceasing the production of contracts for integration of railway car interiors;
 - (ii) implementation of continuous improvement projects;
 - (iii) material cost reduction initiatives;
 - (iv) productivity improvement measures; and
 - (v) focus on profitability.
21. In April 2009, employees of the Canadian plants accepted a one-year 10% reduction in salary. This reduction was eliminated on March 29, 2010.
22. Despite the above-mentioned restructuring efforts, in March 2010, the Debtor embarked on a divestiture process and retained the services of PricewaterhouseCoopers Corporate Finance Inc. (“PWC”) as its exclusive financial advisor to initiate and execute a formal process to seek potential financial or strategic purchasers.
23. In April 2010, PWC communicated with over sixty (60) strategic investors having industry involvement and/or knowledge, by sending a document describing the investment opportunity. PWC also communicated with over fifteen (15) financial investors.
24. PWC then established a data room and a number of parties (approximately 18) signed confidentiality agreements with a view to obtaining access to the information therein.
25. The timeline established by the Debtor and PWC was to receive letters of interest by May 14, 2010.
26. By May 14, 2010, PWC received five (5) letters of interest for the assets of the Debtor.
27. So as to allow the interested parties to make offers which would be acceptable to the Debtor and its secured lenders, PWC extended the delay to make offers to June 4, 2010 and provided the interested parties with the conditions under which the Debtor would be ready to consider offers.
28. On June 4, 2010, PWC received three (3) offers.
29. Since then, the Debtor, with the help of PWC and its legal counsel, tried to improve the offers.

V. PROCEDURAL BACKGROUND

30. On July 23, 2010, the Petitioners filed a *Motion Seeking the Appointment of a Receiver, the Authorization to Sell Property of the Debtor and a Vesting Order* which was granted according to its conclusions (the “**July 23 Order**”), as more fully appears from this Court’s record.
31. In the July 23 Order, the Court *inter alia*:

- a) appointed RSM Richter Inc., through its representative, Yves Vincent, to act as receiver (“**Receiver**”) to all the assets of the Debtor (the “**Assets**”), pursuant to Section 243 *BIA*; and
- b) approved and authorized the sale of the of the Ste-Clotilde Facility as well as the movable assets located in said Facility.

the whole, as more appears from the July 23 Order.

32. On the same day, the Debtor filed a *Notice of Intention to Make a Proposal* pursuant to Section 50.4(1) *BIA*.

VI. AUTHORIZATION TO SELL THE ASSETS

33. On July 21, 2010, the Debtor accepted from 9107-9483 Quebec Inc. (“**9107**” or the “**Purchaser**”) an offer to purchase certain assets (the “**Offer**”). The parties do not wish to have the content of the transaction publicized before closing and, accordingly, a copy of the Offer will be communicated at the hearing herein under seal as **Exhibit R-5** subject to the Court's permission and appropriate order.
34. In the Offer, 9107 seeks to acquire, *inter alia*, the following assets:
 - (i) certain of the inventory located at the Drummondville Facility;
 - (ii) most of the equipment and movable located at the Drummondville Facility;
 - (iii) all of the incorporeal assets related to the Drummondville Facility; and
 - (iv) a copy of the accounting records,the whole as is more fully described in the Offer. All of the assets that 9107 seeks to purchase through the Offer will be defined hereinafter as the “**Purchased Assets**”.
35. The Offer provides that the closing of the transaction contemplated shall be no later than August 6, 2010 (the “**Transaction**”).
36. The Transaction is conditional upon, *inter alia*:
 - a) the issuance of an order by this Court vesting all of the Debtor's right, title and interest in and to the Purchased Assets free and clear of any security, charge or other restriction;
 - b) the approval by this Court of the Transaction; and
 - c) the execution of a lease by 9107 on terms satisfactory to the latter, for premises located in the Drummondville Facility (the “**Lease**”).
37. 9107 completed its due diligence.

38. Time is of the essence to complete the Transaction so as to maximize the value of the Purchased Assets.
39. Given the foregoing, the Petitioners seek the provisional execution notwithstanding appeal of the order sought herein.
40. Considering the urgency of the situation, the Petitioners respectfully submit that the notices given for this Motion are proper and sufficient.
41. The Transaction is the best transaction that could possibly be obtained for the Purchased Assets in the present circumstances at this time. Indeed, there is a greater value in the Transaction than through a liquidation or auction process.
42. The exercise by RBC or Roynat of their hypothecary rights over the Purchased Assets pursuant to the *Civil Code of Québec* would not provide for a better result.
43. The Transaction was the culmination of months of effort by the Debtor through PWC acting as consultant where over 75 potential financial or strategic purchasers were canvassed in a professional process (the “**Sale Process**”).
44. There remains a balance of indebtedness due by the Debtor to RBC and Roynat far exceeding the sale price of the Purchased Assets.
45. Following completion of the Sale Process, and after consultation with RBC and Roynat, it is now clear that the Transaction represents the highest purchase price that could possibly be obtained for the Purchased Assets and hence the Transaction is in the best interest of the Debtor's stakeholders.
46. The Debtor consents to the Transaction and agrees that the Transaction represents the highest purchase price that could possibly be obtained for the Purchased Assets.
47. Given the foregoing, it is appropriate and indicated that the Receiver be authorized to, amongst other:
 - a) accept and consent to, as receiver to the Assets of the Debtor, an asset purchase agreement by and between the Receiver and 9107 in accordance with the terms and conditions of the Offer (the “**APA**”).
 - b) perform all acts, sign all documents, including the APA and any other related or ancillary documents (including but not limited to a receipt and acquittance for the purchase price when paid), and take any necessary actions to execute any disposition, transaction or engagement stipulated in the APA or any related document, and further execute any agreement, contract, deed or any other document ancillary or related to the APA, which could be required or useful to give full and complete effect thereto;
 - c) complete the Transaction, as receiver to the Assets of the Debtor, and to deliver the Purchased Assets free and clear of any security, charge or other restriction; and

- d) collect the proceeds of the Transaction and distribute said proceeds to the secured creditors in accordance with their securities and the agreements between them.

48. The present motion is well-founded both in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

- [1] **GRANT** the present *Motion Seeking the Authorization to Sell Property of the Debtor and a Vesting Order* (the “**Motion**”);
- [2] **DECLARE** sufficient the service and notice of the Motion and extend the delays of service as required;
- [3] **PERMIT** service of the judgment to be rendered on the Motion at any time and place and by any means whatsoever;
- [4] **DECLARE** that all capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Motion;
- [5] **GRANT** to RSM Richter Inc. (the “**Receiver**”) the following powers as Receiver:
 - a) accept and consent to an asset purchase agreement (the “**APA**”) by and between the Receiver, as seller, and 9107-9483 Quebec Inc. or a company designated by the latter (the “**Purchaser**”), as purchaser, in accordance with the terms and conditions of the offer to purchase communicated in support of the Motion as Exhibit R-5 (the “**Offer**”), subject to any modifications agreed to between the parties which do not substantially affect the value of the transaction contemplated by the Offer (the “**Transaction**”);
 - b) perform all acts, sign all documents, including the APA, and any other related or ancillary documents (including but not limited to a receipt and acquittance for the purchase price when paid), and take any necessary dispositions to execute any dispositions, transactions or engagements stipulated in the Offer or any related documents, and further execute any agreements, contract, deed or any other document ancillary or related to the Offer or the APA, which could be required or useful to give full and complete effect thereto;
 - c) complete the Transaction and to deliver the assets sold pursuant to the Transaction and more fully detailed in the Offer (Exhibit R-5) (the “**Purchased Assets**”) to the Purchaser free and clear of any security, charge or other restriction; and
 - d) collect the proceeds of the Transaction and distribute said proceeds to the secured creditors in accordance with their securities and the agreements between them.
- [6] **APPROVE** and **AUTHORIZE** the sale by the Receiver to the Purchaser of the Purchased Assets, pursuant to and in accordance with the terms and conditions of the Offer;

- [7] **DECLARE** that the Transaction is valid, opposable and enforceable;
- [8] **AUTHORIZE** and **ORDER** the sale of the Purchased Assets to the Purchaser on the terms and conditions of the Offer, or as the parties may agree to, including the consummation of all transactions contemplated by the Offer and each of its terms and conditions;
- [9] **ORDER** and **DECLARE** that upon closing of the Transaction, the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all rights, interests, prior claims, hypothecs, security interests, trusts, deemed trusts (whether contractual, statutory or otherwise), pledges, executions, rights of first refusal or other pre-emptive rights in favour of third parties, mortgage, liens, assignments, judgments, executions, writs of seizure and sale, options, adverse claims, levies, charges, obligations, liabilities (direct, indirect, absolute or contingent), or other claims or encumbrances, whether or not they have been attached or been perfected, registered or filed and whether secured, unsecured or otherwise (all of which are collectively referred to as the “**Encumbrances**”) including without limiting the generality of the foregoing, all rights, charges, security interests or claims evidenced by registrations of any province in Canada and the *Civil Code of Québec*;
- [10] **ORDER** that the Encumbrances be transferred to and conveyed upon, and thus charge, the proceeds from the sale of the Purchased Assets subject to all defects, attributes and considerations affecting and/or relating to the Encumbrances in existence prior to the said transfer;
- [11] **DECLARE** that the sale and assignment of the Assets shall have the same effect as a sale by judicial authority as per the provisions of the *Civil Code of Quebec*;
- [12] **ORDER** that all of the Encumbrances affecting or relating only to the Purchased Assets be reduced as against the Purchased Assets, subject to the following paragraphs hereof;
- [13] **ORDER** the Register of Personal and Movable Real Rights (the “**Movable Register**”), upon presentation of the required registration form with a true copy of the order to be rendered on the Motion to reduce the scope of the following hypothecs granted in favour of Royal Bank of Canada and Roynat Inc. and registered at the Movable Register under the following numbers: 03-0104167-0001, 03-0104167-0002, 03-0123472-0001, 03-0123472-0002, 04-010751-014, 04-0124210-0011, 05-0129161-0017, 05-0162491-0001, 05-0162494-0001, 06-0652689-0001, 08-0013562-0004, 08-0367642-0004, 08-0485064-0001 and 09-0206438-0001 by removing the Purchased Assets from said Encumbrances;
- [14] **ORDER** that notwithstanding:
- (a) any proceedings under the *BIA*;
 - (b) any petitions for a receiving order now or hereafter issued pursuant to the *BIA* and any received order issued pursuant to any such petitioner; or

(c) the provisions of any federal or provincial statute;

the vesting of the Purchased Assets in the Purchaser, as well as the execution of all agreements pursuant to the order to be granted pursuant to the Motion, shall be binding on any successor in interest, including any trustee, monitor or receiver that may be appointed under any applicable federal or provincial legislation, and shall not be void or voidable nor deemed to be a settlement, transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *BIA* 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;

- [15] **ORDER** that the Purchaser or the Receiver shall be authorized to take all such steps as may be necessary to effect the discharge of the Encumbrances as may be necessary;
- [16] **ORDER** that the Offer filed as Exhibit R-5 be kept confidential and under seal until the earlier of a) the closing of the Transaction; or b) further order of this Court;
- [17] **DECLARE** that the Receiver shall not be considered to operate or continue the business of the Debtor, for any purposes whatsoever;
- [18] **DECLARE** that the Receiver, without limiting the generality of the foregoing, shall benefit from the protection of Section 14.06 *BIA*;
- [19] **ORDER** that the Receiver shall not, as a result of the order or anything done in pursuance of the Receiver's duties and powers under the order, be deemed to be in possession of any of the property of the Debtor within the meaning of any federal, provincial or other legislation, statute, regulation or rule of law or equity respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination and regulations;
- [20] **DECLARE** that the order shall have full force and effect in all of the provinces and territories of Canada and **REQUEST** 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 the order and to assist the Receiver and its agents in carrying out the terms of the order to be rendered on the Motion. 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 the order or to assist the Receiver and its agents in carrying out the terms of the Order to be rendered on the Motion;
- [21] **ORDER** the provisional execution of the judgment to be rendered on the Motion notwithstanding appeal;
- [22] **THE WHOLE** without costs.

MONTREAL, August 4, 2010

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La Roche Rouleau & Associés.
LA ROCHE ROULEAU & ASSOCIÉS
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NOTICE OF PRESENTATION

TO: Me Nathalie Mercier-Filteau
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Attorneys for Multina Inc.

TO: Mr. Yves Vincent
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2 Place Alexis-Nihon
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Montréal (Québec) H3Z 3C2
Receiver

TAKE NOTICE the present *Motion Seeking the Authorization to Sell Property of the Debtor and the issuance of a Vesting Order* will be presented for adjudication before a registrar sitting in the Commercial Division, in and for the judicial district of Montréal, at the Montréal Courthouse located at 1 Notre-Dame Street East, in the City of Montréal, Province of Québec, on August 5, 2010 at 9:15 a.m. or so soon thereafter as counsel may be heard in room 16.10.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, August 4, 2010

Davies Ward Phillips & Vineberg LLP
DAVIES WARD PHILLIPS & VINEBERG LLP
Attorneys for Royal Bank of Canada

La Roche Rouleau & Associés
LA ROCHE ROULEAU & ASSOCIÉS
Attorneys for Roynat Inc.

No 500-11-039364-100

S U P E R I O R C O U R T
(Commercial Division)
District of Montréal

**IN THE MATTER OF THE RECEIVERSHIP OF:
MULTINA INC.**

Debtor/Respondent

and

ROYAL BANK OF CANADA
and
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Petitioners

and

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Receiver

**Motion Seeking the Authorization to Sell
Property of the Debtor and the Issuance of a
Vesting Order (Section 243 of the *Bankruptcy
and Insolvency Act*), Affidavits,
Notice of Presentation**

ORIGINAL

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