

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Commercial Division)

NO : 500-11-045124-134

IN THE MATTER OF THE RECEIVERSHIP OF:

ROMATEC INC.

Debtor

and

PAUL DARCHE, domiciled and residing at 1310,
Fox Valley Road Greely, Ontario, K4P 1E7

Applicant

and

RICHTER ADVISORY GROUP INC.,

Trustee

and

**THE REGISTRAR OF THE REGISTER OF
PERSONAL AND MOVABLE REAL RIGHTS**

Mis en cause

**MOTION FOR THE APPOINTMENT OF A RECEIVER AND
APPROVAL AND VESTING ORDER**

(Section 243 & ff. of the *Bankruptcy and Insolvency Act*)

**TO ONE OF THE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL
DIVISION FOR THE DISTRICT OF MONTREAL, OR THE REGISTRAR OF THE COURT, THE
APPLICANT EXPOSES THE FOLLOWING:**

INTRODUCTION

1. Paul Darche (hereinafter the "**Applicant**") requests that the Court render an order to appoint a Receiver entitled to exercise the powers set forth in the attached draft of the Order, with regard to certain property possessed by Romatec Inc. (hereinafter "**Romatec**") subject to the Applicant's securities, all in accordance with sections 243 & ff. of the *Bankruptcy and Insolvency Act*;

PRESENTATION OF THE PARTIES AND DESCRIPTION OF THE CREDIT FACILITIES AND SECURITIES

2. ROMATEC is a corporation governed by the *Canada Business Corporations Act* as the result of an amalgamation that occurred in 2006, and specializes in heavy machinery, and industrial equipment and supplies, the whole as it appears from the copies of records available from the *Registraire des entreprises du Québec* and Industry Canada, *en liasse*, **exhibit R-1**;
3. The Applicant is a secured creditor of ROMATEC;
4. The 24th of February, 2014, the Applicant consented to a Convertible Loan Agreement in the amount of \$100,000 (hereinafter the "Loan"), in favor of ROMATEC, the whole as it appears from a copy of the Loan, **exhibit R-2**;
5. In order to guarantee the repayment of the amount due under the terms of the Loan, ROMATEC granted the Applicant a moveable hypothec in the amount of \$150,000 on the universality of ROMATEC's moveable property, hypothec which is dated the 24th of February, 2014 and was published in the Register of Personal and Movable Real Rights (the "RDPRM") on the 24th of March, 2014 under the number 14-0230258-0001, the whole as appears from a copy of the hypothec and a confirmation of publication, *en liasse*, **exhibit R-3**;
6. On the 16th of August, 2013, ROMATEC filed a notice of intention to make a proposal with its creditors pursuant to the *Bankruptcy and Insolvency Act* (hereinafter "BIA") and Richter Advisory Group Inc. (hereinafter the "Trustee") was named trustee with regards to the proposal, the whole as it appears in a copy of the notice of intention to make a proposal, **exhibit R-4**;
7. The delay granted to ROMATEC to file a proposal with its creditors was subject to three (3) requests for extensions, and was finally extended to the 30th of January, 2014, the whole as it appears from a copy of the three (3) motions for an extension of delay to file a proposal presented by ROMATEC, **exhibit R-5**;
8. The 9th of January, 2014, ROMATEC finally filed a proposal with its creditors, as appears from a copy of the proposal, **exhibit R-6**;
9. The 10th of January, 2014, the proposal was amended, the whole as it appears from the amended proposal, **exhibit R-7**;
10. Following the creditors' acceptance of the proposal during the meeting of creditors held after the filing of the proposal, the Court approved the proposal on the 17th of February, 2014, the whole as it appears from a copy of the Motion for The Approval of a Proposal along with the Court's subsequent approval, **exhibit R-8**;
11. As of today, the terms of the proposal have not been met by the Debtor and the dividends were postponed with the approval of the members of the creditor's committee;

12. The 14th of January, 2015, the Applicant sent a letter of demand and Notice of Intention to Enforce Security to ROMATEC in accordance with section 244 of the *Bankruptcy and Insolvency Act*, the whole as it appears from a copy of the letter of demand and Notice of Intention to Enforce Security, **exhibit R-9**;
13. The amount under the Loan that ROMATEC owes to the Applicant totals \$121,753.33 in capital, interest, and fees, as of the 14th of January, 2015, the whole as it appears from a copy of the letter of demand (Exhibit R-9);

DETAILS REGARDING THE PURCHASE OFFER

14. After discussions with the Trustee and the Applicant, Valtrol Equipment Limited (hereinafter the "**Purchaser**"), submitted a purchase offer (hereinafter the "**Offer**") with regards to ROMATEC's property described in the Offer (hereinafter the "**Property**"), the whole as it appears from a copy of the Offer, **exhibit R-10**, kept under seal as to preserve its confidentiality until the proposed transaction within the Offer is concluded;
15. The Offer is advantageous considering the circumstances, namely because:
 - the Property described in the Offer consists of all of the interests of ROMATEC in (a) all fixed and capital assets (b) the inventory (c) the receivables (d) the supplies, packaging, advertising and promotional materials (e) the contractual rights (f) the goodwill (g) intellectual property (h) the deposits and prepayments (i) the books and records (j) all of the rights, titles and interests (k) all customer and supplier lists, files, data, etc. (l) the warranty rights that pertain to the foregoing Property which the Trustee has agreed to sell and the purchaser has agreed to purchase pursuant the Offer;
 - the Property can only be used for a specific application and its value depends greatly on an eventual buyer's ability to be able to use or subsequently sell the Property;
 - the Offer is the best opportunity to maximize the value of the assets as well as reflect the current market value that could possibly be obtained for the assets being purchased, under the present circumstances; and
 - the transaction detailed in the Offer will allow the plant facility to stay in operations and preserve employment;
16. The Offer is therefore advantageous and ensures that the best value is obtained for the Property considering the circumstances;
17. The Applicant holds a universal hypothec on the Property described in the Offer, published at the RDPRM, the whole as appears from a copy of the relevant content of the Quebec Register of Personal and Movable Real Rights, **exhibit R-11**;
18. Gateway Trade Funding Co, The Toronto-Dominion Bank and Liquip Capital Exchange Corporation are equally secured creditors of ROMATEC, the whole as appears in exhibit R-11;

19. They are aware of the Offer received by the Debtor and are in agreement with the contents and thereby consent to the present motion;
20. The Applicant, as secured creditor with regards to the Property, desires that the transaction detailed within the Offer be concluded, even if the amount proposed within the Offer is inferior to the amount required to reimburse the Applicant in full;
21. The Applicant files, in support of the present motion, the Trustee's report, the proposed receiver to be appointed, the whole providing the details surrounding the Offer and also containing its opinion with regards to the justification and acceptance of the Offer, the whole as appears from a copy of the Trustee's report, **exhibit R-12**;

CONCLUSIONS SOUGHT

22. So that the transaction detailed in the Offer can be concluded, it is necessary that the Court appoints a Receiver entitled to exercise the powers set forth in the attached draft of the order;
23. It is in the interest of justice and the parties that the sale of the Property be concluded quickly in order to minimize the expenses of all person involved in this case and in order to continue the operations of the Debtor and preserve employment;
24. The Applicant proposes the nomination of Richter Advisory Group Inc. (Stéphane De Broux, CPA, CA, CIRP, responsible for the assets) to act as Receiver for ROMANTEC's property, as they are qualified and have consented to act as such.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO :

- [1] **GRANT** the present *Motion for the Appointment of a Receiver and Approval and Vesting Order* in accordance with sections 243 & ff. of the *Bankruptcy and Insolvency Act* presented by the Applicant Paul Darche and following the terms of the attached draft of the Order;
- [2] **THE WHOLE**, without costs.

Sherbrooke, 23 of February, 2015



THERRIEN COUTURE AVOCATS, S.E.N.C.R.L.
Attorneys for the Applicant Paul Darche

AFFIDAVIT

I, the undersigned, Paul Darche, businessman, domiciled at 1310, Fox Valley Road Greely, Ontario, K4P 1E7, do solemnly declare the following:

1. I am the Applicant with regards to the present motion;
2. All the facts in the *Motion for Appointment of a Receiver and Approval and Vesting Order* are true.

AND I SIGNED:

(s) Paul Darche

Paul Darche

SOLEMNLY DECLARED BEFORE ME
AT _____, the 23 of February, 2015.

Commissioner for Oaths for Ontario

AVIS DE PRÉSENTATION

TO : ROMATEC INC.

a/s de Davies Ward Phillips & Vineberg s.e.n.c.r.l.
1501, Avenue McGill College, 26^e étage
Montréal (Québec), H3A 3N9

Christian Lachance
(clachance@dwpv.com)

Steve Dockerty
(dockertys@romatec.com)

RICHTER GROUPE CONSEIL INC.

ès *qualités* de syndic à la proposition de ROMATEC inc.
1981, McGill College, 11^e étage
Montréal (Québec), H3A 0G6

M. Stéphane De Broux, CPA, CA, CIRP
(sdebroux@richter.ca)

GATEWAY TRADE FUNDING CO. 2 LLC

600, Central Avenue, suite 396
Highland Park, Illinois, 60035

Mark Polinsky
(mpolinsky@lakeparkcapital.com)

LIQUID CAPITAL EXCHANGE CORP.

3500, boulevard De Maisonneuve Ouest, suite 1510
Montréal (Québec) H3Z 3C1

Clearance Rebeiro
(crebeiro@liquidcapitalcorp.com)

THE TORONTO-DOMINION BANK

1470, Don Mills Road
Don Mills (Ontario) M3B 2X9

Dana Chen
(dana.chen@td.com)

TAKE NOTICE that the present *Motion for Appointment of a Receiver and Approval and Vesting Order* will be presented before a judge of the Commercial Division of the Superior Court, or before the Registrar of the Court, sitting in and for the district of Montreal, the 26 of February, at


9:00 in room 2.16 of the courthouse of Montreal, located at 1, rue Notre-Dame Est, or as soon as Counsel may be heard.

In support of the *Motion for Appointment of a Receiver and Approval and Vesting Order*, the Applicant discloses the following exhibits:

- R-1 : Copies of records available from the *Registraire des entreprises du Québec* and Industry Canada, *en liasse*;
- R-2 : Copy of the Loan;
- R-3 : Copy of the hypothec and a confirmation of publication, *en liasse*;
- R-4 : Copy of the notice of intention to make a proposal;
- R-5 : Copy of the three (3) motions for an extension of delay to file a proposal presented by ROMATEC;
- R-6 : Copy of the proposal of January 9th, 2014;
- R-7 : Amended proposal of January 10th, 2014;
- R-8 : Copy of the Motion for The Approval of a Proposal along with the Court's subsequent approval;
- R-9 : Copy of the letter of demand and Notice of Intention to Enforce Security;
- R-10 : Copy of the Offer from Valtrol Equipment Limited, **kept under seal**;
- R-11 : Copy of the relevant content of the Quebec Register of Personal and Movable Real Rights;
- R-12 : Copy of the Trustee's report.

DO GOVERN YOURSELF ACCORDINGLY.

Sherbrooke, the 23 of February, 2015



THERRIEN COUTURE, AVOCATS, S.E.N.C.R.L.
Attorneys for the Applicant Paul Darche

N° 500-11-045124-134

SUPERIOR COURT
(Commercial Division)
DISTRICT OF MONTREAL

**IN THE MATTER OF THE RECEIVERSHIP
OF :**

ROMATEC INC.

Debtor

and **PAUL DARCHE**

Applicant

and **RICHTER ADVISORY GROUP INC.**

Trustee

and **THE REGISTRAR OF THE REGISTER OF
PERSONAL AND MOVABLE REAL RIGHTS**

Mis en cause

**MOTION FOR THE APPOINTMENT OF A
RECEIVER AND APPROVAL AND
VESTING ORDER, AFFIDAVIT, AVIS DE
PRÉSENTATION AND LIST OF EXHIBITS**

ORIGINAL

Yannick Crack

Associate

Our file : **293-0005-006**



TherrienCouture

AVOCATS SÈNCRÈL JAVYÈRS LLP

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Brossard - Saint-Hyacinthe - Sherbrooke

Code : BT 1670

AFFIDAVIT

I, the undersigned, Paul Darche, businessman, domiciled at 1310, Fox Valley Road Greely, Ontario, K4P 1E7, do solemnly declare the following:

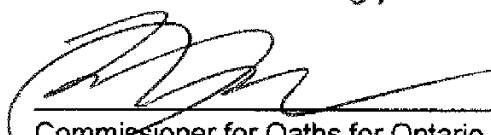
1. I am the Applicant with regards to the present motion;
2. All the facts in the *Motion for Appointment of a Receiver and Approval and Vesting Order* are true.

AND I SIGNED:



Paul Darche

SOLEMNLY DECLARED BEFORE ME
AT Ottawa, Ontario, the ~~23~~^{24th} of February, 2015.



Commissioner for Oaths for Ontario
Michael Leaver - Lawyer 60768T