

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-033234-085

S U P E R I O R C O U R T
(Commercial Division)
(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C. 1985, c. C-36)

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

SHERMAG INC.

and

JAYMAR FURNITURE CORP.

and

SCIERIE MONTAUBAN INC.

and

MÉGABOIS (1989) INC.

and

SHERMAG CORPORATION

and

JAYMAR SALES CORPORATION

Petitioners

and

RSM RICHTER INC.

Monitor

**MOTION FOR AN ORDER AUTHORIZING THE SALE OF A
REAL PROPERTY AND RELATED VESTING ORDER**
(Sections 9 and 11 of the *Companies' Creditors Arrangement Act*, R.S.C. (1985), c. C-36)

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT SITTING IN
COMMERCIAL DIVISION IN AND FOR THE DISTRICT OF MONTRÉAL, THE
PETITIONERS RESPECTFULLY SUBMIT:**

1. INTRODUCTION

1. By the present Motion for an Order Authorizing the Sale of a Real Property and Related Vesting Order (the "Motion"), the Petitioners hereby seek:

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- (i) authorization to complete a transaction for the sale of certain real property municipally known as 5 Rousseau Street, Edmunston, Province of New Brunswick, and being more particularly described as PID 35293695 in the Certificate of Registered Ownership, in the Land Titles Office for Madawaska County (the "**Property**") pursuant to a Purchase and Sale Agreement (the "**Sale Agreement**") between Shermag Inc. ("**Shermag**") and Beaulieu Plumbing & Mechanical Inc. (the "**Purchaser**"), a copy of which will be filed under seal at the hearing of the Motion as **Exhibit R-1**; and
- (ii) the related vesting order.

2. THE PROCEEDINGS

2. On May 5, 2008, an initial order was rendered by this Court pursuant to the *Companies' Creditors Arrangement Act* in relation to the Petitioners (the "**Initial Order**"), the whole as it appears from the Court record.
3. Subparagraph 18 c) of the Initial Order, as amended, provides that the Petitioners cannot sell a piece of its Property (as defined in the Initial Order) for an amount exceeding \$900,000.00 without the approval of this Court.
4. On April 3, 2009, this Court extended the Stay Termination Date of the Stay Period (as defined in the Initial Order) to July 13, 2009, the whole as more fully appears from the Court record.

3. THE PROPERTY

5. The Petitioners built the Property in 1998 for the manufacturing of case-goods.
6. The Petitioners no longer need the Property given that they currently have important inactive domestic production capacities.
7. The Property is non-core to the Petitioners' business.
8. Since June 2008, Shermag has been attempting to sell the Property through a broker, namely CB Richard Ellis Limited, but to no avail.

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9. The offer received from the Purchaser is the first offer obtained since the Property has been on sale, almost one (1) year ago.
10. Some of the material terms of the transaction as set out in the Sale Agreement are as follows:
 - (i) the purchase price is \$1,050,000.00, including a \$45,000.00 refundable deposit which has been paid by the Purchaser to Shermag;
 - (ii) the Property is being sold on an "as is, where is" basis, and
 - (iii) the Sale Agreement is subject to the Purchaser obtaining financing for a minimum of fifty percent (50%) of the purchase price.
11. The sale of the Property pursuant to the Sale Agreement provides the best opportunity to maximize the value of the Property, which is non-core to the Petitioners' business and which the Petitioners have been trying to sell since June 2008.
12. Given the past efforts of the Petitioners to market the Property, it is highly unlikely that a superior offer with less prohibitive conditions could be obtained for the Property.
13. The Petitioners have discussed the rationale of the Sale Agreement with its secured creditor, namely Geosam Investments Limited, and the latter approves of the sale of the Property pursuant to the terms of the Sale Agreement. Shermag believes that the proposed transaction is in the best interests of Shermag and its stakeholders.
14. The sale of the Property is supported by the Monitor.
6. **GENERAL**
15. It is in the best interest of the Petitioners that the present Motion be granted in accordance with its conclusions
16. The Petitioners respectfully submit that the notices given of the presentation of the Motion are proper and sufficient.
17. The Motion is well founded both in fact and in law.

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WHEREFORE, MAY IT PLEASE THIS COURT TO:

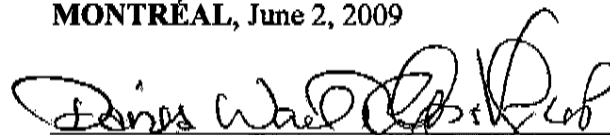
- [1] **GRANT** the present Motion for an Order Authorizing the Sale of a Real Property and Related Order (the “**Motion**”);
- [2] **DECLARE** that notices given of the presentation of the Motion are proper and sufficient;
- [3] **DECLARE** that all capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Initial Order issued on May 5, 2008 as subsequently amended or extended;
- [3] **AUTHORIZE** Shermag Inc. (“**Shermag**”) to accept and enter into the Purchase and Sale Agreement with Beaulieu Plumbing & Mechanical Inc. (the “**Purchaser**”) communicated under seal as Exhibit R-1 (the “**Sale Agreement**”) and **DECLARE** the same valid and enforceable
- [4] **AUTHORIZE** Shermag to sign and execute any agreement, contract, deed or any other document ancillary or related to the Sale Agreement, which could be required or useful to give full and complete effect thereto;
- [5] **ORDER AND DECLARE** that upon completion of the transaction contemplated by the Sale Agreement, the property bearing the municipal address of 5 Rousseau Street, Edmunston, Province of New Brunswick, and being more particularly described as PID 35293695 in the Certificate of Registered Ownership, in the Land Titles Office for Madwaska County (the “**Property**”) shall be vested in the Purchaser, free and clear of any charge, including any charge in favour of Geosam Investments Limited and the CCAA Charges (as defined in the Initial Order);
- [6] **DECLARE** that the Sale Agreement cannot be attacked or voided as a reviewable transaction or for any other reason whatsoever and that it shall be deemed valid for all intents and purposes;
- [7] **DECLARE** that the vesting of the Property pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Shermag

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and shall not be void or voidable nor shall it be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Companies' Creditors Arrangement Act* or the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation or at common law;

- [8] **DECLARE** that this Court seeks and requests the aid and recognition of any Court or administrative body in any province of Canada, and any Canadian Federal Court or administrative body to assist Shermag in carrying out the terms of this Order;
- [9] **ORDER** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security;
- [10] **THE WHOLE** without costs, except in the event of contestation, and then with costs against each opposing party.

MONTREAL, June 2, 2009



DAVIES WARD PHILLIPS & VINEBERG LLP
Attorneys for Petitioners Shermag Inc., Jaymar Furniture Corp., Scierie Montauban Inc., Mégaboïs (1989) Inc., Shermag Corporation and Jaymar Sales Corporation

NOTICE OF PRESENTATION

TO: Me Martin Desrosiers
Osler, Hoskin & Harcourt LLP
1000 De La Gauchetière Street West, Suite 2100
Montréal (Québec) Canada H3B 4W5
Attorneys for Geosam Investments Limited

AND TO: Me Louis Gouin
Ogilvy Renault LLP
1981 McGill College Avenue, Suite 1100
Montréal (Québec) Canada H3A 3C1
Attorneys for the Monitor

AND TO: Mr. Yves Vincent, CA
RSM Richter Inc.
2 Place Alexis Nihon, Suite 2200
Montréal, (Québec) Canada H3Z 3C2
Monitor

AND TO: Me Claude Gravel
Gowling Lafleur Henderson LLP
1, Place Ville Marie
Montréal (Québec) Canada H3B 3P4
Attorneys for Godbout, Plante associés enr.

AND TO : Me François Viau
Gowling Lafleur Henderson LLP
1, Place Ville Marie
Montréal (Québec) Canada H3B 3P4
Attorneys for Industries Wajax

AND TO : Me Annie Claude Beauchemin
BCF LLP
1100 René-Lévesque Blvd. West, 25th Floor
Montréal (Québec) Canada H3B 5C9
Attorneys for Hachette Filipacchi Media U.S. Inc.

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AND TO : Me Marc-André Blain / Me Jonathan Brochu
Marchand Melançon Forget, LLP
1 Place Ville-Marie
Suite 1900
Montréal QC H3B 2C3

Attorneys for Bermex Group Inc.

TAKE NOTICE that the present "Motion for an Order Authorizing the Sale of a Real Property and Related Vesting Order" will be presented for adjudication before one of the judges of the Superior Court, sitting in the Commercial Division, in and for the judicial district of Montréal, on June 4, 2009 at the Montréal Courthouse, located at 1 Notre-Dame Street East, in the City of Montréal, Province of Québec, at a time and in a room to be determined.

DO GOVERN YOURSELVES ACCORDING.

MONTRÉAL, June 2, 2009



DAVIES WARD PHILLIPS & VINEBERG LLP
Attorneys for Petitioners Shermag Inc., Jaymar
Furniture Corp., Scierie Montauban Inc., Mégabois
(1989) Inc., Shermag Corporation and Jaymar Sales
Corporation

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-033234-085

SUPERIOR COURT
(Commercial Division)
(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C. 1985, c. C-36)

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

SHERMAG INC.
and
JAYMAR FURNITURE CORP.
and
SCIERIE MONTAUBAN INC.
and
MÉGABOIS (1989) INC.
and
SHERMAG CORPORATION
and
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Petitioners

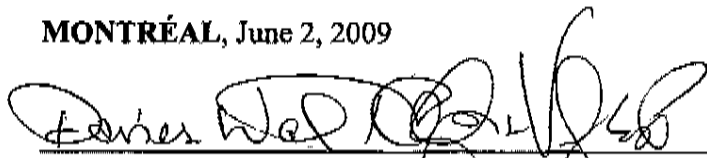
and
RSM RICHTER INC.

Monitor

**LIST OF EXHIBITS IN SUPPORT OF THE
MOTION FOR AN ORDER AUTHORIZING THE SALE OF A
REAL PROPERTY AND RELATED VESTING ORDER**
(Sections 9 and 11 of the *Companies' Creditors Arrangement Act*, R.S.C. (1985), c. C-36)

Exhibit R-1: Copy of a Purchase and Sale Agreement between Shermag Inc. and Beaulieu Plumbing & Mechanical Inc.

MONTRÉAL, June 2, 2009



DAVIES WARD PHILLIPS & VINEBERG LLP
Attorneys for Petitioners Shermag Inc., Jaymar Furniture Corp., Scierie Montauban Inc., Mégaboïs (1989) Inc., Shermag Corporation and Jaymar Sales Corporation

No. 500-11-033234-085

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

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:
SHERMAG INC. ET ALS.**

Petitioners

and

RSM RICHTER INC.

Monitor

**MOTION FOR AN ORDER AUTHORIZING A
CALL FOR TENDERS PROCESS**
(Sections 9 and 11 of the *Companies' Creditors
Arrangement Act*, R.S.C. (1985), c. C-36)

ORIGINAL

Attorneys for Petitioners
Per: Me Denis Ferland
Me Christian Lachance
Dir 514 841 6423
O/F 223966



DAVIES WARD PHILLIPS & VINEBERG LLP

1501 McGill College Avenue
26^e Floor
Montréal Canada H3A 3N9

Tel 514 841 6400
Fax 514 841 6499
BP-0181