

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)
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)
JUSTICE WILTON-SIEGEL)
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WEDNESDAY, THE 21ST
DAY OF MAY, 2008



IN THE MATTER OF THE APPLICATION OF AMCAN CONSOLIDATED TECHNOLOGIES CORP. PURSUANT TO SECTION 47(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C.C-36, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. C.C-43, AS AMENDED.

Applicant

APPOINTMENT ORDER

THIS APPLICATION, made by the Applicant for an Order pursuant to section 47 (1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the Courts of Justice Act, R.S.O. 1990, c. C-43, as amended (the "CJA") appointing A. John Page & Associates Inc. as interim receiver and receiver and manager (in such capacities, the "Receiver") without security, of certain of the assets, undertakings and properties of Amcan Consolidated Technologies Corp. ("Amcan" or the "Debtor") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kirk Beauchamp sworn May 9, 2008 and the Exhibits thereto and on hearing the submissions of counsel for Amcan, Honsel

International Technologies SA ("HIT"), and *Ulisses de Oliveira, FSCO*, no one else appearing although duly served as appears from the affidavit of service of Eliana Koosau sworn May 9, 2008 and on reading the consent of A. John Page & Associates Inc. to act as the Receiver:

On being advised that Amcan was named as debtor in proceedings commenced under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and such CCAA proceedings (the "Amcan Proceedings"), and the stay of proceedings granted thereunder, having been terminated by order of this Court of today's date.

Amcan - Appointment of Receiver

1. **THIS COURT ORDERS** that pursuant to section 47(1) of the BIA and section 101 of the CJA, A. John Page & Associates Inc. is hereby appointed Receiver effective as at 12:01 am on the day of this Order, without security, in respect of Amcan's current and future interests, of every kind and nature whatsoever, and wherever situate including all proceeds thereof, in respect of all assets, property and undertaking of Amcan including, without limitation:

- (a) funds in respect of certain receivables claimed to be owing to Amcan from Chrysler LLP (the "Tooling Receivable" and "Chrysler Receivable"), a portion of which Tooling Receivable is currently held in trust by Ernst & Young Inc. in its capacity as Court-appointed Monitor in the Amcan Proceedings (the "Monitor") (the "Tooling Trust Amount");
- (b) the proceeds owing to Amcan (the "Amcan Liquidation Proceeds") pursuant to the liquidation agreement (the "Liquidation Agreement") entered into with Maynards Industries Inc. ("Maynards") on December 21, 2007;

- (c) any other receivables and proceeds received in satisfaction thereof;
- (d) all interests of Amcan in the remaining equipment and machinery, including but not limited to the equipment and machinery which is the subject of the Liquidation Agreement;
- (e) all cash on hand and in Amcan's bank accounts including its accounts with the Bank of Nova Scotia;
- (f) all interests in addition to those in (a) above in respect of cash held in trust by the Monitor;
- (g) all leasehold interests held by Amcan in 10 Hillyard Drive, Hamilton, Ontario; and
- (h) the books and records of Amcan ((a) through (g) collectively, the "Property");

for the strictly limited purposes as requested herein, and for no other purposes unless further authorized and directed by the Court, except that the Receiver is authorized to reserve from the Property such reasonable amounts as the Receiver may determine necessary for the costs and expenses of the receivership.

Previous CCAA Proceedings

2. THIS COURT ORDERS that the Receiver and any subsequent Trustee in Bankruptcy appointed on behalf of Amcan shall be bound by the previous determinations, orders and directions of this Court in the Amcan Proceedings, including but not limited to:

- (a) the Order of Justice Campbell granted September 26, 2007, and specifically paragraph 3 thereof relating to the security held by HIT;

- (b) the Order of Justice Wilton-Siegel dated October 25, 2007, and specifically paragraph 3 thereof relating to the payment of distributions to HIT from sales proceedings approved therein.
- (c) the Order of Justice Spence dated January 11, 2008, and specifically paragraphs 9 and 10 thereof relating to the payment of distributions to Amcan and to HIT from the Maynards' Liquidation Agreement;
- (d) the Order of Justice Wilton-Siegel dated February 25, 2008, and specifically paragraphs 11 and 12 thereof relating to the payment of distributions to HIT from the sales proceeds approved therein,

provided, however, that the contemplated distributions to HIT are subject to the provisions of this Order retaining reserves for the costs and expenses required for the Receiver to complete its obligations hereunder.

3. **THIS COURT ORDERS** that the Receiver and any subsequent Trustee in Bankruptcy appointed on behalf of Amcan shall be entitled to rely upon the security opinion previously provided and approved by the Court in the Amcan Proceedings. For greater certainty, no further opinion or approval shall be required to be obtained by the Receiver nor any trustee in bankruptcy of Amcan relating to the validity or priority of HIT's security.

Receiver's Powers

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof including payment by the Receiver of any amounts outstanding or accruing due in respect thereof;
- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel, former Amcan employees and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (d) to receive and collect all monies and accounts now owed or hereafter owing to Amcan and to exercise all remedies of Amcan in collecting such monies;
- (e) to settle, extend or compromise any indebtedness owing to Amcan with the prior consent of HIT or by further Order of this Court;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

- (g) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to Amcan, the Property or the Receiver, and to settle or compromise any such proceedings with the prior consent of HIT or by further Order of this Court. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (h) to report to, meet with and discuss with such secured and unsecured creditors of Amcan and their advisors as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (i) to seek the advice or assistance of former counsel to Amcan for purposes of carrying out the Receiver's duties and powers hereunder, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (j) to assign Amcan into bankruptcy pursuant to section 49(1) of the BIA and to take all steps in lieu and instead of the Debtor and its officers and directors to effect such an assignment including, without limitation, the passing of a resolution of the board of directors of Amcan and the swearing of a statement of affairs in respect of Amcan;
- (k) to enter into arrangements with any trustee in bankruptcy appointed in respect of Amcan including, without limiting the generality of the foregoing, the ability to lend money to or indemnify any such trustee. The Receiver shall be authorized and directed to provide to the Trustee an initial fund of \$30,000 to support the proposed bankruptcy of Amcan;

- (l) to make distributions to HIT of any money or property available for such distribution, less such reasonable amounts as the Receiver may determine necessary to reserve for the costs and expenses of the receivership; and
- (m) to take any steps reasonably incidental to the exercise of these powers,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including Amcan, and without interference from any other Person.

5. **THIS COURT ORDERS** that the Receiver shall not:

- (a) manage, operate or carry on the business of Amcan;
- (b) purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of Amcan or any part or parts thereof;
- (c) retain any of the unionized employees of Amcan who were laid off or terminated prior to the appointment of the Receiver; or
- (d) assume sponsorship or administration of, or make any current or past service contributions or special payments to, pension plans previously maintained by Amcan.

6. **THIS COURT ORDERS** that all amounts being held by the Monitor, as bare trustee, pursuant to Orders granted in the Amcan Proceedings or arrangements reached during the Amcan Proceedings shall be transferred to and held by the Receiver upon the same terms as they were held by the Monitor, or until further Order of this Court.

7. **THIS COURT ORDERS** that in relation to the Liquidation Agreement:
- (a) Maynards is hereby authorized and directed to pay all amounts owing under the Liquidation Agreement to the Receiver;
 - (b) the Receiver is hereby authorized and directed to pay to HIT the Amcan Liquidation Proceeds upon receipt thereof, less such reasonable amounts as the Receiver may determine necessary to reserve for the costs and expenses of the receivership;
 - (c) the Receiver is hereby authorized and directed to take possession of the Amcan Liquidation Proceeds;
 - (d) with respect to the HIT Equipment, as defined in the Sixth Report of the Monitor, the Receiver is hereby authorized and directed to take possession of the amounts owing to HIT pursuant to the Liquidation Agreement (the "HIT Liquidation Proceeds") and to pay to HIT the HIT Liquidation Proceeds upon receipt thereof; and
 - (e) the Receiver is hereby authorized and directed to take such steps and sign such ancillary or related documentation as are in the opinion of the Receiver necessary and incidental to the performance of Amcan's obligations under the Liquidation Agreement and securing payment from Maynards under the Liquidation Agreement.
8. **THIS COURT ORDERS** that in respect of the Chrysler Receivable and the Tooling Receivable:
- (a) the Receiver is hereby authorized and directed to take possession of any and all funds received from Chrysler as payment of the Chrysler Receivable and the Tooling Receivable, including the Tooling Trust Amount;

- (b) the Receiver is hereby authorized and directed to take such steps, including to commence such proceedings, and sign such ancillary or related documentation as are in the opinion of the Receiver necessary and incidental to pursuing payment from Chrysler in respect of the Chrysler Receivable and the Tooling Receivable; and
- (c) upon resolution or determination of the quantum of either or both of the Chrysler Receivable and the Tooling Receivable and receipt of any funds from Chrysler and/or release of the Tooling Trust Amount, the Receiver is hereby authorized and directed to distribute such amounts to HIT, less such reasonable amounts as the Receiver may determine necessary to reserve for the costs and expenses of the receivership.

9. **THIS COURT ORDERS** that the Receiver and any subsequent trustee in bankruptcy shall not take any action with respect to the CCAA proceeding involving Grenville Castings Ltd.

Duty to Provide Access and Cooperation to the Receiver

10. **THIS COURT ORDERS** that (i) Amcan, (ii) all of its current and former directors, officers, employees, agents accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

Assignment into Bankruptcy

11. **THIS COURT ORDERS AND DECLARES** that the stay of proceedings against Amcan be and is hereby lifted to allow the Receiver, at such time as the Receiver may

deem advisable, to assign Amcan into bankruptcy and to allow the Office of the Superintendent to approve such filings as required to effect the assignment pursuant to section 49(1) of the *BIA* and thereafter reimposing the stay of proceedings.

12. **THIS COURT ORDERS** that on the request of the Receiver, all Persons shall deliver to the Receiver all of Amcan's books, documents, securities, contracts, orders, corporate and accounting records and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 12 or in paragraph 13 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

13. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other

system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

No Proceedings Against the Receiver

14. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

No Proceedings Against Amcan or the Property

15. **THIS COURT ORDERS** that no Proceeding against or in respect of Amcan or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of Amcan or the Property are hereby stayed and suspended pending further Order of this Court.

No Exercise of Rights or Remedies

16. **THIS COURT ORDERS** that all rights and remedies against Amcan, the Receiver, or affecting the Property are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or Amcan to carry on any business which Amcan is not lawfully entitled to carry on, (ii) exempt the Receiver or Amcan from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

No Interference with the Receiver

17. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by Amcan, without written consent of the Receiver or leave of this Court.

Continuation of Services

18. **THIS COURT ORDERS** that all Persons having oral or written agreements with Amcan or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to Amcan are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of Amcan's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of Amcan or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

Receiver to Hold Funds

19. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

Employees

20. **THIS COURT ORDERS** that the employment of all employees of the Debtor is terminated by virtue of the appointment of the Receiver. The Receiver shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

21. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

Limitation on Environmental Liabilities

22. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or

other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

Limitation on the Receiver’s Liability

23. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

Receiver’s Accounts

24. **THIS COURT ORDERS** that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the “**Receiver’s Charge**”).

25. **THIS COURT ORDERS** the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal

counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

26. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

General

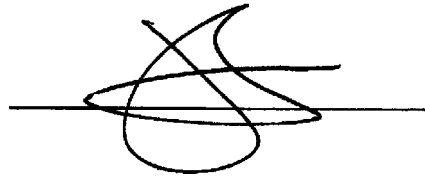
27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that the Receiver may name itself in the assignment to act as trustee in bankruptcy of Amcan.

29. **THIS COURT HEREBY REQUESTS** 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 this Order and to assist the Receiver and its agents in carrying out the terms of this Order. 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 this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line crossing through the middle.

W. J. S. N.

W. J. S. N.

IN THE MATTER OF THE APPLICATION OF AMCAN CONSOLIDATED TECHNOLOGIES CORP. PURSUANT TO SECTION 47(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C.C-36, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. C.C-43, AS AMENDED.

Court File No: CV-08-00007527-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon LSUC#: 35638M
Tel: (416) 869-5623

Meagan Blake LSUC#: 53930G
Tel: (416) 869-6864
Fax: (416) 947-0866

Solicitors for the Applicant