

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE

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FRIDAY, THE 6TH DAY

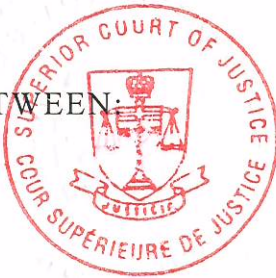
JUSTICE GILMORE

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OF MARCH, 2020

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BETWEEN



ROYAL BANK OF CANADA

Applicant

- and -

NATIONAL RECYLCING INC., SCRAPORT INC. and 2139483 ALBERTA LTD.

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 243(1) OF THE
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED; AND
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

ORDER

THIS MOTION, made by Deloitte Restructuring Inc. ("**Deloitte**"), in its capacity as the court-appointed receiver and manager (the "**Receiver**") of National Recycling Inc. ("**NRI**"), Scraport Inc. ("**Scraport**"), and 2139483 Alberta Ltd. ("**213**", and together with NRI and Scraport, the "**Debtors**"), for an order,

- (a) abridging the time for service of the Notice of Motion and the Motion Record herein and validating service thereof;

- (b) approving the Auction Agreement between the Receiver and Maynards Industries Canada Ltd. (the “**Auctioneer**”) dated March 2, 2020 (the “**Auction Agreement**”);
- (c) authorizing the Auctioneer to market and sell the Assets, as defined in the Auction Agreement and attached hereto at **Schedule “A”**, pursuant to the terms of the Auction Agreement;
- (d) providing for the vesting of the Debtors’ right, title and interest in and to the Assets to any person who purchases any of the Assets pursuant to the Auction Agreement (each, a “**Purchaser**”);
- (e) authorizing the Receiver to distribute the proceeds from any sale of Assets (each, a “**Sale**”) to the Auctioneer, in the manner contemplated by the Auction Agreement;
- (f) approving the first report of the Receiver dated March 2, 2020 (the “**First Report**”) and the activities of the Receiver as described therein;
- (g) approving the fees and disbursements of the Receiver as set out in the affidavit of Jorden Sleeth sworn March 2, 2020, and the fees and disbursements of the Receiver’s counsel, Dentons Canada LLP (“**Dentons**”), as set out in the affidavit of Robert Kennedy sworn February 27, 2020 (together, the “**Fee Affidavits**”);
- (h) approving the Receiver’s interim statement of receipts and disbursements for the period of July 12, 2019 to February 21, 2020 (the “**Interim R&D**”); and
- (i) such further and other grounds as counsel may advise and this Honourable Court may permit;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated March 2, 2020, the First Report, and on hearing the submissions of counsel for the Receiver, no one appearing for any

other person on the service list, although properly served as appears from the affidavit of Amanda Campbell sworn March 2, 2020, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that, unless otherwise indicated, capitalized terms in this Order shall have the meanings given to them in the Auction Agreement.

APPROVAL OF AUCTION AGREEMENT

3. **THIS COURT ORDERS** that the Auction Agreement, including all schedules attached thereto, is hereby approved, is declared commercially reasonable and in the best interest of the Debtors and their stakeholders.

4. **THIS COURT ORDERS** that, subject to any other provisions of this Order, or of the Receivership Order of the Honourable Mr. Justice Hainey dated July 12, 2019 (the “**Receivership Order**”), the Receiver is hereby authorized and directed to take any and all actions as may be necessary or desirable to implement the Auction Agreement, and the Auction and Sale(s) contemplated therein, including, without limitation, to execute any other agreement, contract, deed or any other document, or take any other action, which could be required or useful to give full and complete effect to the Auction Agreement.

5. **THIS COURT ORDERS** that the Auctioneer is hereby authorized to market and sell and Auction the Assets, as agent for the Receiver, in accordance with the terms of the Auction Agreement and this Order.

6. **THIS COURT ORDERS** that, until the General Deadline, the Auctioneer shall have access to the Premises on the basis that the Auctioneer is an agent of the Receiver and the Receiver has granted to the Auctioneer the right of access to the Premises. To the extent the terms of any lease, occupancy agreement or charge relating to the Premises conflict with the terms of this Order, the terms of this Order shall govern.

7. **THIS COURT ORDERS** that the marketing and Sale or Auction of Assets to be conducted by the Auctioneer shall be free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order, or (ii) any or all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (collectively, the “**Encumbrances**”).

ASSET SALE AND VESTING

8. **THIS COURT ORDERS** that, upon the Auctioneer completing the Sale of any of the Assets to a Purchaser, in accordance with the Auction Agreement, and upon the Auctioneer’s receipt of the purchase price and the delivery by the Auctioneer of a bill of sale or similar evidence of purchase to such Purchaser (the “**Purchaser Bill of Sale**”), then:

- (a) all of the Debtors’ right, title and interest in and to the Assets shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all Claims, and all of the Encumbrances affecting or relating to such Assets shall be expunged and discharged as against such Assets;
- (b) the Debtors and all persons who claim by, through or under the Debtors in respect of the Assets, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Assets and, to the extent that any such persons remain in possession or control of any of the Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee); and
- (c) the Purchaser (or its nominee) shall be entitled to enter into and upon, and/or hold and enjoy the Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by or through or against the Debtors.

9. **THIS COURT ORDERS** that nothing herein shall, however, discharge the obligations of the Auctioneer pursuant to the Auction Agreement, or the rights or claims of the Receiver in respect thereof including, without limitation, the obligations of the Auctioneer to account for and remit certain proceeds of the Sales to the Receiver in accordance with the terms of the Auction Agreement.

10. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims in the receivership proceedings, the monies payable to the Receiver under the Auction Agreement from the Sales shall stand in the place and stead of the Assets, and from and after the delivery of the Purchaser Bill of Sale, all Claims shall attach to the Gross Sale Proceeds from the Sales, which are paid to the Receiver in accordance with Auction Agreement, with the same priority as they had with respect to the Assets immediately prior to the Sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Sale.

11. **THIS COURT ORDERS** that, from and after the closing of a Sale of any of the Assets to a Purchaser, the Receiver is hereby authorized to take all such steps as may be necessary to effect the discharge of any security registration or registrations relating to any Claims registered against the Assets, including Encumbrances, as may be necessary, provided that the Receiver shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the Assets, and the Receiver shall be authorized to take any further steps by way of further application to this Court.

12. **THIS COURT ORDERS** that notwithstanding (i) the pendency of these receivership proceedings; (ii) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to such applications; (iii) any assignment in bankruptcy now made or to be made in respect of the Debtors; or (iv) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds the Debtors, and notwithstanding any provision to the contrary in any such agreement (a “**Third Party Agreement**”):

- (a) the vesting of the Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) 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; and
- (b) the vesting of the Assets in the Purchaser (or its nominee) pursuant to this Order shall not create nor be deemed to constitute a breach by the Debtors of any Third Party Agreement, and the Purchaser shall not have liability to any person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation, execution, delivery or performance of the transactions contemplated herein.

13. **THIS COURT ORDERS** that, except for any breach of its obligations under the Auction Agreement, or its gross negligence or willful misconduct, the Auctioneer shall incur no liability or obligation in carrying out the terms of the Auction Agreement and this Order, and as agent of the Receiver the Auctioneer shall have the benefit of the stay of proceedings, limitations of liability and other protections afforded the Receiver under the Receivership Order and at law. The stay of proceedings, limitations of liability and other protective provisions in the Receivership Order shall not be lifted, suspended or amended, as they apply to the Auctioneer, except with the written consent of the Auctioneer or leave of this Court granted on not less than seven (7) days' prior notice to the Auctioneer.

DISTRIBUTION OF SALE PROCEEDS

14. **THIS COURT ORDERS** that the Receiver is authorized to distribute the proceeds from the Sale of Assets to the Auctioneer, in accordance with the Auction Agreement. Any proceeds from a Sale of Assets which is payable to the Receiver pursuant to the Auction Agreement shall be dealt with and distributed in accordance with a future distribution application to the Court, to be made by the Receiver following the Auction.

SEALING ORDER

15. **THIS COURT ORDERS** that **Confidential Appendix “1”** to the First Report, shall be sealed, kept confidential and not form part of the public record, but shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order up and until a further order of the Court.

MISCELLANEOUS

16. **THIS COURT ORDERS** that the actions of the Receiver with respect to the sales process for the Auction Agreement, as particularized in the First Report, are hereby approved and ratified. No action lies against the Receiver by reason of this Order or arising from the performance of any act authorized by this Order.

17. **THIS COURT ORDERS** that the Receiver, the Auctioneer, or any Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order, and to assist with the completion of any Sale of Assets contemplated by the Auction Agreement and this Order.

18. **THIS COURT ORDERS** that this Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, 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 order and to provide such assistance to the Receiver, as an officer of the 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.

RECEIVER'S ACTIVITIES

19. **THIS COURT ORDERS** that the First Report and the activities of the Receiver, as described in the First Report, be and are hereby approved.

20. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and Dentons, as set out in the First Report and in the Fee Affidavits, are hereby approved.

21. **THIS COURT ORDERS** that the Interim R&D is hereby approved.



Justice C.A. Gilmore

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAR 06 2020

PER / PAR



SCHEDULE "A"

ASSET LIST

Attached.

Schedule "A"
Assets for Auction

National Recycling Inc.					
Asset listing and analysis					
Owned assets					
Item description	Location	Year	Make & Model	VIN/Serial Number	License plate
Trailer	Boyle, AB	1999	Haultec Trailer	2C9B2R4E7X1012796	M9898J
Vehicle	Boyle, AB	1995	GM truck	1GDP7H1J6TJ501985	
Trailer	Boyle, AB		Neustar Trailer	Unknown	
Vehicle	Boyle, AB	2012	Ford F-350	1FDSX35S52EA99495	
Vehicle	Boyle, AB	2007	International Paystar 5600i 6X4	1HTXHAPT18J631796	
Vehicle	Boyle, AB	2011	Ford F-550	1FD0W5HY9CEA84473	
Vehicle	Boyle, AB	2011	Ford F-150	1FTNF1CT2BKD28849	CBD 8355
Vehicle	Boyle, AB	2010	Ford F-150	1FTFW1EV9AFD59400	FZN 027
Vehicle	Boyle, AB	1990	Ford L9000	1FDYU90W5LVA19324	
Vehicle	Boyle, AB	2006	GMC 3500	1GDJK34U17E100758	
Trailer	Boyle, AB	2012	Terex AL-4000 lights trailer	4ZJSL141XC1000379	
Vehicle	Boyle, AB	2000	GM Hydrovac truck	1GDP7H1C3YJ526920	
Vehicle	Boyle, AB	2006	Suzuki Grand Vitara	JS3TD62V514164935	
Vehicle	Boyle, AB	2012	Ford Escape	1FMCU9D71CKB95768	BXNW 901
Vehicle	Boyle, AB	2016	GMC Sierra	3GTU2NEC4GG107571	BVL 3904
Shredder	Boyle, AB		Bonfiglioli Squalo 2000	1051	
Shredder	Boyle, AB		Bonfiglioli Squalo 2000	1053	
Shredder	Boyle, AB		Bonfiglioli Squalo 3000	1038	
Photocopy Machine	Boyle office building		Office furniture and photocopiers	CZB016189	
Trailer	Edmonton, AB (Genalta)	2009	Terex AL5000	4ZJSL151391000232	
Vehicle	Edmonton, AB (Genalta)	2008	Chevrolet Express G3500	1GBHG31K681200746	



ROYAL BANK OF CANADA	- and -	NATIONAL RECYCLING INC., SCRAPORT INC. and 2139483 ALBERTA LTD.
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Applicant	Respondents
	ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST) PROCEEDING COMMENCED AT TORONTO
	ORDER
	DENTONS CANADA LLP 77 King Street West, Suite 400 Toronto-Dominion Centre Toronto, ON M5K 0A1 Robert J. Kennedy (LSO # 474070) Tel: (416) 367-6756 Fax: (416) 863-4592 robert.kennedy@dentons.com Mark A. Freake (LSO #63656H) Tel: (416) 863-4456 mark.freake@dentons.com <i>Lawyers for Deloitte Restructuring Inc., in its capacity as Court-appointed Receiver of National Recycling Inc., Scraport Inc. and 2139483 Alberta Ltd.</i>