

THE QUEEN'S BENCH
WINNIPEG CENTRE
IN BANKRUPTCY

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,
AS AMENDED:

BETWEEN:

HSBC BANK CANADA,

applicant,

- and -

NEFCO FURNITURE LTD.,

respondent.

CERTIFIED COPY

of
ORDER APPOINTING INTERIM RECEIVER

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THE QUEEN'S BENCH

WINNIPEG CENTRE

IN BANKRUPTCY

THE HONOURABLE) Monday, the 15th day of December,
) 2008
MR. JUSTICE SCURFIELD)

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,
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ORDER APPOINTING INTERIM RECEIVER

THIS APPLICATION made by HSBC BANK CANADA ("the Applicant"), for an order appointing Deloitte & Touche Inc. as Interim Receiver pursuant to subsection 47(1) of the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3 as amended (the "Act") without security of the assets, property and undertaking of NEFCO FURNITURE LTD. (the "Debtor") was heard this day at the Law Courts, 408 York Avenue, Winnipeg, Manitoba.

On reading the Affidavit of Andrew R. McPherson, and upon hearing the submissions of counsel for the Applicant and on reading the Consent of Deloitte & Touche Inc., no one appearing for the Debtor although duly served,

1. THIS COURT ORDERS that the time for service of the Notice of Application be and is hereby abridged such that the Application is properly returnable on December 15, 2008 and, further, that any requirement for service of the Notice of Application upon any person other than the Debtor be and is hereby dispensed with.

Appointment and Payment

2. THIS COURT ORDERS that Deloitte & Touche Inc. of the City of Winnipeg, in the Province of Manitoba, be and it is hereby appointed as Interim Receiver pursuant to subsection 47(1) of the Act (hereinafter referred to in such capacity as the "Interim Receiver") without security, of all the assets, undertakings and property of the Debtor (the "Property") wherever situate with authority to receive, preserve, protect, realize and sell or otherwise dispose of the Property and to act until further Order of this Court.

3. THIS COURT ORDERS that, without limiting the powers set out in paragraph 2 above, the Interim Receiver is hereby authorized and empowered, but not obligated, to do any of the following acts or things if in its opinion it is necessary or desirable:

- (a) to take possession and control of all such portion of the Property the Interim Receiver in its discretion deems appropriate for the purpose of exercising its powers hereunder, provided that, in exercising its rights and powers, the Interim Receiver shall be entitled to the benefit of any occupation or other similar rights granted in favour of the Debtor and/or the Applicant or its affiliates pursuant to any agreement or otherwise;
- (b) to obtain appraisals and valuation of all or part of the Property;
- (c) in the name of and on behalf of the Debtor, to carry on all or part of the business of the Debtor for such period of time and in such manner as the Interim Receiver in its discretion deems appropriate;

- (d) to exercise such powers and take such steps as the Interim Receiver deems necessary or appropriate with respect to any shares or other interests held by the Debtor in any subsidiary or other entity;
- (e) to sell or otherwise dispose of the Property or any part thereof on such terms as the Interim Receiver considers necessary or advisable without notice, without having any time appointed for redemption and without waiting for the determination of any inquiries or accounts which may be directed herein or in the future, provided that, in so doing, the Interim Receiver shall not complete any sale or disposition of the Property, for proceeds exceeding \$100,000 in any single instance or \$500,000 in aggregate without the approval of the Court;
- (f) in the name of or on behalf of the Debtor, to employ, retain or continue the employment of such contractors, agents, employees, solicitors, consultants, advisors, experts, auditors, appraisers and such other assistants as the Interim Receiver deems necessary or desirable for the purpose of maintaining, protecting, preserving or securing the Property or exercising the powers and duties granted hereunder and to enter into agreements with any person with respect to such matters, provided that any expenditure or charge which shall be properly made or incurred by the Interim Receiver in so doing, including without limitation, payment of legal fees and disbursements, shall be allowed in passing its accounts and shall constitute a first charge on the Property in priority to the claims of existing and any future secured creditors, mortgagees, lien claimants, other encumbrancers and unsecured creditors;
- (g) to receive and collect all monies now or hereinafter owing or payable to the Debtor;
- (h) to settle, extend or compromise any indebtedness owing by or to the Debtor on such terms and by such means as the Interim Receiver deems appropriate;

- (i) to pay any debts of the Debtor which have priority over the claims of the Applicant and to pay such other debts of the Debtor as the Interim Receiver deems necessary or advisable to protect or properly realize on the Property, provided that all such payments are to be allowed to the Receiver in passing its accounts and shall form a first charge on the Property in priority to the claims of all existing and future secured creditors, mortgagees, lien claimants, other encumbrancers and unsecured creditors;
- (j) to initiate and prosecute all suits, proceedings and actions at law, whether in the name of the Debtor or otherwise, as the Interim Receiver deems necessary or advisable for the purpose of maintaining, protecting, preserving or securing the Property or exercising the powers granted hereunder and likewise to defend all suits, proceedings and actions, the prosecution or defence of which the Interim Receiver deems necessary or advisable for the purpose of maintaining, protecting, preserving or securing the Property or exercising the powers granted hereunder and the authority hereby conveyed shall extend to the right to compromise and settle any proceedings and to such appeals as the Interim Receiver shall deem proper and advisable in respect of any order or judgment pronounced in any such suit, proceeding or action;
- (k) to apply for any permits, licenses, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable, in the name of the Debtor;
- (l) to execute all necessary bills of sale, conveyances, deeds and documents of whatsoever nature in the name of and on behalf of the Debtor;
- (m) to file an assignment in bankruptcy on behalf of, or consent to a receiving order in bankruptcy against the Debtor;

- (n) to enter into arrangements with any trustee in bankruptcy of the Debtor (a 'Trustee') including, without limitation, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (o) to act as trustee;
- (p) to enter into agreements or incur any obligations necessary or reasonably incidental to the execution of the aforesaid powers; and
- (q) to take such steps as the Interim Receiver deems necessary or desirable to maintain, protect, preserve or secure the Property.

4. THIS COURT ORDERS that the Interim Receiver shall be at liberty in its discretion to open bank accounts with any Canadian bank and place funds collected in the exercise of its powers under this Order on deposit in such accounts and to invest such funds in trust deposits or other instruments.

5. THIS COURT ORDERS that the Interim Receiver shall report to this Court as to its administration on a periodic basis and the Interim Receiver is hereby authorized to provide reports and such other information as may be requested from time to time by the Applicant.

Duty to Provide Access to the Interim Receiver

6. THIS COURT ORDERS that the Debtor and its respective principals, present and former officers, directors, employees, agents, servants, shareholders and all other persons having notice of this Order shall give up possession of the Property, allow the Interim Receiver immediate, continuous and unconditional access to the Property and forthwith deliver to the Interim Receiver all of the Property of every kind and wherever located and all such persons are hereby restrained and enjoined from dealing with the Property or interfering with the interim Receiver and the exercise of its powers and the performance of its duties hereunder. For greater certainty, all persons having notice of this Order shall deliver to the Interim Receiver all books, documents, securities, contracts, orders, corporate and accounting records of the Debtor and all computer records, computer programs, computer tapes, computer disks, data storage media and programs containing any such information, and any other papers, records and information of any kind of the Debtor relating thereto in their possession or control (the foregoing collectively, the "Records"), and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver access to and use of accounting, computer, software and physical facilities relating thereto.

7. 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, the Debtor and its present and former directors, officers, employees and/or agents shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the interim Receiver to obtain access 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 methods of retrieving and copying the information as the Interim Receiver in its discretion deems expedient. Further, for the purposes of this paragraph, the Debtor, its present and former directors, officers, employees and/or agents and all persons having notice of this provision of this Order shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the

Records as the Interim Receiver may in its discretion require including, without limiting the generality of the foregoing, providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any access codes, account names and account numbers that may be required to gain access to the information.

8. THIS COURT ORDERS that Internet services providers or persons, corporations or individuals who provide e-mail, Worldwide Web e-mail or other Internet connection services to the Debtor to access the Internet or WorldWide Web e-mail or other similar services, deliver to the Interim Receiver, documents, server files, archive files or any other information in any form in any way recording messages, e-mails or other information sent or accessed by the Debtor.

Continuation of Services

9. THIS COURT ORDERS that all persons having notice of the Order be and they are hereby enjoined from disturbing or interfering with utility services, including, but not limited to the furnishing of gas, heat, electricity, water, telephone, telecommunications or any other utility or services furnished up to the date hereof to the Debtor and are hereby enjoined from cutting off, disconnecting or altering any such utilities or services to the Interim Receiver, except upon further order of this Court, provided that payment is made in accordance with the payment terms of the existing contracts and arrangements for such utilities supplied from the date of this Order.

10. THIS COURT ORDERS that, without limiting the generality of paragraph 9 hereof, all persons, firms corporations and other entities having agreements with the Debtor, whether written or oral, and whether the Debtor is acting as principal, agent or nominee, for the supply or purchase of goods and/or services by or to the Debtor or to any of the Property, wheresoever located, including without limitation, Internet service agreements, wireless service agreements, re-location agreements, equipment leases, commercial leases, license agreements, consignment agreements, insurance contracts, concession agreements, distribution agreements, inventory financing agreements, conditional sales agreements, royalty agreements,

bank and operating accounts, management agreements, transportation contracts, freight forwarding contracts, computer software and support systems, supply and service contracts are hereby restrained from accelerating, terminating, suspending, modifying or canceling such agreements, arrangements or supply of goods and services without the Interim Receiver's prior written consent or with the leave of this Court, (including, without limiting the generality of the foregoing, any supply which the Debtor needs to continue to provide service to customers), provided that payment is made for the goods or service supplied from the date of this Order in accordance with the payment terms of the existing contracts and arrangements or as otherwise agreed and further provided that the foregoing shall not restrict the ability of the Interim Receiver to continue or abandon any agreement entered into by the Debtor.

Stay of Proceedings

11. THIS COURT ORDERS that no one claiming an interest in any of the Property of the Debtor shall be at liberty to exercise any rights or remedies with respect to such interest including, without limitation, any right of possession, dilution, encumbrance, buy-out, divestiture, forced sale, repossession, distress, termination, suspension, modification or the right to revoke any qualification, license or registration, without the consent of the Interim Receiver or an order of this Court first being obtained upon seven days notice to the Interim Receiver.

12. THIS COURT ORDERS that no person may institute or continue any action or proceeding (whether by court process or otherwise) or exercise any private remedy for the enforcement of any claim against the Interim Receiver, the Debtor or the Property without first obtaining leave of this Court upon seven days notice to the Interim Receiver.

13. THIS COURT ORDERS that the Debtor and all parties having notice of this Order be and they are hereby restrained from in any way dealing with the Property or entering upon any premises upon which the Property may be located except with the prior written consent of the Interim Receiver or upon further order of this Court.

14. THIS COURT ORDERS that no creditor of, or persons having a contractual relationship with, the Debtor may exercise or assert any right of set-off or trust claim with respect to its account with or its claim against the Debtor except with the leave of this Court and, subject to such terms as the Court may impose.

Employees

15. THIS COURT ORDERS AND DECLARES that by the granting of our Order, the business of the Debtor has not been and shall not be deemed to have been, nor treated as having been sold, transferred or disposed of, but rather, such business will continue to be the business of the Debtor until sold, transferred or otherwise disposed of, in whole or in part to a purchaser other than the Interim Receiver. Accordingly, neither the appointment of the Interim Receiver nor the exercise of any of its powers or the performance of any of its duties hereunder, or the use or employment by the Interim Receiver of any person in connection with its appointment and the performance of its powers and duties hereunder shall cause the Interim Receiver to be or be deemed or considered to be a successor employer, related employer, sponsor or payer with respect to any of the employees of the Debtor or any former employees within the meaning of the *Labour Relations Act* (Manitoba), the *Employment Standards Code* (Manitoba), the *Pension Benefits Act* (Manitoba), *Canada Labour Code*, *Pension Benefits Standards Act* (Canada), or any other provincial, federal or municipal legislation or common law governing employment, or labour standards (the "Labour Laws") or any other statute, regulation or rule of law or equity for any purpose whatsoever, or any collective agreement or other contract between the Debtor and any of its present or former employees. In particular, subject to paragraph 16 hereof, the Interim Receiver shall not be liable to any of the employees of the Debtor for any wages (as "wages" are defined in the *Employment Standards Code* (Manitoba, including severance pay, termination pay and vacation pay except for such wages as the Interim Receiver may specifically agree to pay, and such wages as the Interim Receiver is directed to pay pursuant to paragraph 16 hereof, and the Interim Receiver shall not make or be liable for any contribution or other payment to any person or benefit fund.

16. THIS COURT ORDERS that the Interim Receiver is hereby directed to pay, from and to the extent of cash available to the Interim Receiver at the date hereof, the payroll obligations to all employees of the Debtor for services performed by such employees for the Debtor during the period beginning at midnight on the day of this Order and ending at midnight on the day on which the Interim Receiver is discharged and to remit to the appropriate governmental authorities any statutory deductions thereon.

17. THIS COURT ORDERS that, upon payment by the Interim Receiver to the employees of any amounts on account of wage arrears, accrued and unpaid vacation pay or any other amounts owing by the Debtor as at the date of this Order, the claims of the employees in respect of such amounts shall be deemed to have been assigned to the Interim Receiver for the purpose of the Interim Receiver asserting a claim against the estate of the Debtor and the Interim Receiver shall be entitled to file one or more proofs of claim in respect of such amounts which shall be accepted by the trustee as valid claims pursuant to subsection 136(1)(d) of the Act. For greater certainty, such assignment shall not have the effect of granting to the Interim Receiver any claims against the present and former directors and officers of the Debtor.

Limitations on Environmental Liabilities

18. THIS COURT ORDERS that nothing in this Order shall vest in the Interim Receiver the ownership or possession of or require the Interim Receiver to enter into possession of any of the Property, provided that the Interim Receiver may and is hereby authorized, if it deems appropriate, to enter into possession of any or all of the Property at its discretion.

19. THIS COURT ORDERS notwithstanding any provisions to the contrary contained herein, nothing in this Order shall vest in the Interim Receiver the care, ownership, control, charge, possession, occupancy or management of, or require the Interim Receiver to take possession, occupation, control, or management of any of the Property which may be a source of a pollutant or contaminant, a waste disposal site, or which may cause or contribute or

threaten to cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal or provincial legislation or regulation thereunder or rule of law or equity respecting the protection of the environment or public health or safety and that the Interim Receiver shall not be deemed to be a person responsible, the owner, the occupant, or person having charge, management or control of any premises owned or occupied by the Debtor under any federal or provincial legislation, provided that nothing in this paragraph 19 shall relieve the Interim Receiver from any liability arising out of gross negligence or willful misconduct on the part of the Interim Receiver.

Limitation of Interim Receiver's Liability

20. THIS COURT ORDERS that the Interim Receiver shall bear no liability or obligation as a result of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, save and except for any gross negligence or willful misconduct on its part.

21. THIS COURT ORDERS that the liability of the Interim Receiver which it may incur as a result of its appointment or as a result of the performance of its duties hereunder, including in respect of gross negligence or willful misconduct, shall be limited in the aggregate to the realization value of the Property and furthermore the Interim Receiver shall cease to have any liability whatsoever upon distribution of the Property or any proceeds thereof under its administration in accordance with any Order of this Court. The net realizable value of the Property shall be the cash proceeds actually received by the Interim Receiver from the operation and disposition of the Property or part thereof after deducting all costs and expenses properly incurred in connection therewith, including the reasonable remuneration and expenses of the Interim Receiver, and the fees and disbursements of its counsel.

22. THIS COURT ORDERS AND DIRECTS the Interim Receiver to prepare and provide to the Applicant on or before December 24, 2008, a budget and cash flow projection in connection with the performance by the Interim Receiver of its powers and duties hereunder and thereafter such budgets and cash flow projections as the Applicant may request.

Accounting for Receipts and Disbursements

23. THIS COURT ORDERS that the Interim Receiver shall pass its accounts from time to time and shall pay the balances in its hands as this Court directs and, for this purpose, the accounts of the Interim Receiver are hereby referred to the presiding Motions Court Judge.

24. THIS COURT ORDERS that prior to the passing of accounts, the Interim Receiver shall be at liberty on a monthly basis to apply reasonable amounts from the monies in its hands against its fees and disbursements, including legal fees and disbursements on a solicitor and his own client basis, and such amounts shall constitute advances against its remuneration and expenses upon the passing of the Interim Receiver's accounts.

25. THIS COURT ORDERS that the costs of the Applicant in preparation of this Application up to and inclusive of the hearing of this application and the entry this Order (including applicable Goods and Services Tax) be paid to the Applicant by the Interim Receiver out of amounts received by it on a solicitor and his own client basis as part of its expenses.

26. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the interim Receiver including the fees of the Interim Receiver and the fees and disbursements of legal counsel on a solicitor and his own client basis, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to any charge, mortgage, lien, security interest or encumbrance on or in the Property.

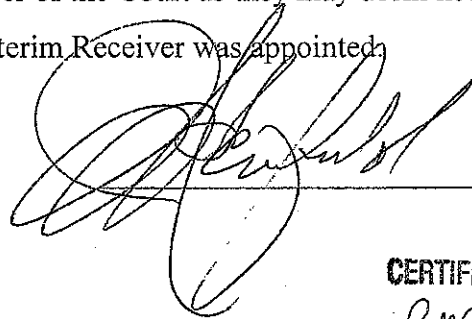
General

27. THIS COURT ORDERS that the Interim 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 liberty is reserved to any interested persons to apply for such further or other order as may be advised upon seven days notice to the Interim Receiver and to the Applicant.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal or administrative body of any province of Canada or of the United States of America to give effect to and assist the Interim Receiver in carrying out the terms of this order. The Interim Receiver shall be at liberty and is hereby authorized and empowered to apply as it may consider necessary or advisable, without notice, to any other courts or administrative bodies whether in Canada or the United States of America for orders in such other jurisdictions recognizing the appointment of the Interim Receiver. All courts and administrative bodies of all such jurisdictions are hereby especially requested to make such orders and to provide such assistance to the Interim Receiver as an officer of the Court as they may deem necessary or appropriate for the purposes for which the Interim Receiver was appointed.

December 15, 2008



CERTIFIED A TRUE COPY
B Mitchell
DEPUTY REGISTRAR