

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO.: 500-11-062362-237

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 *COMPANIES'*
CREDITORS ARRANGEMENT ACT OF:
ÉBÉNISTERIE ST-URBAIN LTÉE**

-and-

WOODLORE INTERNATIONAL INC.

-and-

EURO-RITE CABINETS LTD.

Debtors

-and-

RAYMOND CHABOT INC.

Monitor

-and-

HSBC BANK CANADA

Applicant/Secured Creditor

-and-

NAPOLÉON BOUCHER

-and-

DENIS LABROSSE

Respondents

**HSBC BANK CANADA'S APPLICATION TO CANCEL THE D&O CHARGE OF THE
DEBTORS**

(Sections 11, 11.51 and 18.6 of the *Companies' Creditors Arrangement Act*,
R.S.C. 1985, c. C-36)

**TO THE HONOURABLE KAREN M. ROGERS OF THE SUPERIOR COURT, SITTING
IN COMMERCIAL DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL,
THE APPLICANT RESPECTFULLY SUBMITS THE FOLLOWING:**

A. INTRODUCTION

1. The Applicant, HSBC Bank Canada (“**HSBC**” of the “**Bank**”), hereby asks this Court to cancel the Debtors’ D&O Charge initially created pursuant to the Initial Order rendered by this Court on May 12, 2023 (the “**Initial Order**”) as amended pursuant to the Amended and Restated Initial Order rendered on May 24, 2023 and the ERC D&O Charge initially created pursuant to the amended and restated initial order rendered by the Court on June 16, 2023 (collectively, the “**D&O Charges**”).
2. An *Approval and Reverse Vesting Order* (the “**RVO**”) was rendered on October 27, 2023, and authorizing a transaction (the “**Authorized Transaction**”) among Ébénisterie St-Urbain Ltée (“**EBSU**”), Euro-Rite Cabinets Inc. (“**ERC**”) and Woodlore International Inc. (“**Woodlore**” and, together with EBSU and ERC, the “**Debtors**”) and William M. Melnik (“**Melnik**”), the Melnik Family Trust 2043 (“**Melnik Trust**”) and Tayco Office Furnishings Inc. (“**Tayco**” and, together with Melnik, Melnik Trust, the “**Melnik Group**”).
3. The RVO was obtained under false pretences and by concealing from this Court crucial facts which were required to be disclosed. Further, the RVO was obtained on the basis of the consent of the Debtors’ secured creditors, including HSBC, which was also obtained under false pretences and by withholding decisive information.
4. Specifically, the Authorized Transaction was presented to this Court, to Raymond Chabot Inc. (the “**Monitor**” or “**Raymond Chabot**”) and to the Debtors’ secured creditors as a transaction with an unrelated third party, although an agreement in principle between the Melnik Group, on the one hand, and Napoléon Boucher (“**Boucher**”) and Denis Labrosse (“**Labrosse**”), on the other hand, pursuant to which EBSU and ERC would be “flipped” to Labrosse and Boucher, was concealed from this Court and the secured creditors.
5. Boucher and Labrosse (and others) showed a blatant lack of respect for the restructuring process and did everything in their power to mislead and deceive the Monitor, the secured creditors and, ultimately, this Court. Labrosse and Boucher (and others) cannot and should not be permitted to benefit from such an appalling behaviour, especially in a context where all of the Debtors’ secured creditors, including first and foremost HSBC, are facing losses of tens of millions of dollars.
6. As such, it would be a blow to the integrity of the process if Boucher and Labrosse (and others) were to benefit from the D&O Charges and thus be sheltered from the consequences of their own reprehensible behaviour, while all of the Debtors’ secured creditors are facing staggering losses.
7. Furthermore, this unconscionable behaviour from Labrosse and Boucher (and others) constitutes a blatant breach of the duty to act in good faith codified at section 18.6 of the CCAA and an extreme lack of candour.

8. Given the above, the Applicant hereby requests that this Court orders the cancellation of D&O Charges.

B. PROCEDURAL BACKGROUND

9. Prior to the closing of the Melnik Transaction (as defined hereinafter), HSBC was one of the main secured creditors and the interim lender of EBSU, Woodlore and ERC.
10. On May 12, 2023, EBSU and Woodlore obtained an initial order pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**"). On June 16, 2023, ERC was added as a debtor in the CCAA proceedings of EBSU and Woodlore.
11. On June 16, 2023, the Superior Court of Québec (commercial division) for the judicial district of Montréal (the "**Court**") issued an *Order Approving a Sale and Investment Solicitation Process* (the "**SISP Order**"), as appears from the Court record. A copy of the SISP Order is communicated herein as **Exhibit R-1**.
12. The SISP Order and the related SISP procedures (the "**SISP Procedures**") were to "*exclusively* govern the process for soliciting and selecting bids for an investment in the [b]usiness or sale of the [property of the Debtors]"¹.
13. The SISP Procedures provided that the SISP was to be conducted by the Debtors, along with the Monitor:

1.3 The Monitor and the Debtors shall be responsible for contacting Prospective Bidders, communicating with Prospective Bidders and Bidders, negotiating with Bidders, providing them with the Teaser Letter, coordinating the execution of any Confidentiality Agreements executed by a Prospective Bidder pursuant to the SISP, managing the process of answering all reasonable inquiries from Prospective Bidders and Bidders and arranging for visits, when applicable, by Bidders.

1.4 The Monitor, in consultation with the Debtors, shall review and assess LOIs and Bids. (our emphasis)

14. In order to protect the integrity of the SISP and address the conflict of interest that would necessarily arise in the event that any of the Debtors' shareholders or directors chose to participate in the SISP as a bidders, the SISP also provided that:

17.1 If any of the Debtors' shareholders, directors and officers, or any person related thereto, intends to act as a Prospective Bidder, such person shall notify the Monitor, the Debtors and the Information Agent, in writing, no later than ten (10) days before the LOI Deadline, failing which it shall not be permitted to participate in the SISP. Upon receipt of such notice, the Debtors and its shareholders, directors and officers, and any person related thereto, shall no longer be entitled to receive any information regarding the conduct of the SISP (including without

¹ Recital G of the SISP Procedures.

limitation any information regarding the LOIs, the Qualified Investment Bids and the Qualified Purchase Bids received), the Debtors' consultation rights set out in these SISP Procedures shall be immediately terminated and the Monitor shall be authorized to take any action or make decision pursuant to these SISP Procedures that would otherwise be taken or made by, or with the authorization of, the Debtors. (Our emphasis)

15. It is worth noting immediately that the notice contemplated in paragraph 17.1 of the SISP Procedures was not given by Denis Labrosse or Napoléon Boucher (or any other person).
16. Pursuant to the SISP Procedures, “only Prospective Bidders who submit an executed Confidentiality Agreement and Written Acknowledgement shall have access to the Data Room and to other confidential information and management presentations, if available”².
17. The SISP Procedures contemplated a two-phase process to be conducted in accordance with the following timeline:
 - (i) Commencement Date: June 21, 2023;
 - (ii) Deadline to submit non-binding letters of intent: August 31, 2023 (the “**Phase 1 Deadline**”);
 - (iii) Qualification deadline: September 14, 2023;
 - (iv) Deadline to submit binding investment or purchase bids: September 29, 2023 (the “**Phase 2 Deadline**”);
 - (v) Target closing date: October 15, 2023.
18. The SISP was launched on June 21, 2023, in accordance with SISP Procedures.
19. By the Phase 1 Deadline, five letters of intent were received. Two additional letters of intent were received on August 31, 2023, after the LOI Deadline (along with the five other LOIs, the “**LOIs**”). A summary of the LOIs is communicated herein as **Exhibit R-2**, *under seal*.
20. From the LOIs:
 - (i) Three were for an asset purchase targeting Woodlore;
 - (ii) One was for an asset purchase targeting all of the Debtors;
 - (iii) One was to refinance ERC;
 - (iv) One was to refinance Woodlore; and

² SISP Procedures, par. 4.1 (f).

- (v) One was to refinance all of the Debtors.
21. The results of the first phase of the SISP indicated a very low level of interest for EBSU and ERC. Indeed, none of the LOIs received targeting EBSU and ERC contemplated the continuation of the operations.
 22. 2000674 Ontario Limited (“**BRC**”), an entity related to the Melnik Group, submitted a LOI to purchase the assets of Woodlore only. Neither BRC nor any other entity related to the Melnik Group submitted an offer for EBSU or ERC. A copy of the LOI submitted by BRC is communicated herein, *under seal*, as **Exhibit R-3**.
 23. It is also important to note that Pathward, National Association (“**Pathward**”) also submitted two non-binding financing proposals, one for Woodlore and one for ERC, both received on August 31, 2023, but after the 5:00 P.M. deadline.
 24. By the Phase 2 Deadline of September 29, 2023, five binding offers were received. An analysis of the binding offers prepared by the Monitor is communicated herein, *under seal*, as **Exhibit R-4**.
 25. The five binding offers received included a bidding offer from the Melnik Group (the “**Melnik Offer**”). Contrary to the LOI submitted by the Melnik Group by the LOI Deadline, the Melnik Offer targeted all of the Debtors. A copy of the Melnik Offer is communicated herein, *under seal*, as **Exhibit R-5**.
 26. On October 26, 2023, the day before the hearing on the approval of the Melnik Transaction (as defined hereafter), and without any prior discussions with HSBC, the Debtors filed an application entitled “*Requête des débitrices pour l’émission d’ordonnances visant à approuver et mettre en oeuvre un plan d’arrangement*”, seeking the issuance of various orders in order to implement a purported plan of arrangement.
 27. On October 27, 2023, the Court issued a reverse vesting order (the “**RVO**”) authorizing a transaction pursuant to which the Melnik Group was to acquire the shares of EBSU, Woodlore and ERC, respectively (the “**Melnik Transaction**”).
 28. On November 14, 2023, the Monitor issued a certificate confirming the closing of the Melnik Transaction, as appears from the Court record.

C. PAUL LAFRENIÈRE’S INVOLVEMENT

29. During a conference call with the Monitor held on September 1, 2023, Martin Rosenthal of Ernst & Young Inc. (the “**Information Agent**”) learned that the Debtors had engaged Paul Lafrenière, CPA, CIRP to provide support in the accounting department. His role was subsequently expanded to assist Boucher and the other shareholders of the Debtors to secure alternate financing. The Monitor had not been informed of the parties with whom Mr. Lafrenière and Boucher were in discussions with, notwithstanding their request to be provided

with this information and to have those discussions take place within the parameters of the SISP.

30. On September 11, 2023, upon learning of what appeared to be a parallel solicitation process conducted without the Monitor's supervision and outside of the parameters of the SISP, HSBC wrote a letter to the Monitor and Boucher complaining about the alternative financing efforts conducted in parallel with the SISP, as appears from a copy of such letter communicated herewith as **Exhibit R-6**.
31. On September 13, 2023, the Monitor responded to HSBC's letter, denying the existence of a parallel process, but acknowledging that the Debtors were involved in "direct discussions with DNA Capital, Maynbridge and Accord Financial, with a view to exploring potential opportunities that could lead to potential transactions being implemented outside the confines of the SISP", as appears from a copy of the letter communicated herewith as **Exhibit R-7**.
32. On September 19, 2023, HSBC responded to the Monitor's letter stating that it was surprised by the statements contained in the aforementioned letter, which were contrary to previous verbal representations, as appears from a copy of the letter communicated herewith as **Exhibit R-8**.
33. The Bank also wishes to specify that it learned on January 5, 2024, through the sixth Monitor's report (the "**Sixth Monitor's Report**"), a copy of which is communicated herewith as **Exhibit R-9**, that Paul Lafrenière had contacted the other secured creditors in connection with a possible plan of arrangement:

2.14. En août, des représentants des créanciers garantis (BDC, IQ et Fiera) nous avaient mentionné que Paul Lafrenière (consultant retenu par les Débitrices) avait communiqué avec eux pour leur parler d'un plan de relance dans le cadre d'un plan d'arrangement éventuel, dans lequel il agirait comme CFO. Afin de préserver l'intégrité du processus, le Contrôleur a demandé à Napoléon Boucher et Paul Lafrenière de ne pas communiquer d'autres informations que celles qui étaient communiquées par le Contrôleur à toutes les parties concernées. À ce moment, Napoléon Boucher et Paul Lafrenière ont assuré au Contrôleur que seuls les documents dans le dataroom étaient communiqués.

34. The Bank was surprised and concerned to hear about the above and is wondering if it wasn't intentionally excluded from the parties contacted.

D. THE MELNIK TRANSACTION AND THE DISCOVERY BY HSBC OF A SUBSEQUENT TRANSACTION WITH LABROSSE

35. On October 24, 2023, an investment agreement was executed among the Melnik Group and the Debtors (the “**Investment Agreement**”).
36. On November 3, 2023, HSBC was informed by the Monitor and its counsel that EBSU had paid an amount of \$50,000 to Maynbridge on October 30, 2023 (i.e., one business day following the issuance of the RVO) (the “**Maynbridge Payment**”). This payment was made by electronic transfer from EBSU’s bank account at HSBC, using the proceeds of the interim financing provided by HSBC.
37. On November 7, 2023, HSBC learnt from the Monitor’s counsel that EBSU made another payment of \$40,000 to another private lender, Pathward, on October 27, 2023 (i.e., the day of the issuance of the RVO) (the “**Pathward Payment**”, and together with the Maynbridge Payment, the “**Payments**”).
38. The Monitor further informed HSBC that neither of these payments had been authorized by the Monitor. In fact, on November 8, 2023, the Monitor’s counsel sent letters to Maynbridge and Pathward requiring them to reimburse the amounts received from EBSU, as appears from a copy of such letter communicated herein as **Exhibits R-10** and **R-11**.
39. It is also important to remember that Pathward had submitted two non-binding credit proposals, one for Woodlore and one for ERC, both received on August 31, 2023, but after the 5:00 P.M. Phase 1 Deadline of the SISP procedures. The Pathward letters of intent are communicated herewith, *en liasse*, as **Exhibit R-12**, *under seal*.
40. On November 23, 2023, HSBC was informed by the Monitor that another inappropriate payment was made by EBSU on November 14, 2023, the day of the closing of the Melnik Transaction, as appears from an email from the Monitor’s counsel dated November 24, 2023, a copy of which is filed *under seal* as **Exhibit R-13**.
41. Indeed, the Monitor informed HSBC that on November 14, 2023, EBSU funded the payroll in an amount of \$190,291. Given that the usual EBSU payroll is around \$130,000, the Monitor requested that EBSU’s management provide explanations. The Monitor was informed that the delta between the usual payroll of \$130,000 and the amount of \$190,291 paid by EBSU on November 14, 2023, represents payments made to certain employees, on account of accrued vacation pay, despite no vacation having been taken by these employees during the period. The EBSU employees who benefited from these payments include Denis Labrosse, who received, according to the information provided by the Monitor, an amount of \$18,975.
42. Following the closing of the Melnik Transaction, HSBC discovered the existence of a subsequent transaction, pursuant to which the shares of EBSU are ERC were sold to LabrosseCo (the “**Undisclosed Transaction**”). The Undisclosed

Transaction was not disclosed to the Monitor, the secured creditors or to the Court before the issuance of the RVO.

43. On December 11, 2023, the Bank filed an *Application for a Condemnation Against Napoléon Boucher and Denis Labrosse in Relation to Unlawful Payments*, the whole in relation to, *inter alia*, the Payments.
44. On December 12, 2023, the Bank filed an *Application to Compel the Communication of Documents* (the “**Application for Communication of Documents**”) in connection to the Undisclosed Transaction. Said application was to be heard the next day, on December 13, 2023.
45. On December 13, 2023, a hearing was held in front of this Court. The Court partially granted HSBC’s Application for Communication of Documents and rendered the following order:

ORDERS *Napoléon Boucher, Denis Labrosse, 9501-8222 Québec Inc., EBSU, EURO Rite Cabinets, William M. Melnik, The Melnik Family Trust 2043 and Tayco Office Furnishings Inc. to provide to the Court appointed monitor, who in turn will transmit to secured creditors' attorneys, within two (2) days of the date of this order, a copy of*

(i) all closing agenda(s) and all closing documents for all transaction involving Ébenisterie St-Urbain Itée (“EBSU”), Euro-Rite Cabinets Ltd. (“ERC”) and Woodlore International Inc. (“Woodlore”);

(ii) the minute books of EBSU, ERC and Woodlore and

(iii) any and all agreements among Denis Labrosse, 9501-8222 Québec Inc., Napoléon Boucher, William M. Melnik, the Melnik Family Trust 2043 and Tayco Office Furnishings Inc. regarding ERC, EBSU and Woodlore;

46. During the December 13, 2023, hearing, two term sheets were also produced as exhibits:
 - (i) a term sheet dated November 1, 2023, issued by Maybridge and accepted by LabrosseCo and/or 1000688382 Ontario Inc. (a corporation incorporated under the laws of Ontario with Denis Labrosse as sole director) (the “**Maynbridge Term Sheet**”), a copy of which is communicated herein as **Exhibit R-14**; and
 - (ii) a term sheet dated October 20, 2023, issued by Pathward and accepted by Denis Labrosse, on behalf of “Acquire Company (legal name TBD) of the assets of, Euro-Rite Cabinets Ltd. and Ebenisterie St-Urbain Ltee” (the “**Pathward Term Sheet**”), a copy of which is communicated herein as **Exhibit R-15**.

47. Contrary to the representations made by the Debtors to the Monitor, the Maynbridge Term Sheet and the Pathward Term Sheet do not contemplate a

plan of arrangement to be filed by the Debtors. Rather, they clearly contemplate an acquisition of EBSU and ERC (or their assets) by an entity owned by Denis Labrosse. The Pathward Term Sheet is particularly clear in this regard:

“Purpose of Loan: To provide working capital and together with Machinery and Equipment term loan of at least \$2,300,000 to provide for the acquisition proceeds for the assets of Euro-Rite Cabinets Ltd. and Ebenisterie St-Urbain Ltee.” (p. 1 of the Pathward Term Sheet)

48. The Maynbridge Term Sheet and the Pathward Term Sheet also clearly show that Napoléon Boucher would have a significant equity interest in the entity that would own EBSU and ERC (or their assets):

“Conditions Precedent to Closing:

Fully executed copy of the Investment Agreement, dated October 24, 2023, and entered into by EBSU, Woodlore International Inc., ERC, William M. Melnik, the Melnik Family Trust 2043 and Tayco Office Furnishings Inc.;

Fully executed copy of the binding Offer to Purchase, dated October 26, 2023, and entered into by Denis Labrosse, William M. Melnik, the Melnik Family Trust 2043 and Tayco Office Furnishings Inc.;

Fully executed copy of the share purchase agreement to be executed between Napoléon Boucher and Denis Labrosse;

An organization chart, satisfactory to the Lender, demonstrating that the Purchasing Entity is owned 80% by Napoléon Boucher and 20% owned by Denis Labrosse”; (p. 3 of the Maynbridge Term Sheet)

49. Tellingly, the Maynbridge Term Sheet also provides that both Labrosse and Boucher would be required to personally guarantee the indebtedness to Maynbridge. However, a hand-written note on the Maynbridge Term Sheet states that “Denis Labrosse will be released when Napoléon Boucher exercises *his option*” (our emphasis).
50. It is important to remember that, on August 28, 2023, Fiera Private Debt Fund VI LP (“**Fiera**”) had filed a petition in bankruptcy against Boucher, a copy of which is communicated herein as **Exhibit R-16**. At the time when the Maybridge Term Sheet was issued, this petition was pending. This seems to explain why the Maynbridge Term Sheet contemplates the eventual exercise of an option by Boucher.
51. On December 14, 2023, HSBC’s counsel sent a letter to representatives of Pathward and Maynbridge to request communication of documents related to the Pathward Term Sheet and the Maynbridge Term Sheet, a copy of which is communicated herein, as **Exhibits R-17** and **Exhibit R-18**.

52. On December 15, 2023, the Monitor sent a letter and a ShareFile link to the counsel for the Debtors' secured creditors, a copy of which is communicated herein as **Exhibit R-19**. The ShareFile link contained a number of closing documents relating to a share purchase transaction pursuant to which LabrosseCo acquires all of the issued and outstanding shares of EBSU and ERC.
53. Certain key documents appeared to be missing from the closing documents received from the Monitor on December 15, 2023. For example, as mentioned above, the Maynbridge Term Sheet refers to a "*binding Offer to Purchase, dated October 26, 2023, and entered into by Denis Labrosse, William M. Melnik, the Melnik Family Trust 2043 and Tayco Office Furnishings Inc.*" (the "**Binding Offer**"). No such document was included in the package received from the Monitor.
54. Therefore, on December 19, 2023, HSBC sent a letter to McCarthy Tétrault, Stephen Walters (representing the Melnik Group), Neil Peden (who represents Boucher) seeking essentially a copy of all agreements referred to in the Maynbridge Term Sheet and in the Pathward Term Sheet, as appears from a copy of such letter communicated herein as **Exhibit R-20**. HSBC also sought a copy of any agreement pursuant to which Boucher would have an option to acquire an equity interest in LabrosseCo and/or either of EBSU or ERC.
55. On December 19, 2023, Stephen Walters responded to HSBC's letter, as appears from a copy of such response communicated herein as **Exhibit R-21**. Mr. Walters stated that "*[n]o term sheet, letter of intent, memorandum of understanding or other prior document was exchanged between any of the Investors [i.e. the Melnik Group] and/or 9501-8222 Québec (now known as 15569621 Canada Inc.), EBSU or ERC in relation to the Share Purchase Agreement. There is only the Share Purchase Agreement, as provided.*"
56. However, on December 20, 2023, McCarthy Tétrault responded to HSBC's letter, as appears from a copy of such response communicated herein as **Exhibit R-22**. As concerns the "binding offer to purchase" referred to in the Maynbridge Term Sheet, McCarthy Tétrault stated that:

"Un document intitulé Binding Offer a été signé par Denis Labrosse le 26 octobre 2023, et transmis à MM. Melnik et Walters pour leur revue et signature par M. Melnik. Or, également le 26 octobre 2023, M. Melnik a répondu qu'il avait des commentaires sur le document et ne l'a ni approuvé ni signé. Suite à cette date, plusieurs versions du Binding Offer ont été échangées entre les parties, notamment le 31 octobre, les 1er, 2 et 3 novembre 2023, et les discussions se sont poursuivies. Toutefois, le document en question n'a jamais été finalisé ni signé et, le ou vers le 8 novembre 2023, les parties ont plutôt convenu de procéder directement avec la négociation d'une convention d'achat d'actions. Cette convention d'achat d'actions a finalement été conclue et signée par les parties les 20 et

23 novembre 2023, bien qu'elle porte la date du 14 novembre 2023." (Our emphasis)

57. Also on December 20, 2023, Neil Peden responded to HSBC's letter, as appears from a copy of such response communicated herein as **Exhibit R-23**. As concerns HSBC's request to obtain a copy any agreement pursuant to which Boucher would have an option to acquire an equity interest in LabrosseCo, EBSU or ERC, Neil Peden stated that "[n]either Mr. Boucher nor any related person or entity has any such option or is a party to any such agreement."
58. On January 10, 2024, HSBC filed an *Application Seeking to Compel the Communication of Documents and to Conduct Examinations* in relation to the Undisclosed Transaction.
59. On January 10, 2024, HSBC filed an application seeking the partial revocation of the RVO such that EBSU and ERC would remain liable for the indebtedness that they had towards HSBC prior to the closing of the Authorized Transaction and that the previous shareholders of the Debtors, Labrosse and Boucher, would be personally liable for the pre-RVO indebtedness of ERC and EBSU towards HSBC ("**HSBC's Application for the Partial Revocation of the RVO**"), as appears from the Court record.
60. On January 11, 2024, Fiera filed an application seeking an order to condemn Napoléon Boucher, Denis Labrosse, 155 Canada Inc., EBSU, ERC, Melnik, Melnik Trust and Tayco, to pay the sum of \$175,000 to Fiera ("**Fiera's Application to Recover Damages**"), as appears from the Court record.
61. On January 15, 2024, a hearing was held before this Court. The Court granted HSBC's *Application Seeking to Compel the Communication of Documents and to Conduct Examinations* and rendered the following order:

[1] ORDERS *Napoléon Boucher, Denis Labrosse, Paul Lafrenière, 9501-8222 Québec Inc. (now known as 15569621 Canada Inc.), 1000688382 Ontario Inc., William M. Melnik, The Melnik Family Trust 2043 ant Tayco Office Furnishings Inc. to provide to HSBC Bank Canada ("HSBC"), within ten (10) days from this Order, a copy of:*

(i) any agreement pursuant to which Napoléon Boucher (or any related person or entity) would have an option to acquire an equity interest in 9501-8222 Québec Inc. (now known as 15569621 Canada Inc.) and/or either of Ébénisterie St-Urbain Ltée ("EBSU") or Euro-Rite Cabinets Inc. ("ERC") and any correspondence between Denis Labrosse and Napoléon Boucher in relation thereto;

(ii) any term sheet, letter of intent, or any drafts or prior documents exchanged between Napoléon Boucher or Denis Labrosse or 9501-8222 Québec Inc. or 1000688382 Ontario Inc. and William M. Melnik, the Melnik Family Trust 2043 and Tayco Office Furnishings Inc. in relation to the

Share Purchase Agreement, including but not limited to the document entitled "Binding Offer" signed by Denis Labrosse on October 26, 2023, and its subsequent draft versions exchanged notably on October 31, November 1, 2 and 3, 2023 and any correspondence between Denis Labrosse, Napoléon Boucher and William M. Melnik in relation thereto.

(iii) any agreement or draft agreement between EBSU and/or ERC and any commercial lenders as referred to in clause 3.3 d) of the share purchase agreement entered into as of November 14, 2023.

*(iv) any draft share purchase agreement to be executed between Napoléon Boucher and Denis Labrosse as mentioned in the term sheet issued by Maynbridge Capital Inc. ("**Maynbridge**") and any correspondence between Napoléon Boucher and Denis Labrosse in relation thereto; and*

*(v) any agreement or draft agreement pursuant to which Napoléon Boucher will have an option to exercise as mentioned in the term sheet issued by Pathward, National Association ("**Pathward**");*

(vi) the plan of arrangement communicated to Business Development Bank of Canada, Investissement Québec and Fiera Private Debt Fund VI LP in August 2023 and all correspondence and documents in connection therewith.

*(vii) any agreements entered with RONA Inc. ("**RONA**") regarding cure costs and any correspondence between the Debtors and RONA in relation thereto.*

[2] ORDERS *that the documents communicated pursuant to this order be communicated to Me Denis Ferland at his office who has undertaken to share the communicated documents with the order secured creditors and with the monitor.*

[3] ORDERS *Napoléon Boucher, Denis Labrosse, Paul Lafrenière and William M. Melnik to submit to an examination in relation to all aspects of the CCAA procedures, the sales process, the negotiations and draft agreements, including notably the payments made to Maynbridge and Pathward as well as the subsequent transaction that occurred with respects to EBSU and ERC.*

62. On January 25, 2024, at 9:10 p.m., counsel for the Melnik Group sent to HSBC's counsel a link to a platform containing, among other things, draft documents and correspondence related the Undisclosed Transaction, as well as to the agreements entered with RONA regarding cure costs (the "**Melnik Documents**").
63. On January 25, 2024, at 11:29 p.m., counsel for Mr. Boucher and Mr. Labrosse sent to HSBC's counsel an email containing zip files comprising of, among other

- things, draft documents and correspondence related to the Undisclosed Transaction, as well as to the agreements entered with RONA regarding cure costs (the “**Boucher/Labrosse Documents**”). A letter was accompanying the communication of the documents, a copy of which is communicated herein as **Exhibit R-24**.
64. The email exchanges received as part of the Melnik Documents and the Boucher/Labrosse Documents show that communications regarding the Undisclosed Transaction began at least as early as September 27, 2023. Indeed, as per an email dated September 27, 2023, counsel for the Debtors mentions to counsel for the Melnik Group that they are “working towards a transaction that would ensure the continuity of the businesses,” as appears from a copy of such email communicated herein as **Exhibit R-25**.
 65. It was also in September 2023 that the HSBC learned that the Debtors were conducting alternative financing efforts in parallel with the SISF, the whole with the implication of Paul Lafrenière. On that matter, the Monitor specifically mentioned “direct discussions with DNA Capital, Maynbridge and Accord Financial, with a view to exploring potential opportunities that could lead to potential transactions being implemented outside the confines of the SISF” (Exhibit R-7).
 66. On January 24, 2024, the HSBC filed an *Application for the Cancellation of the Subsequent Transaction and Other Reliefs*, which reflected a partial settlement of HSBC’s Application for the Partial Revocation of the RVO and some related disputes and outstanding issues surrounding the Undisclosed Transaction.
 67. On January 26, 2024, a hearing was held before this Court. The Court granted *HSBC’s Application for the Cancellation of the Subsequent Transaction and Other Reliefs*, and issued a Cancellation Order with reasons to be issued at a later date.
 68. Pursuant to the Cancellation Order, the Court approved a partial settlement term sheet (the “**Partial Settlement Term Sheet**”) and declared that LabrosseCo is no longer a shareholder of EBSU and ERC and that the Melnik Group is the sole owner of all outstanding shares of EBSU and ERC, essentially unwinding the Undisclosed Transaction.
 69. Under the terms of the Partial Settlement Term Sheet, HSBC undertook not to seek any relief against the Melnik Group, EBSU, ERC and Woodlore in relation to the Undisclosed Transaction and to amend HSBC’s Application for the Partial Revocation of the RVO.
 70. On February 9, 2024, the HSBC filed an *Application to Compel the Communication of Documents and to Conduct Examinations of the Commercial Lenders* in order to gain more information about the involvement of various potential lenders in the scheme surrounding the Undisclosed Transaction (the “**Commercial Lenders Application**”).

71. On February 14, 2024, a hearing was held before this Court. The Court granted the Commercial Lenders Application. On February 15, 2023, counsel for HSBC notified the order rendered in connection to the Commercial Lenders Application to representatives of Maynbridge, Pathward, D&A Labrecque Capital Inc. and Accord Financial.
72. On February 23, 2024, a representative of Maynbridge sent to HSBC's counsel a link to a platform containing, among other things, correspondence regarding the financing of the Undisclosed Transaction (the "**Maynbridge Documents**"). On or around February 23, 2024, counsel for HSBC received a USB key containing the documents communicated by Accord Financial pursuant to the Commercial Lenders Application (the "**Accord Documents**"). On February 26, 2024, a representative of D&A Labrecque Capital Inc. sent to HSBC's counsel emails containing the documents communicated by Accord Financial pursuant to the Commercial Lenders Application (the "**DNA Documents**"). On March 1, 2024, counsel for Pathward sent to counsel for HSBC a letter containing a link to a platform to access the documents communicated by Pathward pursuant to the Commercial Lenders Application (the "**Pathward Documents**"). A copy of the letter send by Pathward is communicated herein as **Exhibit R-26**.

E. THE UNDISCLOSED TRANSACTION AS WELL AS THE CORRESPONDENCE AND DOCUMENTS UNCOVERED BY HSBC

73. The email exchanges received as part of the Maynbridge Documents show that the corporate structure that allowed for the Undisclosed Transaction had been planned starting in July 2023 and that the idea to conduct a process parallel to the Court supervised SISP one had emerged as early as May 2023.
74. Indeed, on July 7, 2023, Boucher sent to Maxime Vanier from Maynbridge an email in which he writes: "*Oui nous sommes en train de monter la structure du exit. Paul Lafreniere nous monte ca en parallele. Je le mets cc et te le presente en meme temps,*" as appears from a copy of such email communicated herein as **Exhibit R-27**.
75. In that same email chain, on May 30, 2023, Boucher wrote : "*Je propose de ne pas lacher le due dil... on aura besoin de vous au buyback/ refinance 😊 Alain Tardif a une grande confiance en vous et vous avez aidé ses clients passés. Dites moi comment vous voylez [sic] procéder. Connaissez vous Paul Lafrenière? Je pense bieb [sic] l'utiliser pour m'aider au refinance...*"
76. Similarly, in an email dated June 6, 2023, sent by Boucher to Cynthia Aboud from Accord Financial Inc., with Labrosse in cc, Boucher asks "*As-tu du nouveau sur la structure utilisée dans l'autre dossier que nous parlions hier au lunch,*" as appears from a copy of such email communicated herein as **Exhibit R-28**.
77. On July 7, 2023, Boucher also mentions in an email to Cynthia Aboud, with Labrosse and Paul Lafrenière in cc, that "*Paul Lafreniere est responsable du*

montage financier. Il est cc,” as appears from a copy of such email communicated herein as **Exhibit R-29**.

78. The documents received cast an even wider shadow over the integrity of the SISP process carried out by the Monitor. On August 30, 2023, Boucher sent an email to Maxime Vanier from Maynbridge, with Paul Lafrenière in cc, where he writes: “*On rouvre [sic] les offres Loi demain soir.... On te communique ensuite pour avancer le dossier. Je pense qu’on va avoir un business case,*” as appears from a copy of such email communicated herein as **Exhibit R-30**.
79. In the Sixth Monitor’s Report (Exhibit R-9), at paragraph 2.14, on the subject of the initial and non binding offers submitted to the Monitor on August 30, 2023, it is specifically mentioned that “[c]onsidérant la volonté des actionnaires des Débitrices de pouvoir déposer un éventuel plan d’arrangement, il avait été convenu avec ces derniers que les conditions des offres initiales reçues ne leur seraient pas partagées. Par ailleurs, les négociations sur les offres reçues ont été menées subséquemment par le Contrôleur, sans impliquer les représentants des Débitrices.”
80. As such, there are clearly some dubious undertakings that occurred with regards to the LOIs during the SISP process.
- A. A PARALLEL SOLICITATION PROCESS WAS CONDUCTED
81. On September 1, 2023, Raymond Chabot introduced Napoleon Boucher to Pathward for the Potential Financing, as appears from the letter received from Pathward’s counsel dated March 1, 2024 (Exhibit R-26) and from an email that Nicholas Capuano from Raymond Chabot, sent to Nick Dounas from Pathward, with the Monitor, Boucher and Saki Tzanidis, from Raymond Chabot. A copy of the September 1, 2023, email is communicated herein as **Exhibit R-31**.
82. While it is important to remember that Pathward had submitted two non-binding credit proposals, one for Woodlore and one for ERC, on August 31, 2023, but after the 5:00 P.M. Phase 1 Deadline of the SISP procedures (Exhibit R-12), after Raymond Chabot’s introduction, the discussions between Pathward and the Debtors had clearly taken a different turn. Indeed, on September 11, 2023, Boucher wrote the following to Nick Dounas from Pathward, with Paul Lafrenière in cc:
- “Hi Nick,
Absolutely. I am waiting for you around 11am... So far, I am free from 10h30 if you arrive early... just text me.
Paul Lafreniere will be there also to answer your questions on the reports provided.
Do you have time for lunch after the visit? I made myself available til 3PM for you.
See attached a revised Exec Team org chart.... I think in this crucial time, Operation, CFO, and Sales need to report directly to me... while my COO

handle supports team and admin. It replaces the one provided in the Emergence Plan.... The plan is evolving everyweek. [sic] I had my advisory board last Friday and it was great to be challenged and to hear their ideas on the future.
Here is my cell phone: [...]"

A copy of the September 11, 2023, email chain is communicated herein as **Exhibit R-32**.

83. On September 7, 2023, Boucher wrote to an employee of Woodlore, Robin Rooker, with Maxime Vanier from Maynbridge and Paul Lafrenière in cc, regarding a visit to the Woodlore plant:

"Hi Robin,
Here is cc. Maxime Vanier from Mainbridge Capital, a potential financial partner for the emergence of the group. HE [sic] is in Toronto tomorrow and he might have some timeend [sic] of the day to visit Woodlore. Same kind of visits you did with Sienna and Pathwardlast [sic] week, approx. 30 minutes.
Maxime will text you in the afternoon to confirm the visit...
Robin cell: [...]
Maxime cell: [...]
Max: let me know your taughts [sic] after your visit... it really worths [sic] the trip..."

A copy of the September 7, 2023, email chain is communicated herein as **Exhibit R-33**.

84. The aforementioned visit to the Woodlore plant occurred on Friday, the 8th of September, 2023, as evidenced by the email chain (Exhibit R-33). That date is past the deadline for the submission of the non-binding LOIs and Maynbridge had not submitted an offer.
85. On September 17, 2023, Nancie Allard, a partner of Paul Lafrenière, sent the following email to Cynthia Aboud, from Accord Financial Inc., and Paul Lafrenière:

"D'accord pour jeudi à Valleyfield !
As-tu un intérêt à visiter Woodlore à Toronto ? Napoléon y serait mardi.
Merci beaucoup
À jeudi"

A copy of the September 17, 2023, email is communicated herein as **Exhibit R-34**.

86. The aforementioned visit to the Valleyfield plant would have occurred on Thursday, the 21st of September, 2023. That date is past the deadline for the submission of the non-binding LOIs and Accord Financial Inc. had not submitted an offer.

87. As for DNA Capital, while the discussions initially started with the Monitor through the SISP process, Boucher, Labrosse and Paul Lafrenière shifted the conversation that used to take place within the SISP to the funding they needed. Indeed, on August 16, 2023 Boucher wrote the following to Marc-Alexandre Cormier, from DNA Capital, with Labrosse, Paul Lafrenière and Stéphane Léveillé from DNA Capital in cc:

“Bonjour,
Paul devrait vous revenir avec de la documentation en début de semaine prochaine, et on se rencontre le jeudi 31 août chez Woodlore à Toronto.
Est-ce que cela est convenable pour vous ou vous avez d’autres suggestions?
Comme on dit, we have one shot... on ne veut pas la manquer avec vous car le « fit » humain est là selon moi.”

A copy of the August 16, 2023, email is communicated herein as **Exhibit R-35**.

88. On August 16, 2023, still, Stéphane Léveillé from DNA Capital sent the following email to the Monitor and Marc-Alexandre Cormier from DNA Capital, with Saki Tzanidis from Raymond Chabot in cc:

“Salut,
Merci pour ton suivi.
La business nous intéresse et avons une visite chez Woodlore prévu le 31 août avec Napoléon.
Néanmoins, ce n’est pas un dossier facile, et en toute transparence, comme mentionné, il est difficile pour nous d’envisager un investissement avec la structure de capital actuelle. Puisque nous sommes des investisseurs minoritaires, nous estimons que nous ne sommes pas le bon joueur pour prendre lead sur le remaniement de la structure de capital dans ce dossier-ci si cela est vos attentes. N’hésitez pas à nous mettre en contact avec des joueurs de contrôles qui pourraient jouer ce rôle, ou de nous éclairer sur le plan de match à cet égard.
Merci et n’hésite pas à m’appeler pour en discuter davantage.
Stef”

A copy of the August 16, 2023, email to the Monitor is communicated herein as **Exhibit R-36**.

89. On August 28, 2023, from 14:30 to 16:30, a Teams call was held between Boucher, Labrosse, Paul Lafrenière, and Stéphane Léveillé and Marc-Alexandre Cormier from DNA Capital, as appears from a copy of the August 24, 2023, email chain communicated herein as **Exhibit R-37**.
90. On August 29, 2023, Boucher sent to Marc-Alexandre Cormier from DNA Capital documents regarding a recovery plan, with Labrosse and Paul Lafrenière in cc, as appears from a copy of the August 29, 2023, email chain, and the attached Recovery plan communicated herein, *en liasse*, as **Exhibit R-38**. On that same

day, Nancie Allard, Paul Lafrenière's partner, sent to Marc-Alexandre Cormier other complementary documents on the Debtors, as appears from a copy of the August 29, 2023, email chain communicated herein as **Exhibit R-39**.

91. On August 30, 2023, Boucher sent to Daniel Labrecque from DNA Capital the following email, with Paul Lafrenière and Marc-Alexandre Cormier from DNA Capital in cc:

“Bonjour M-A, Daniel,
Premièrement, toutes mes sympathies. C'est un évènement tragique qu'aucune famille ou entreprise ne souhaite vivre. Courage mes amis.
M-A, Paul va te lacher un coup de fil pour mieux expliquer la position en dette « post » ccaa.... Elle est loin de 30M\$ et il y a eu une mauvaise compréhension lors de notre rencontre sur ce chiffre... surement tous un peu secoués par la nouvelle à ce moment. Elle devrait tourner plus autour de 20M\$, et 10M\$ ebitda/year. Donc un ratio plus sain autour de 2x-2.5x debt/ebitda.
J'ai demandé un tableau de estimated loss by creditor à jour a RCGT. Je devrais avoir cela d'ici 48h.... je vous l'enverrai à ce moment.
Daniel : si c'était possible de discuter ensemble, j'aimerais avoir un moment de ton temps. Juste me dire tes disponibilités et je m'ajusterai.”

A copy of the August 30, 2023, email is communicated herein as **Exhibit R-40**.

92. In the end, DNA Capital did not submit an offer through the SISP process.
93. On September 28, 2023, Nancie Allard, a partner of Paul Lafrenière, wrote the following to Marc-Alexandre Cormier from DNA Capital, with Paul Lafrenière, Boucher and Labrosse in cc:

“Salut Marc-Alexandre,
Merci pour l'appel de ce matin.
Tel que convenu, je t'envoie :

- P&L de chaque cie ainsi que ceux combinés EBSU + ERC et 3 cies du groupe
- Fichiers Excel des résultats prévisionnels détaillées
- Fichier résumé des actifs à court terme et besoins de cashflow

Il est à noter que certains déboursés pourraient s'ajouter, comme des frais de mise en place du financement.
De plus, nous avons la confirmation verbale de Maynbridge (confirmation par courriel à venir aujourd'hui) pour le 2.5M\$ de financement sur les actifs long terme. Nous sommes en discussion avec d'autres partenaire pour le 2.5M\$ sur le court terme. Dans l'éventualité ou ce montant serait réduit à 2M\$ ou moins, le besoin de cashflow devrait couvrir cet écart.
Un investissement de 2M\$ est recherché pour le fond de roulement.
N'hésite pas s'il y a quoi que ce soit que je peux faire pour t'aider aujourd'hui, peu importe l'heure.
Meilleures salutations”

A copy of the September 28, 2023, email is communicated herein as **Exhibit R-41**.

94. A parallel solicitation process was carried out simultaneously to the Court-approved SISF process. A number of discussions with potential investors initiated by the Monitor were subsequently leveraged and redirected by Boucher and Labrosse to advance their financing efforts. While it is hard to know what would have happened if the SISF process had been allowed to run its course properly and without interference, it is clear that the parallel process led by Paul Lafrenière for Boucher and Labrosse interfered with it.

B. DISCUSSIONS WITH MELNIK RELATING TO THE UNDISCLOSED TRANSACTION BEGAN BEFORE THE DEADLINE FOR THE SUBMISSION OF THE BINDING OFFERS

95. On September 27, 2023, Mtre Stephen Walters, counsel for the Melnik Group, wrote to Mtre Alain Tardif from McCarthy Tétrault, with Melnik in cc (Exhibit R-25), following a discussion that had already occurred between Melnik and Boucher:

“Alain, I understand that you act for EBSU (and its affiliated corporations) and Napoléon Boucher.

I understand that your client in mind [sic] have been discussing the CCAA filing and sale process in respect of EBSU.

Firstly, I should inquire whether, as a result of the CCAA filing and sale process, you are in a conflict in dealing with the matters discussed between my client and yours.

Secondly, assuming that you are comfortable that there is no conflict, please advise who your client is in connection the discussions between your client and mine.

And thirdly, if what I'm saying to you is foreign, please reach out to Napoleon to discuss, and then let's go back to the first question.

Otherwise, I am briefly out of the office until shortly after lunch, but will then be available to discuss. It appears we have a very short timeframe in which to provide our respective clients with the necessary assurances.

Thanks, S.”

96. Mtre Marc-Etienne Boucher from McCarthy Tétrault then answered the following to Mtre Stephen Walters, with Mtre Alain Tardif, Mtre Fraser Bourne from McCarthy Tétrault, Boucher and Melnik in cc (Exhibit R-25):

“Dear Stephen,

To your question, we are working towards a transaction that would ensure the continuity of the businesses and we do not consider that there is any conflict in talking with you.

We were informed by Napoléon (very briefly) that BRC would be preparing and filing a Phase 2 Bid in relation to all 3 entities (in accordance with Section 8.3 of the SISF Procedures) and that negotiations in relation to

the purchase of the assets of ERC and EBSU by a company to be constituted (controlled by Denis Labrosse and Jean Gladu) would take place so that a transaction would occur assuming BRC is successful in Phase 2.

Can you confirm if our understanding is correct?

Please let me know if you wish to discuss. I am unavailable from 4.30-5pm.

Thank you”

97. Mtre Stephen Walters then replied the following to Mtre Marc-Etienne Boucher, with Mtre Alain Tardif, Mtre Fraser Bourne from McCarthy Tétrault, Boucher and Melnik in cc (Exhibit R-25):

“Marc- Etienne:

Thank you for your response. I do note, however, that McCarthy's acts for both EBSU and Napoleon, and now you suggest that you will act for a new company to be incorporated but controlled by two others who I am unfamiliar with. The conflict, if any, is yours to manage, I guess.

To be specific, please confirm who it is that you act for. It is important that I ensure and that my client be comfortable knowing to whom we must speak in respect of any of these matters.

My client initially put in an offer to purchase certain assets of Woodlore and, now that a Sale Proposal has been requested by the Monitor from my client, my client intends to submit an offer to purchase those assets covered by its original Letter of Intent and other assets of interest held by ERC and EBSU.

If your client wishes to acquire some or all of the assets of ERC and EBSU which my client will seek to acquire through its Sale Proposal, please provide me with a draft of a proposed binding agreement for review and comment with my client which addresses:

1. confirmation that, directly or indirectly, jointly and severally, none of your client(s), EBSU, its affiliated corporations or Napoléon Boucher will seek to acquire, directly or indirectly, any of the assets of Woodlore, ERC or EBSU through the SISP.
2. which assets of Woodlore, ERC and EBSU your client(s) would like to acquire from my client;
3. the purchase price in respect of those assets and the time in terms of payment of that purchase price;
4. liabilities to be assumed by your client(s) in connection with the assets seeking to be acquired;
5. indemnity to be provided to my client in respect of the assets and liabilities to be assumed by your clients in connection with its acquisition of assets;
6. any other commercial matters to be considered between the parties;
7. such other covenants, representations, warranties and assurances as may be appropriate for an agreement of this nature; and
8. the closing date for any proposed transaction.

Time is of the essence, as they say. Please provide a draft at your opportunity.

I am spending my time right now drafting the APA.

If you have any questions, please advise.

Thanks, S.”

98. As such, as early as September 27, 2023, there was an agreement in principle for BRC to purchase the Debtors through the SISP, only for EBSU and ERC to immediately be flipped back to Boucher and Labrosse (Exhibit R-25).
99. On September 29, 2023, Mtre Louis-Philippe Samson from McCarthy Tétrault wrote the following to Mtre Stephen Walters, with Mtre Alain Tardif, Mtre Sonny Santos, Mtre Marc-Etienne Boucher from McCarthy Tétrault, Boucher and Melnik in cc (Exhibit R-25):

“Hi Stephen,

Following discussions between Napoléon and Bill, please find enclosed a revised offer letter setting forth the updated transaction structure (as well as some clarifications). Could we jump on a call within the next hour to go through the draft and settle all loops for the parties to sign it before the deadline?

Thanks,

LP”

100. Still on September 29, Mtre Louis-Philippe Samson from McCarthy Tétrault sent to Melnik an email containing a draft Binding Offer, with Boucher, Mtre Stephen Walters, Boucher, Mtre Alain Tardif, Mtre Sonny Santos, and Mtre Marc-Etienne Boucher from McCarthy Tétrault in cc:

“Hi Bill,

Please find enclosed a draft binding offer for the assets of BRC [sic] and EBSU. Please note this draft is sent concurrently to Napoléon and remain subject to any comments he might have.

Thanks,

LP”

The same day, Boucher forwarded that email to Paul Lafrenière, with Labrosse and Nancie Allard, a partner of Paul Lafrenière, in cc, writing “*FYI, Here is a draft of the agreement between us and BRC*”. A copy of the September 29, 2023, email chain is communicated herein as **Exhibit R-42**.

101. On September 27, 2023, right before the deadline for the submission of binding offers within the framework of the SISP, Boucher sent an email to Maxime Vanier of Maynbridge, Paul Lafrenière, Denis Labrosse and Nancie Allard writing the following:

“Bonjour Maxime,

Suite à notre discussion verbale, serais-tu en mesure de faire un non-binding LOI pour 2.5M\$ sur les équipements de EBSU et ERC pour

demain, vendredi matin au plus tard? C'est pour l'offre que nous voulons faire comme on a discuté.

Cela donnera le confort nécessaire à notre partenaire pour aller de l'avant. L'équipe du EBSU Group va travailler à amasser une mise de fond en équité pour environ 10% tel que discuté... Si on a plus, tant mieux le working cap n'en sera qu'amélioré.

De plus, si nécessaire, je propose de mettre ma part de salaire sur le HOLD [sic] pendant un an, ce qui représente environ 500 000\$ + cotisation (environ 600K\$ dans le cashflow).

Je communique avec Cynthia pour avoir un LOI aussi afin de boucler le financement.

J'attends de tes nouvelles.

PS : si tu peux aussi mettre une mention pour environ 5M\$ sur les équipements du groupe au complet : woodlore, erc, et ebsu.... Je pourrai utiliser le LOI dans un [sic] autre option que j'ai sur la table en ce moment." (Our underlining)

A copy of the September 27, 2023, email to Maynbridge is communicated herein as **Exhibit R-43**.

102. On September 27, 2023, Boucher wrote the following to Cynthia Aboud from Accord Financial Inc., with Labrosse, Paul Lafrenière and Nancie Allard in cc:

"Salut Cynthia,

Je t'appelle dans quelques minutes si tu es disponible. Une opportunité s'offre à nous et j'aimerais te l'exposer.

J'aurais besoin d'un non binding LOI si possible pour vendredi matin sur un financement d'environ 2.5-3M\$ pour les AR-Inventaire de EBSU et ERC.... Tu peux mettre woodlore aussi mais à part si possible car j'en aurai besoin pour une autre option. Une formule peut aussi être indiqué.

Cela donnera le confort nécessaire à notre partenaire pour aller de l'avant.

L'équipe du EBSU Group va travailler à amasser une mise de fond en équité pour environ 10% tel que discuté... Si on a plus, tant mieux le working cap n'en sera qu'amélioré.

De plus, si nécessaire, je propose de mettre ma part de salaire sur le HOLD [sic] pendant un an, ce qui représente environ 500 000\$ + cotisation (environ 600K\$ dans le cashflow).

Maxime de Mainbridge est aussi sur le dossier pour les équipements.

J'attends de tes nouvelles.

PS : Gordon Brother fera l'évaluation des stocks, 2 semaines de délais." (Our underlining)

A copy of the September 27, 2023, email to Accord Financial Inc. is communicated herein as **Exhibit R-44**.

103. As can be seen, in both emails addressed to Maynbridge and Accord Financial Inc., Boucher mentions that they already have a partner and that they are awaiting the confirmation of the financing terms to wrap it all up.

104. On October 4, 2023, Boucher sent to Maxime Vanier from Maynbridge, with Labrosse in cc, an email titled “Confidential: Offer to purchase - Ebsu and erc” containing the following:

“Max, here it is.
Thanks for your help,
PLease [sic] keep it confidential.”

A copy of the October 4, 2023, email is communicated herein, along with the attached offer to purchase, *en liasse*, as **Exhibit R-45**. The attached offer to purchase is signed by Labrosse and dated September 29, 2023. It offers to purchase all or substantially all of the assets of EBSU and ERC.

105. Similarly, and still on October 4, 2023, Boucher sent to Nick Dounas from Pathward a signed version of the purchase agreement, with Labrosse in cc:

“Hi Nick,
Here is the purchase agreement signed by our CFO Denis Labrosse with BRC.
I am sorry I didn’t sent it earlier today.”

A copy of the October 4, 2023, email is communicated herein, along with the attached purchase agreement, *en liasse*, as **Exhibit R-46**.

106. On October 6, 2023, Boucher, Labrosse and Paul Lafrenière received a proposal letter from Pathward, as appears from a copy of such email communicated herein, along with the attached proposal letter, *en liasse*, as **Exhibit R-47**. The proposal letter is dated October 6, 2023, addressed to Boucher for “*Acquiring Company (legal name TBD) of the assets of, Euro-Rite Cabinets Ltd and Ebenisterie St-Urbain Ltee*” and contains the digital signature of Adam Colley, First Vice President of Pathward. It is important to remember that the Pathward Term Sheet produced during the December 13, 2023, hearing is dated October 20, 2023. It is therefore apparent that most of the terms of the Undisclosed Transaction were agreed to even earlier than previously thought.

C. BOUCHER AND LABROSSE WERE NEGOTIATING ALONG WITH THE MELNIK GROUP THE INVESTMENT AGREEMENT LATER APPROVED BY THE COURT

107. It is also clear that Boucher and Labrosse were not only negotiating with the Melnik Group the repurchase of EBSU and ERC, they were also simultaneously working hand in hand with the Melnik Group in regards to their negotiations with the Monitor regarding the Investment Agreement that was ultimately approved by the Court.

108. For instance, the Offer to Purchase dated October 4, 2023, contains the following clause: “(b)the Purchased Assets and the Related Debt purchased and assumed under the EBSU APA are substantially as contemplated under the draft EBSU APA that was submitted to the Monitor on October 6, 2023.” A copy of the Offer to Purchase dated October 4, 2023, is communicated herein, as **Exhibit R-48**.

109. Similarly, on October 5, 2023, Boucher wrote the following to Maxime Vanier from Maynbridge, with Labrosse, Paul Lafrenière and Aaron Leong and Stephen Davies from Knightsbridge Capital, a sister company to Maynbridge, in cc:

“Hi Maxime,

1. I don't [sic] have the authorization from the bidder to share the APA for the assets of the 3 companies. I will ask for permission. It can be a condition for financing until there. [sic]
2. For EBSU and ERC,
 - a. EBSU: 2M\$ cash global, 2M\$ assumed debt à IQ sur la Thermo 4.0 (wemhoner, sirtex automated line)
 - b. ERC: 1M\$ cash global
3. Finally, our lawyers suggest a reverse vesting order, so our partner will get Woodlore at the court, and newco will get ebsu and erc directly from the court.
4. Skin is in the game is doable, this is not a deal breaker.”

A copy of the October 5, 2023, email is communicated herein, as **Exhibit R-49**.

110. In an email dated October 6, 2023, sent by Paul Lafrenière to Boucher and Mtre Alain Tardif from McCarthy Tétrault, specific cash allocations and debt assumptions are listed in order for BRC (an entity related to the Melnik Group) to be the winning binding offer:

“Cash allocation and debt assumption :

Woodlore \$3,550M in cash toward BDC machine

\$1M in cash for AR inventory and equipment HSBC

EBSU \$1,250M in cash to IQ for thermo 4.0

assumed \$1M to IQ

\$2M AR inventory and equipment HSBC

ERC \$1M in cash to HSBC.”

A copy of the October 6, 2023, email chain is communicated herein as **Exhibit R-50**.

111. The October 6, 2023, email is found in an email chain spanning from that date to October 12, 2023, where it can be seen that the terms of the final Investment Agreement were being commented on by both the Melnik Group and Boucher, Labrosse and their counsels.
112. In the Boucher/Labrosse Documents received, there were copies of the draft versions of the Investment Agreement entered into by the Monitor with the Melnik Group. As an example, a copy of the October 14, 2023, draft Investment Agreement is communicated herein, *under seal*, as **Exhibit R-51**.
113. Correspondingly, numerous versions of the draft Binding Offer contain references to the Investment Agreement that was being negotiated. For instance, the draft Binding Offer dated October 16, 2023, includes in the purchase price the “dollar value of the other assumed liabilities under the EBSU APA, including any

Related Debt, without duplication, all of which may be further amended by the parties with the continuing negotiation of the EBSU APA attached hereto.” A copy of the draft Binding Offer dated October 16, 2023, is communicated herein, as **Exhibit R-52**.

114. Similarly, the draft Binding Offer dated October 19, 2023, states that “any reasonable costs incurred after the date hereof by the Seller in the Primary Transaction or in connection with the Acquisition which are specifically related to the transfer of the Purchased Assets and the Related Debt to the Purchaser” will be included in the purchase price. A copy of the draft Binding Offer dated October 19, 2023, is communicated herein, as **Exhibit R-53**.
115. In an email chain spanning from October 17, 2023, to October 19, 2023, it is possible to see an email sent by the Monitor to the Melnik Group and its counsel being thereafter transferred to Labrosse and the Debtors’ counsel, McCarthy Tétrault. A copy of the October 17, 2023, to October 19, 2023, email chain is communicated herein, as **Exhibit R-54**.
116. A similar instance occurs again on October 21, 2023, when Melnik transfers an email from the Monitor to Labrosse, Boucher and the Debtors’ counsel, McCarthy Tétrault, writing the following:

“Guys,
See below regarding the RVO.
I urge you to assist in this process and add your comments to the draft investment agreement today or tomorrow as we will be working over the weekend to respond.”

A copy of the October 21, 2023, email is communicated herein, as **Exhibit R-55**.

117. Throughout the whole negotiation process with the Monitor, it is clear that Boucher and Labrosse are colluding with Melnik to repurchase the shares of EBSU and ERC from Melnik. For instance, on October 24, 2023, Melnik wrote to Boucher the following, with Labrosse, Mtre Stephen Walters and Mtre Alain Tardif in cc:

“Napoleon/Denis,
To be clear, you will pay for any such certificates associated with EBSU and ERC and I will pay for those of Woodlore at the Monitor’s specified time of funding in the investor agreement.
Please confirm.”

A copy of the October 24, 2023, email is communicated herein, as **Exhibit R-56**.

118. Even with regards to the revisions made to the Investment Agreement after the RVO was approved by the Court, Melnik is consulting with Boucher and

Labrosse before reverting back to the Monitor, as appears from a copy of a November 22, 2023, email chain communicated herein, as **Exhibit R-57**.

119. Effectively, the Binding Offer was negotiated simultaneously to the Investment Agreement so that the Undisclosed Transaction would seamlessly follow the Melnik Transaction approved by the Court.

D. SIMULTANEOUS NEGOTIATIONS WITH THE POTENTIAL COMMERCIAL LENDERS

120. Not only did the Melnik Group, Labrosse, Boucher and their respective counsel jointly negotiate the Investment Agreement with the Monitor, but the potential commercial lenders were kept informed of the progress of those negotiations so that the Undisclosed Transaction was a seamless extension of the court-approved Melnik Transaction. The Investment Agreement, the Binding Offer and the financing for the Undisclosed Transaction were all simultaneously negotiated, as evidenced by the correspondence and documents exchanged between the parties.
121. For instance, in an email chain dated October 6, 2023, Boucher writes the following to Cynthia Aboud from Accord Financial Inc., with Labrosse, Paul Lafrenière and Nancie Allard in cc.:

“Bonjour Cynthia,
Merci du suivi. Pour ton bénéfice, Les auditions à la court [sic] devraient se faire dans la semaine du 23 oct. Possiblement le 24 oct. Ce qui nous donne encore du temps pour le final binding offer.... Mais si nous pouvions avoir un LOI d’ici là serait très bien pour finaliser nos montages et calculs, car on ne peut pas attendre à la dernière minute pour ficeler le tout

Effectivement, erc et ebsu vont demeurer distinct, sous contrôle d’un holding commun.

Evaluation équipement : tu as 100% raison, maynards sous-évalue les équipements pour l’objectif de faire du profit à la vente si liquidation... les valeurs fournis sous très très lowball... peuton [sic] fournir les évaluations directement a Gordon ? ils n’en feront qu’une analyse et donneront une opinion.

Paul – Nancy : pouvons nous fournir ERC-EBSU combiné rapidement?

Denis : svp, avise Gordon Brother pendant qu’ils sont encore a valleyfield... ils ont fait toronto hier...

PS : n’hésites pas à communiquer avec nous, nous sommes toujours dispo.” (Our underlining)

A copy of the October 6, 2023, email chain with Accord Financial Inc. is communicated herein, as **Exhibit R-58**.

122. In an email chain starting on October 19, 2023, Boucher writes the following to Cynthia Aboud from Accord Financial Inc., with Labrosse in cc:

“Salut Cynthia,

Voici le purchase agreement avec brc... pour ton dossier.
Les crediteurs ont approuvé le deal, le monitor a confirmé que BRC a gagné le bid et qu'il cessait toute discussion avec les autres.
Brc paie 5M\$ pour woodlore
Newco Labrosse paie 5,25M\$ pour EBSU et ERC
Asset sales approve in court le Oct 27th par RVO, reverse vesting order...
Target closing date: 14 nov..... tout le monde sait que il risque d'avoir quelques delais."

A copy of the October 19, 2023, email chain is communicated herein, as **Exhibit R-59**.

123. On October 19, 2023, Boucher sent to Maxime Vanier from Maynbridge, with Labrosse, Paul Lafrenière, Stephen Davies and Aaron Leong from Knightsbridge Capital, the following email:

"Max, Steve,
Here is the last purchase agreement between us and BRC for the purchase of EBSU and ERC. Them keeping woodlore.
5.25M\$ for EBSU and ERC
5M\$ for woodlore.
There is another amount for maximum 250 000\$ payable against the admin fees in ERC, we will minimize this number by paying a lot of rcgt and lawyers fees just before closing. It should be more than 150k\$.
Important date: asset purchase court approval: oct 27th
Target closing-funding date: nov 14th....
We will share next Friday the APA of the entire deal with you, just put it as a condition in the term sheet."

A copy of the October 19, 2023, email to Maynbridge is communicated herein, as **Exhibit R-60**.

124. On October 19, 2023, Labrosse sends the following email to Mosana Khan, a representative from Gordon Brothers who appears to have been contacted to provide an equipment appraisal, with Boucher and Cynthia Aboud in cc:

"Mosana
I would like to give you some heads up about the process and our need to get the report.
Deal will be approved in court Oct 27
After the approval, target funding is November 14
So, we need a report to attach our financing.
I know there was a lot of question over the last few days and I think we were able to answer all of them.
Could we get asap the report...ie at the latest Monday?"

A copy of this email is communicated herein, as **Exhibit R-61**.

125. In a similar way, on October 31, 2023, Boucher sent to Maxime Vanier from Maynbridge, with Labrosse and Paul Lafrenière in cc, the following email:

“Hi Max,
Voici L’investment [sic] agreement de Bill. Montant total de 10,25M\$.
Voici le purchase agreement avec Bill pour Labrosse inc. (newco □)
Page 10 : paid price.... You will see they spit it into a lot of cash allocated to ebsu and erc, and selling it back to us for 5,25M\$.... (taxes purpose for Bill) capital loss for them to be used... does impact ebsu -erc...
Real price paid: 5M\$ for woodlore, 4,25M\$ for ebsu and 1.M\$ for erc.
"Subscription Price" means (i) in the case of EBSU, an aggregate subscription price of \$5,022,500 to be paid by or on behalf of Melnik to the Monitor, to be held on behalf and for the benefit of EBSU, for the applicable Subscribed Shares in the capital of EBSU; (ii) in the case of Woodlore, an aggregate subscription price of \$205,000 to be paid by or on behalf of the Melnik Trust to the Monitor, to be held on behalf and for the benefit of Woodlore, for the applicable Subscribed Shares in the capital of Woodlore; and (iii) in the case of ERC, an aggregate subscription price of \$5,022,500 to be paid by or on behalf of Tayco to the Monitor, to be held on behalf and for the benefit of ERC, for the applicable Subscribed Shares in the capital of ERC, which in each case shall form part of the Cash Consideration;”

A copy of the October 31, 2023 email is communicated herein, as **Exhibit R-62**.

126. On October 23, 2023, Labrosse sent an email to Cynthia Aboud, from Accord Financial Inc., with Boucher in cc, that contained the majority of the terms agreed to pursuant to the Undisclosed Transaction:

“Cynthia
J’ai [sic] retravaillé PL and BS selon nos discussions de ce matin
Aussi voici les assumptions :
Almost all suppliers COD until May 2024 (a few til then but minor)-
Finance fees: ABL 18% used. Higher than what we talked about
Paying EBSU and ERC 5,25M
Moratory for capital reimbursement
No restructuring cost
Payment term Rona- 7 days. All other 40 days approx
Nous n’avons pas tenu compte dans le calcul de margination de recevable de ERC. Erc peut avoir autour de 300-400K de client marginable
BRC paie 5M Woodlore
Je te joins aussi notre entente avec BRC pour rachat EBSU et ERC”

A copy of the October 23, 2023, email is communicated herein, as **Exhibit R-63**.

127. In light of the above, the following conclusion is apparent: the potential commercial lenders were more aware of what was at work than the Court and the secured creditors.

E. BOUCHER AND LABROSSE VIOLATED THE INTEGRITY OF THE RESTRUCTURING PROCESS

128. It is clear from the email exchanges that Boucher and Labrosse (and others) were very much aware that their actions violated the integrity of the restructuring process under the CCAA, as appears from a copy of the October 20, 2023, email communicated herein, as **Exhibit R-64**, sent by Boucher to Mtre Louis-Philippe Samson from McCarthy Thétraut, with Melnik, Mtre Stephen Walters, Labrosse, Mtre Alain Tardif, Mtre Sonny Santos and Mtre Marc-Etienne Boucher from McCarthy Thétraut in cc:

“LP, Stephan,
Me and Bill are on the same page... commercially... he pays fow [sic] woodlore fees, and we do for ebsu and erc...
We are both lucky to get a **good deal on the assets**. Without one of us, this deal wouldnt had been a winner.
Bill wouldnt got woodlore without me, and same for me for ebsu and erc.
This is a win win situation.
Please LP and Stephan, get settle [sic] on language tonight so we can finally sign this agreement.
Tx” (Our underlining and emphasis)

129. It is also clear that the concealment of the Undisclosed Transaction was very much deliberate and premeditated on the part of Boucher and Labrosse, as appears from the following October 3, 2023, email sent by Boucher to Cynthia Aboud from Accord Financial Inc., with Labrosse and Paul Lafrenière in cc :

“From: Napoléon Boucher
To: Cynthia Aboud
Cc: Denis Labrosse; Paul Lafrenière
Subject: Entente EBSU-ERC
Date: October 3, 2023, 1:10:11 PM
Attachments: image447965.png; 20230929165844060[1].pdf
Salut Cynthia,
Svp, garder ULTRA confidentiel jusqu’à mon release / approbation des créanciers.
Merci”

A copy of the October 3, 2023, email and the file attached, are communicated herein, *en liasse*, as **Exhibit R-65**. The file attached is an offer to purchase dated September 29, 2023 and signed by Labrosse.

130. Similarly, a draft version of the Binding Offer dated October 19, 2023, includes the following comment from Mtre Stephen Walters:

“LP, we have reviewed your changes to Section 7 “Costs”, and your changes don’t reflect the essence of what Bill is looking for.

Bill will be incurring expenses to acquire assets in which he has no interest. Those assets will be transferred to your client. To the extent that Bill incurs expenses to acquire assets for the benefit of your client, he should be reimbursed.

I encourage you, on behalf of your client, to take as active a role as possible, whether directly or indirectly (visibility to be determined on an issue by issue basis), to do as much work as possible on behalf of your client to ensure that your client, through the Primary Transaction and the Acquisition, acquires all that they require.

You have the expertise in this area, and as a large firm, you have greater resources. Please engage to do as much of the work required as possible for your client, and to assist Bill in doing as much of the work that Bill is required to do on behalf of your client, through the Primary Transaction and to completion of the Acquisition.

To the extent, however, that Bill incurs expenses attributable to the acquisition and transfer of EBSU and ERC to your client, Bill should be reimbursed.”

A copy of the October 19, 2023, Binding Offer draft is communicated herein as **Exhibit R-66**.

131. Again, on October 27, 2023, in an iMessage communication chain obtained as part of the Maynbridge Documents, Boucher writes to Maxime Vanier “*Je suis encore pris en meeting mais je voulais te partager que la court [sic] a approuver le deal. Ne pas oublier que c’est encore confidentiel 🤫*” (Our underlining). A copy of iMessage communication chain is communicated herein, as **Exhibit R-67**.
132. Labrosse and Boucher were very much aware that their actions were in direct conflict with the due process of the CCAA. Indeed, on November 16, 2023, Boucher sent an email to Melnik, Mtre Stephen Walters, Mtre Alain Tardif from McCarthy Tétrault, with Labrosse and Mtre Louis-Philippe Samson and Mtre Marc-Étienne Boucher from McCarthy Tétrault in cc, thanking everyone for their help and *creativity*, as appears from a copy of such email communicated herein, as **Exhibit R-68**.
133. In fact, even after HSBC filed its Application for Communication of Documents on December 12, 2023, and after the Court rendered an order granting it on December 13, 2023, Boucher and Labrosse were still focused on finalizing the financing related to the Undisclosed Transaction, as appears from an email dated December 15, 2023, and an email dated December 18, 2023, communicated herein, as **Exhibit R-69** and **Exhibit R-70**, respectively.

F. CONCLUSION

134. Boucher and Labrosse (and others) breached the obligation to act in good faith and showed a lack of candour and respect for the restructuring process, as codified in section 18.6 of the CCAA again and again throughout the process.
135. Beyond concealing to the Court and the secured creditors the agreement that involved "flipping" EBSU and ERC, Boucher and Labrosse (and others) also :
 - (i) started a parallel solicitation process without the Monitor's supervision and outside the parameters of the SISF, with the assistance of Paul Lafrenière as early as July 7, 2023;
 - (ii) accessed the letters of intent filed through the SISF and used that information to their advantage;
 - (iii) assisted the Melnik Group in the formulation of their binding offer such that it ultimately ended up being the winning binding offer;
 - (iv) negotiated alongside the Melnik Group the agreement to be entered with the Monitor for the purchasing of the Debtors;
 - (v) made unauthorized payments to Maynbridge and Pathward from EBSU's bank account at HSBC without authorization from the Monitor, using proceeds from interim financing provided by HSBC;
 - (vi) paid sums to certain employees, on account of accrued vacation pay, despite no vacation having been taken by these employees during the period, including Labrosse himself; and
 - (vii) continued the negotiations regarding the financing of the Undisclosed Transaction even after the Court had rendered an order granting HSBC's Application for Communication of Documents on December 13, 2023.
136. The evidence demonstrates that Boucher and Labrosse (and others) not only premeditated the Undisclosed Transaction, but also engaged in a series of actions that violated the integrity of the restructuring process under the CCAA and the interests of the secured creditors, and warrants the cancellation of the D&O Charges. These actions were not isolated incidents, but part of a deliberate and coordinated plan to acquire EBSU and ERC at the expense of the secured creditors and the Court.
137. Boucher and Labrosse (and others) didn't only hide the Undisclosed Transaction from the Court and the secured creditors, they have systematically shown a brazen indifference to the integrity of the restructuring process under the CCAA and have effectively circumvented it.
138. In addition, Boucher and Labrosse (and others) clearly breached their duties as directors to act in the best interest of of EBSU and ERC and willingly placed

themselves in a situation of conflict of interests. It is clear that both Boucher and Labrosse (and others) were solely focused on their personal objective to purchase the shares or assets of EBSU and ERC. They did not take any steps to maximize the value of the Debtors' assets. In fact, maximizing the value of the Debtors' would have run directly counter to their personal interests.

G. SEALING OF CONFIDENTIAL DOCUMENTS

139. Certain exhibits filed in support of this Application contain commercially sensitive information related to the affairs of the Debtors and/or HSBC.
140. It is respectfully submitted that the confidentiality of such information should be preserved and that it should be ordered that Exhibits R-2 to R-5, R-12, R-13 and R-51 of the Application be kept confidential and filed under seal until further order of this Court.
141. It is in the best interest of the Debtors that such exhibits be kept confidential and under seal. The disclosure of same would cause undue prejudice to the Debtors and/or HSBC.
142. The HSBC also wishes to underline the fact that it has obtained Exhibits R-25, and R-27 to R-70 following the orders rendered by this Court on December 13, 2023, January 15, 2024, and February 14, 2024.

H. NECESSITY FOR AN ORDER

143. It is necessary for the parties in this matter to have the D&O Charges cancelled so as to move forward with the distribution of the funds held in trust by the Monitor.
144. Given that the D&O Charges was instituted by an Order of this Court, the only way to obtain its cancellation is to obtain a judgment of this Court.
145. The present Application is well founded in fact and in law.

WHEREFORE, APPLICANT PRAYS THIS HONOURABLE COURT:

- [1] **GRANT** the present Application;
- [2] **CANCEL** the Debtors' D&O Charge and the ERC D&O Charge initially created pursuant to the Initial Order rendered by this Court on May 12, 2023 and the Amended and Restated Initial Order rendered by this Court on June 6, 2023;
- [4] **ORDER** provisional execution of the Order sought notwithstanding any appeal and without the necessity of furnishing any security;
- [5] **RENDER** any other order that this Honourable Court may deem appropriate in the circumstances;

THE WHOLE, without costs, except in case of contestation.

Montréal, March 19, 2024

Davies Ward Phillips & Vineberg LLP

Davies Ward Phillips & Vineberg LLP
Attorneys for the Applicant HSBC Bank
Canada

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO.: 500-11-062362-237

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 COMPANIES'
CREDITORS ARRANGEMENT ACT OF:**

ÉBÉNISTERIE ST-URBAIN LTÉE

-and-

WOODLORE INTERNATIONAL INC.

-and-

EURO-RITE CABINETS LTD.

Debtors

-and-

RAYMOND CHABOT INC.

Monitor

-and-

HSBC BANK CANADA

Applicant/Secured Creditor

-and-

NAPOLÉON BOUCHER

-and-

DENIS LABROSSE

Respondents

AFFIDAVIT OF JOHN BORCH

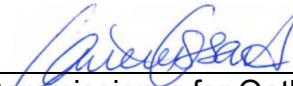
I, the undersigned, John Borch, exercising my occupation at 16 York Street, suite 600 in the City of Toronto, province of Ontario, solemnly declare as follows:

1. I am an Assistant Vice President for the Applicant, HSBC Bank Canada;
2. All the facts alleged in the present *HSBC Bank Canada's Application to Cancel the D&O Charge of the Debtors* are true to the best of my knowledge.

AND I HAVE SIGNED:


John Borch

SOLEMNLY AFFIRMED before me in the city of Ste-Anne-de-Bellevue, province of Québec, this 19th day of March 2024 by John Borch, whose oath was taken in the city of Markham, province of Ontario, and received in the city of Ste-Anne-de-Bellevue, province of Québec, the whole by technology means and in accordance with the memorandum of the Québec Ministry of Justice dated March 20, 2020


Commissioner for Oaths for Québec and for outside Québec



CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T
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-and-

HSBC BANK CANADA

Applicant/Secured Creditor

-and-

NAPOLÉON BOUCHER

-and-

DENIS LABROSSE

Respondents

LIST OF EXHIBITS

Exhibit R-1 Copy of the Order Approving a Sale and Investment Solicitation
Process dated June 16, 2023

Exhibit R-2 Copy of the summary of the Letters of Intent, *under seal*

Exhibit R-3 Copy of the Letter of Intent submitted by 2000674 Ontario Limited,
under seal

- Exhibit R-4** Copy of the analysis of the binding offers prepared by the Monitor, *under seal*
- Exhibit R-5** Copy of the Melnik Offer, *under seal*
- Exhibit R-6** Copy of the letter from HSBC to the Monitor and Napoleon Boucher, dated September 11, 2023
- Exhibit R-7** Copy of a letter from the Monitor in response to HSBC's letter, dated September 13, 2023
- Exhibit R-8** Copy of a letter sent by HSBC to the Monitor dated September 19, 2023
- Exhibit R-9** Copy of the Sixth Monitor's report
- Exhibit R-10** Copy of the letter from the Monitor's counsel to Maynbridge, dated November 8, 2023
- Exhibit R-11** Copy of the letter from the Monitor's counsel to Pathward, dated November 8, 2023
- Exhibit R-12** Copy of the Pathward letters of intent, *en liasse, under seal*
- Exhibit R-13** Copy of an email from the Monitor's counsel, dated November 24, 2023, *under seal*
- Exhibit R-14** Copy of a term sheet dated November 1, 2023 issued by Maybridge
- Exhibit R-15** Copy of a term sheet dated October 20, 2023 issued by Pathward
- Exhibit R-16** Copy of a petition in bankruptcy against Napoleon Boucher from Fiera Private Debt Fund VI LP, dated August 28, 2023
- Exhibit R-17** Copy of the letter from HSBC's counsel to Pathward to request documents related to the Pathward Term Sheet, dated December 14, 2023
- Exhibit R-18** Copy of the letter from HSBC's counsel to Maynbridge to request documents related to the Maynbridge Term Sheet, dated December 14, 2023
- Exhibit R-19** Copy of the letter sent by the Monitor, dated December 15, 2023
- Exhibit R-20** Copy of a letter from HSBC to McCarthy Tétrault, Stephen Walters and Neil Peden, dated December 19, 2023
- Exhibit R-21** Copy of the letter from Stephen Walters in response to HSBC's letter of December 19, dated December 19, 2023

- Exhibit R-22** Copy of a letter from McCarthy Tétrault in response to HSBC's letter, dated December 20, 2023
- Exhibit R-23** Copy of a letter from Neil Peden in response to HSBC's letter, dated December 20, 2023
- Exhibit R-24** Copy of the letter from Napoléon Boucher and Denis Labrosse's counsel to HSBC's counsel, dated January 25, 2024
- Exhibit R-25** Copy of the email from the Debtor's counsel to the Melnik Group's counsel, dated September 27, 2023
- Exhibit R-26** Copy of the letter from Pathward's counsel to HSBC's counsel, dated March 1, 2024
- Exhibit R-27** Copy of the email from Napoléon Boucher to Maxime Vanier, dated July 7, 2023
- Exhibit R-28** Copy of the email from Napoléon Boucher to Cynthia Aboud, dated June 6, 2023
- Exhibit R-29** Copy of the email from Napoléon Boucher to Cynthia Aboud, dated July 7, 2023
- Exhibit R-30** Copy of the email from Napoléon Boucher to Maxime Vanier, dated August 30, 2023
- Exhibit R-31** Copy of the email from Nicholas Capuano (Raymond Chabot) to Nick Dounas (Pathward), dated September 1, 2023
- Exhibit R-32** Copy of the email chain from Napoléon Boucher to Nick Dounas, dated September 11, 2023
- Exhibit R-33** Copy of the email chain from Napoléon Boucher to Robin Rooker, dated September 7, 2023
- Exhibit R-34** Copy of the email from Nancie Allard to Cynthia Aboud, dated September 17, 2023
- Exhibit R-35** Copy of the email from Napoléon Boucher to Marc-Alexandre Cormier, dated August 16, 2023
- Exhibit R-36** Copy of the email from Stéphane Léveill   to the Monitor, dated August 16, 2023
- Exhibit R-37** Copy of the email chain dated August 24, 2023
- Exhibit R-38** Copy of the email chain dated August 29, 2023 and the Recovery plan, *en liasse*

- Exhibit R-39** Copy of the email chain involving Nancie Allard and Marc-Alexandre Cormier, dated August 29, 2023
- Exhibit R-40** Copy of the email Napoléon Boucher sent to Daniel Labrecque , dated August 30, 2023
- Exhibit R-41** Copy of the email from Nancie Allard to Marc-Alexandre Cormier, dated September 28, 2023
- Exhibit R-42** Copy of the email chain involving Napoléon Boucher and Paul Lafrenière, dated September 29, 2023
- Exhibit R-43** Copy of the email from Napoléon Boucher to Maxime Vanier, dated September 27, 2023
- Exhibit R-44** Copy of the email to Accord Financial Inc., dated September 27, 2023
- Exhibit R-45** Copy of the email from Napoléon Boucher to Maxime Vanier, dated October 4, 2023, and the attached offer to purchase EBSU and ERC, *en liasse*
- Exhibit R-46** Copy of the email from Napoléon Boucher to Nick Dounas, dated October 4, 2023, and the attached purchase agreement, *en liasse*
- Exhibit R-47** Copy of the email from Pathward to Napoléon Boucher, Denis Labrosse and Paul Lafrenière, dated October 6, 2023, and the attached proposal letter, *en liasse*
- Exhibit R-48** Copy of the Offer to Purchase dated October 4, 2023
- Exhibit R-49** Copy of the email from Napoléon Boucher to Maxime Vanier, dated October 5, 2023
- Exhibit R-50** Copy of the email chain involving Paul Lafrenière and Napoléon Boucher, dated October 6, 2023
- Exhibit R-51** Copy of the draft Investment Agreement, dated October 14, 2023, *under seal*
- Exhibit R-52** Copy of the draft Binding Offer, dated October 16, 2023
- Exhibit R-53** Copy of the draft Binding Offer, dated October 19, 2023
- Exhibit R-54** Copy of the email chain involving the Monitor and the Melnik Group from October 17 to 19, 2023
- Exhibit R-55** Copy of the email from the Monitor transferred to Denis Labrosse, Napoléon Boucher and the Debtor's counsel, dated October 21, 2023

- Exhibit R-56** Copy of the email from Melnik Group to Napoléon Boucher, dated October 24, 2023
- Exhibit R-57** Copy of the email chain involving Melnik, Napoléon Boucher and Denis Labrosse, dated November 22, 2023
- Exhibit R-58** Copy of the email chain from Napoléon Boucher to Cynthia Aboud, dated October 6, 2023
- Exhibit R-59** Copy of the email chain from Napoléon Boucher to Cynthia Aboud, dated October 19, 2023
- Exhibit R-60** Copy of the email from Napoléon Boucher to Maxime Vanier, dated October 19, 2023
- Exhibit R-61** Copy of the email from Denis Labrosse to Mosana Khan, dated October 19, 2023
- Exhibit R-62** Copy of the email from Napoléon Boucher to Maxime Vanier, dated October 31, 2023
- Exhibit R-63** Copy of the email from Denis Labrosse to Cynthia Aboud, dated October 23, 2023
- Exhibit R-64** Copy of the email from Napoléon Boucher to Mtre Louis-Philippe Samson, dated October 20, 2023
- Exhibit R-65** Copy of the email and attachment from Napoléon Boucher to Cynthia Aboud, dated October 3, 2023, *en liasse*
- Exhibit R-66** Copy of the Binding Offer, dated October 19, 2023
- Exhibit R-67** Copy of the iMessage communication chain between Napoléon Boucher and Maxime Vanier
- Exhibit R-68** Copy of the email from Napoléon Boucher to Melnik, his counsel and Mtre Alain Tardif, dated November 16, 2023
- Exhibit R-69** Copy of the email dated December 15, 2023
- Exhibit R-70** Copy of the email dated December 18, 2023

Montréal, March 19, 2024

Davies Ward Phillips & Vineberg LLP

Davies Ward Phillips & Vineberg LLP
Attorneys for the Applicant HSBC Bank
Canada

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO.: 500-11-062362-237

S U P E R I O R C O U R T
(Commercial Division)
(Sitting as a court designated pursuant to
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**IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT OF:
ÉBÉNISTERIE ST-URBAIN LTÉE**

-and-

WOODLORE INTERNATIONAL INC.

-and-

EURO-RITE CABINETS LTD.

Debtors

-and-

RAYMOND CHABOT INC.

Monitor

-and-

HSBC BANK CANADA

Applicant/Secured Creditor

-and-

NAPOLÉON BOUCHER

-and-

DENIS LABROSSE

Respondents

NOTICE OF PRESENTATION

TAKE NOTICE that the attached *HSBC Bank Canada's Application to Cancel the D&O Charge of the Debtors* will be presented for adjudication before the Honourable Karen M. Rogers of the Superior Court of Québec, sitting in the Commercial Division, in and for the judicial District of Montréal, at the Montréal Courthouse located at 1 Notre-Dame Street, in the City of Montreal, Province of Québec, on April 4, 2024 in a room and at a time to be confirmed subsequently.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, March 19, 2024

Davies Ward Phillips & Vineberg LLP

Davies Ward Phillips & Vineberg LLP
Attorneys for the Applicant HSBC Bank
Canada

No. 500-11-062362-237
SUPERIOR COURT
(Commercial Division)
District of Montréal

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT OF:
ÉBÉNISTERIE ST-URBAIN LTÉE
and
WOODLORE INTERNATIONAL INC.
-and-
EURO-RITE CABINETS LTD.**

Debtors

and
RAYMOND CHABOT INC.

Monitor

and
HSBC BANK CANADA

Applicant/Secured Creditor

and
NAPOLÉON BOUCHER
and
DENIS LABROSSE

Defendants

**HSBC BANK CANADA'S APPLICATION TO
CANCEL THE D&O CHARGE OF THE
DEBTORS, AFFIDAVIT OF JOHN BORCH, LIST
OF EXHIBITS AND NOTICE OF PRESENTATION**

ORIGINAL

DAVIES

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