

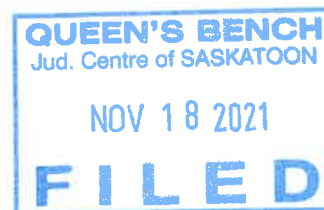
COURT FILE NUMBER Q.B. 572 of 2021

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

PLAINTIFF AFFINITY CREDIT UNION 2013

DEFENDANT RITCHIE INDUSTRIES INC. and DUCK MOUNTAIN
ENVIRONMENTAL LTD.



IN THE MATTER OF THE RECEIVERSHIP OF RITCHIE INDUSTRIES INC. and DUCK
MOUNTAIN ENVIRONMENTAL LTD.

AND IN THE MATTER OF THE BANKRUPTCY OF RITCHIE INDUSTRIES INC. and
DUCK MOUNTAIN ENVIRONMENTAL LTD.

Order (Sale Approval and Vesting – Gas Bar Other Property)

Before the Honourable Madam Justice A.R. Rothery in chambers the 12th day of November, 2021.

On the application of Alexander Shalashniy, counsel on behalf of MNP Ltd. in its capacity as the Court-appointed receiver and manager (the "**Receiver**") pursuant to the Receivership Order of this Court made June 29, 2021 (the "**Receivership Order**"), and Trustee in Bankruptcy of the assets, undertakings and properties of Ritchie Industries Inc. (for the purposes of this Order, the "**Debtor**") and Duck Mountain Environmental Ltd.; and upon hearing from counsel for the Receiver and upon reading the Notice of Application dated November 1, 2021, the First Reports of the Receiver dated October 29, 2021 and October 31, 2021 and the Confidential Addenda thereto and the Confidential Supplemental Report to the Ritchie Receiver's Report dated November 9, 2021, the Brief of Law of the Receiver and the proposed Draft Orders, all filed; and the pleadings and proceedings having taken herein:

The Court Orders:

SERVICE

1. Service of the Notice of Application on behalf of the Receiver and the materials filed in support thereof (collectively, the "**Application Materials**") shall be and is hereby deemed to be good and valid and, further, shall be and is hereby abridged, such that service of such Application Materials is deemed to be timely and sufficient.

APPROVAL OF TRANSACTION

2. The sale transaction (the "**Transaction**") contemplated by the asset purchase agreement (the "**Sale Agreement**") between the Receiver and Jai Setaliyaveer Gas Inc. (the "**Purchaser**") dated October 27, 2021, as amended as of November 8, 2021 the sale to the Purchaser (or its nominee) of the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**") is declared to be commercially reasonable and in the best

interests of the Debtor and its creditors and other stakeholders and is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary.

3. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable (including any steps necessary or desirable to satisfy and/or comply with any applicable laws, regulations or orders of any courts, tribunals, regulatory bodies or administrative bodies in any jurisdiction in which the Purchased Assets may be located) for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser (or its nominee), subject to such amendments as the Receiver and the Purchaser may agree upon, provided that any such amendments do not materially affect the Purchase Price.

VESTING OF PROPERTY

4. Upon the Receiver determining that the Proposed Sale has closed to its satisfaction and on terms substantially as approved by this Honourable Court pursuant to this Order, the Receiver shall deliver to the Purchaser (or its nominee) a Receiver's certificate substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Certificate**").

5. The Receiver may rely on written notices from the Purchaser regarding fulfillment or, if applicable, waiver of conditions to closing of the Proposed Sale under the Sale Agreement and shall have no liability with respect to the delivery of the Receiver's Certificate.

6. Upon delivery of the Receiver's Certificate all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule "B"** hereto shall, save and except for the encumbrances listed in **Schedule "C"** hereto (the "**Permitted Encumbrances**"), vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, interests, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, judgments, enforcement charges, levies, charges, or other financial or monetary claims (collectively, "**Encumbrances**") and all rights of others, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (b) all charges, security interests or claims evidenced by registrations pursuant to *The Personal Property Security Act, 1993* SS 1993, c P-6.2, or any other personal property registry system; and
- (c) those Encumbrances listed in **Schedule "D"** hereto;

and, for greater certainty, this Court orders that all of the Encumbrances (save and except for the Permitted Encumbrances) affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

7. Upon delivery of the Receiver's Certificate to the Purchaser, the Receiver shall be and is hereby authorized to effect such discharges or revisions in the Saskatchewan Personal Property Registry as may be reasonably required to conclude the Transaction.
8. Any and all registration charges and fees payable in regard to the Saskatchewan Personal Property Registry shall be to the account of the Purchaser.
9. For the purposes of determining the nature and priority of the Encumbrances:
 - (a) the net proceeds from the sale of the Purchased Assets (the "**Net Sale Proceeds**") shall stand in the place and stead of the Purchased Assets; and
 - (b) from and after the delivery of the Receiver's Certificate to the Purchaser, all Encumbrances and all rights of others shall attach to the Net Sale Proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to closing of the Transaction.
10. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Debtor.
11. The Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Purchased Assets and, to the extent that any such person remains in possession or control of any of the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
12. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by or through or against the Debtor.
13. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Receiver or the Debtor.
14. Forthwith after the delivery of the Receiver's Certificate to the Purchaser (or its nominee), the Receiver shall file a copy of the Receiver's Certificate with the Court, and shall serve a copy of the Receiver's Certificate on the recipients listed in the Service List maintained with respect to these proceedings.
15. If required to complete the Transaction, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, the Debtor and the Receiver are hereby authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and

shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

16. Notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to such applications;
- (c) any assignment in bankruptcy made in respect of the Debtor; and
- (d) the provisions of any federal statute, provincial statute or any other law or rule of equity,

the vesting of any of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order and the obligations of the Debtor under the Sale Agreement, shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

17. The Transaction is exempt from any requirement under any applicable federal or provincial law to obtain shareholder approval and is exempt from the application of any bulk sales legislation in any Canadian province or territory.

MISCELLANEOUS MATTERS

18. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction, including, without limitation, an application to the Court to deal with interests which are registered against title to the Real Property after the time of the granting of this Order.

19. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

20. Service of this Order on any party not attending this application is hereby dispensed with. Parties attending this application shall be served in accordance with the Electronic Case Information and Service Protocol adopted in the Receivership Order.

ISSUED at Saskatoon, Saskatchewan, this 18 day of November, 2021.

Court Seal



A handwritten signature in blue ink, appearing to read "S. K. Shalashniy".

01 Local Registrar

CONTACT INFORMATION AND ADDRESS FOR SERVICE

KANUKA THURINGER LLP

Lawyer in Charge of File: Alexander K.V. Shalashniy
1400 - 2500 Victoria Avenue, Regina, Saskatchewan S4P 3X2

Telephone: 306.525.7200

Fax: 306.359.0590

Email: ashalashniy@kanuka.ca

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DM 3085716 v1

SCHEDULE "A"

COURT FILE NUMBER Q.B. 572 of 2021

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RECEIVER'S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable Madam Justice A.R. Rothery of the Court of Queen's Bench of Saskatchewan (the "**Court**") dated June 29, 2021, MNP Ltd. was appointed as the receiver (the "**Receiver**") of the assets, undertakings and property of Ritchie Industries Inc. (for the purposes of this Certificate, the "**Debtor**") and Duck Mountain Environmental Ltd.
- B. By the operation of other orders of the Honourable Madam Justice A.R. Rothery of the Court of Queen's Bench of Saskatchewan, MNP also became Trustee in Bankruptcy of the Debtor.
- C. Pursuant to an Order of the Court dated November 12, 2021, the Court approved the asset purchase agreement made October 27, 2021, as amended as of November 8, 2021 (the "**Sale Agreement**") between the Receiver and Jai Setaliyaveer Gas Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 6.1 and 6.3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 6.1 and 6.3 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee);
3. The Transaction has been completed to the satisfaction of the Receiver; and
4. This Certificate was delivered by the Receiver at [Time] on [Date].

MNP Ltd., in its capacity as Receiver of the undertaking, property and assets of Ritchie Industries Inc. and Duck Mountain Environmental Ltd., and not in its personal capacity.

Per: _____
Name: Eric Sirrs, CIRP, LIT
Title: Senior Vice President

SCHEDULE "B"

PURCHASED ASSETS

I. Definitions

- (a) "**Business**" means the Petro-Canada gas station and convenience store business carried on by the Company in Kamsack Saskatchewan on the Premises along with a car wash and a commercial rental unit currently rented for a SUBWAY franchise.
- (b) "**Closing Date**" means the Closing Date as specified in Section 3.5 of the Sale Agreement (as defined below).
- (c) "**Company**" means Ritchie Industries Inc.
- (d) "**Sale Agreement**" means the Court-approved the asset purchase agreement made October 27, 2021 between the Receiver and Jai Setaliyaveer Gas Inc.

All capitalized terms herein shall, unless otherwise specifically above, take their respective meanings from the Sale Agreement.

II. Purchased Assets

- 1. Machinery, Equipment and Furniture: all Identified Equipment, being all machinery, equipment, tools, furniture, furnishings, and other miscellaneous items used in or relating to the Business except that which is leased or licensed for use by the Company i) by Van Houtte Coffee Services; or ii) by Suncor as contemplated by the Fuel Agreements;
- 2. Inventory: all inventories of or relating to the Business as of the Closing Date;
- 3. Business Records: all books, records, files and documents wholly and solely related to the operation of the Business;
- 4. Licenses: all licenses, registrations, permits and qualifications of the Business required by any Governmental Authority, to the extent transferable;
- 5. Agreements: To the extent transferable, and completely on a without recourse to the Receiver basis, all rights under contracts held by the Company for the provisions of goods or services, distribution or agency agreement related to the Business, including an assignment of the Fuel Agreements;
- 6. Goodwill: all goodwill related to the Business, together with the exclusive right for the Purchaser to represent itself as carrying on the Business in succession to the Company and the right to use any words indicating that the Business is so carried on; and

7. Telephone and Fax Numbers: to the extent transferable, all right, title and interest of the Company in and to the telephone and fax number or numbers used in the Business and the facebook page found described as "<https://www.facebook.com/kamsackpetrocanada/>".

III. Purchased Assets Comprising of Identified Equipment

See attached

SCHEDULE "C"
PERMITTED ENCUMBRANCES

Nil

SCHEDULE "D"

ENCUMBRANCES TO BE DISCHARGED

SASKATCHEWAN PERSONAL PROPERTY REGISTRY

A. Specific Property to be Released and Discharged

REGISTRATION NUMBER	REGISTRATION TYPE	SECURED PARTY	DEBTOR PARTY	PROPERTY TO BE DISCHARGED AND RELEASED
301245255	Personal Property Security Agreement	Affinity Credit Union 2013	Ritchie Industries Inc.	<i>All personal property transferred to Jai Setaliyaveer Gas Inc., as described in Schedule "B" of this Order including that located at:</i> Surface Parcel #203288564 Reference Land Description Blk/Par D Plan No 102235407 Extension 0