



Court File No. CV-12-9788-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

THE HONOURABLE)
JUSTICE STRATHY) MONDAY, THE 13th DAY
OF AUGUST, 2012

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

MARNLEN MANAGEMENT LTD. AND LABELAD LTD.

Respondents

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF*
JUSTICE ACT, R.S.O. 1990, C. C-43, AS AMENDED**

APPROVAL AND VESTING ORDER

THIS MOTION, made by PricewaterhouseCoopers Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Marnlen Management Ltd. (“**Marnlen**”) and Labelad Ltd. (“**Labelad**” and, together with Marnlen, the “**Debtor**”) for an order: (i) approving the First Report of the Receiver dated August 7, 2012, filed (the “**Report**”) and the Receiver’s activities set out therein; (ii) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Purchase Agreement**”) between the Receiver and Labelink Products Inc. (the “**Purchaser**”) made as of August 3, 2012 and appended in redacted form to the Report, and filed in unredacted form as confidential Appendix “D” to the Report (together with Confidential Appendix “B” to the Report, the “**Confidential Appendices**”); (iii) vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Purchase Agreement (the “**Purchased Assets**”); (iv) sealing the

Confidential Appendix; and (v) authorizing and directing the Receiver to file articles of amendment changing the corporate name of Labelad to 1547937 Ontario Ltd., was heard this day at 330 University Avenue, Toronto, Ontario.

6LS J ✓
ON READING the Report and on hearing the submissions of counsel for the Receiver, counsel for the Purchaser, counsel for Royal Bank of Canada, counsel for Nanlock Holdings Limited, ✓
✓ none of whom oppose the relief sought ✓
and no one appearing for any other person on the service list, although properly served as appears from the affidavits of Daphne Porter sworn August 8 and August 9, 2012 filed, and the affidavit of Sam Babe sworn August 7, 2012 filed:

1. **THIS COURT ORDERS** that the First Report be and is hereby approved and the activities of the Receiver described therein be and are hereby approved.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, including, without limitation, executing any required coveyances of registered intellectual property on behalf, and/or as authorized signatory, of the Debtor.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Purchase Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Perell dated July 18, 2012; (ii) all charges, security interests or claims evidenced by registrations pursuant

to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net 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 the sale.
5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.
6. **THIS COURT ORDERS** that, notwithstanding the provisions of subsection 171(3) of the *Business Corporations Act* (Ontario) (the “**OBCA**”), the Receiver be and is hereby authorized and directed, upon filing of the Receiver’s Certificate, to complete, execute and file articles of amendment for and on behalf of Labelad and any officer and director of Labelad (such articles of amendment to be deemed to have been signed by a director or an officer of Labelad and executed in accordance with the OBCA when so signed by the Receiver as directed by this Court) for the sole purpose of changing the corporate name of Labelad to 1547937 Ontario Ltd. (and such amendment shall be deemed to have been duly authorized by Section 168 of the OBCA without any shareholder or director resolution approving such amendment being required), and this Court hereby directs the Director (as defined in the OBCA) to endorse thereon a certificate of amendment upon receipt from the Receiver of two duplicate originals of such articles of amendment together with the prescribed fees and any other required documents under the OBCA (which the Receiver be and is hereby authorized and directed to complete, execute and file for and on behalf of Labelad and any officer and director of Labelad, if and as

required) except for any such documents as have been dispensed or otherwise dealt with pursuant to the deeming provisions contained herein.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is 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.

8. **THIS COURT ORDERS that**, 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 any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order 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 fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

10. **THIS COURT ORDERS** that, until such time as the transaction contemplated in the Purchase Agreement is completed, the Confidential Appendices to the Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed,

separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon filing of the Receiver's Certificate.

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

G. R. Chetty J

ENTERED AT / INSERIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

AUG 13 2012

NB

RECEIVED:

**SCHEDULE A
FORM OF RECEIVER'S CERTIFICATE**

Court File No. CV-12-9788-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

MARNLEN MANAGEMENT LTD. AND LABELAD LTD.

Respondents

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O 1990, C. C-43, AS AMENDED.

RECEIVER'S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable Justice Perell of the Ontario Superior Court of Justice (the "**Court**") dated July 18, 2012, PricewaterhouseCoopers Inc. was appointed as the receiver (the "**Receiver**") of the undertaking, property and assets of Marnlen Management Ltd. and Labelad Ltd. (collectively, the "**Debtor**").
- B. Pursuant to an Order of the Court dated August 13, 2012, the Court approved the asset purchase agreement made as of August 3, 2012 (the "**Purchase Agreement**") between the Receiver and Labelink Products 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 Article 5 of the Purchase 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.

- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Purchase Agreement;
2. The conditions to Closing as set out in Article 5 of the Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at ~~<time>~~ on August ~~<*>~~, 2012.

PRICEWATERHOUSECOOPERS INC., in its capacity as Receiver of the undertaking, property and assets of **MARNLEN MANAGEMENT LTD.** and **LABELAD LTD.**, and not in its personal capacity

Per: _____
Name:
Title:

SCHEDULE B PURCHASED ASSETS

Terms with initial capitals have the meanings set out in the Purchase Agreement.

- A. All registered and un-registered trademarks, services marks, trademark applications and trademark rights (including any trademarks issuing on such applications or rights) pertaining to and used in connection with the Labelad Business.
- B. All the undertaking, property and assets of Labelad, including:
 - (1) Equipment: (a) all machinery, manufacturing equipment, office equipment, office furniture, computers, trade fixtures, material handling equipment and implements owned and used by Labelad and Marnlen in connection with the Labelad Business, (b) all tooling, patterns, templates, formats, layouts, artwork, film and designs used solely in connection with the design, production, packaging or distribution of the Inventory owned and used by Labelad and Marnlen in connection with the Labelad Business, (c) all software owned and used by Labelad and Marnlen in connection with the Labelad Business, and (d) all other tangible property located at the Premises and owned and used by Labelad and Marnlen in connection with the Labelad Business, including that Equipment set forth in Schedule H to the Purchase Agreement;
 - (2) Inventory: all of the inventories of stock-in-trade, merchandise and supplies of Labelad and Marnlen pertaining to the Labelad Business, including work-in-process, finished goods and packaging and shipping supplies that (a) is located at the Labelad Premises on the Closing Date, or (b) is Inventory in transit or in production by suppliers of Labelad purchased in the ordinary course of the Labelad Business for which a written purchase order has been issued;
 - (3) Intellectual Property: means all intellectual and industrial property and any and all forms of protection having equivalent or similar effect anywhere in the world and all rights therein as recognized under the laws of Canada and/or other countries or jurisdictions, whether registered or unregistered and including rights in and to: (a) trademarks; (b) patents; (c) copyrights and works of authorship; (d) mask works; (e) trade secrets, know-how, and proprietary and confidential technical or business information; (f) any technology; and (g) industrial designs;
 - (4) Capital Leases: subject to the Purchaser's written election prior to the Closing Date to take such leases, the leases and financing agreements pertaining to Equipment used in the Labelad Business listed in Schedule D to the Purchase Agreement;

- (5) Prepays: the prepaid amounts of the Labelad Business as set forth in Schedule E to the Purchase Agreement; and
- (6) Books and Records: all privileged and non-privileged business books, files and records including, financial information and data, inventory data, all customer files and records, correspondence, promotional literature, brochures, trade show booths and advertising files, but excluding Labelad's (and Marnlen's and any other Affiliates') corporate and taxation records,

but excluding: (i) tax refunds; (ii) tax loss carry-forwards; (iii) investment and other tax credits; (iv) cash and cash equivalents on hand or in banks or other depositories, life insurance proceeds receivable and income taxes refundable; (v) Accounts Receivable; and (vi) finished goods Inventory sold by Labelad, Marnlen or the Receiver prior to the Closing Date.

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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