

Court File No.

05-CL-5965

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

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O 1990, c.s.5, AS AMENDED**

BETWEEN:

ONTARIO SECURITIES COMMISSION

Applicant

and

**GESTION DE PLACEMENTS NORSHIELD (CANADA) LTÉE /NORSHIELD ASSET
MANAGEMENT (CANADA) LTD.,**

**NORSHIELD INVESTMENT PARTNERS HOLDINGS LTD./GESTION DES
PARTENAIRES D'INVESTISSEMENT NORSHIELD LTÉE,**

**OLYMPUS UNITED FUNDS HOLDINGS CORPORATION, OLYMPUS UNITED
FUNDS CORPORATION/CORPORATION DE FONDS UNIS OLYMPUS,**

OLYMPUS UNITED BANK AND TRUST SCC,

GROUPE OLYMPUS UNITED INC./OLYMPUS UNITED GROUP INC.

**HONEYBEE SOFTWARE TECHNOLOGIES INC./TECHNOLOGIES DE LOGICIELS
HONEYBEE INC. (FORMERLY NORSHIELD INVESTMENT
CORPORATION/CORPORATION D'INVESTISSEMENT NORSHIELD), AND**

**NORSHIELD CAPITAL MANAGEMENT CORPORATION/CORPORATION
GESTION DE L'ACTIF NORSHIELD**

Respondents

**THIRTEENTH REPORT OF THE RECEIVER
(Dated December 17, 2009)**

Introduction

1. Pursuant to the Order of the Honourable Mr. Justice Campbell of the Ontario Superior Court of Justice (Commercial List) (the “Ontario Court”) dated June 29, 2005 (the “Initial Order”), RSM Richter Inc. (“RSM Richter”) was appointed for a period of fifteen days as Receiver (in such capacity, the “Receiver”) pursuant to Section 129 of the *Securities Act*, R.S.O. 1990, c.S-5, as amended, without security, of all of the assets, undertakings and properties of:
 - (a) Norshield Asset Management (Canada) Ltd. / Gestion de Placements Norshield (Canada) Ltée (“NAM”);
 - (b) Norshield Investment Partners Holdings Ltd. / Gestion des Partenaires d’Investissement Norshield Ltée (“Norshield Partners”);
 - (c) Olympus United Funds Holdings Corporation (“Olympus Holdings”);
 - (d) Olympus United Funds Corporation / Corporation de Fonds Unis Olympus (“Olympus Funds”);
 - (e) Olympus United Bank and Trust SCC (“Olympus Bank”); and
 - (f) Olympus United Group Inc. / Groupe Olympus United Inc. (“Olympus United”),(collectively, the “Original Respondents”).

A copy of the Initial Order is attached hereto as Schedule “A”.
2. Pursuant to the Order of the Honourable Mr. Justice Campbell of the Ontario Court dated July 14, 2005 (the “Extension Order”), the Receiver’s appointment in respect of each of the Original Respondents was continued in accordance with the terms of the Initial Order

until such time as the Receiver has completed its administration of the estate herein. A copy of the Extension Order is attached hereto as Schedule “B”.

3. Pursuant to two additional Orders of the Honourable Mr. Justice Campbell of the Ontario Court dated September 9, 2005 and October 14, 2005 (the “Expanded Orders”), RSM Richter was also appointed as Receiver pursuant to Section 101 of the *Courts Of Justice Act*, R.S.O. 1990, c.43, as amended, without security, of all of the assets, undertakings and properties of:
 - (a) Norshield Capital Management Corporation / Corporation Gestion de l’Actif Norshield (“Norshield Capital Management”); and
 - (b) Honeybee Software Technologies Inc. / Technologies de Logiciels Honeybee Inc. (formerly Norshield Investment Corporation/Corporation d’Investissement Norshield) (“Honeybee Software”).

Copies of the Expanded Orders are attached hereto as Schedules “C” and “D” respectively.

4. By judgments of the Quebec Superior Court (Commercial Division), the Initial Order, the Extension Order and the Expanded Orders were recognized and declared enforceable in the Province of Quebec.
5. The Original Respondents, Norshield Capital Management and Honeybee Software are collectively referred to as the “Norshield Companies” in this Thirteenth Report of the Receiver (the “Thirteenth Report”). The Initial Order, the Extension Order and the Expanded Orders are collectively referred to as the “Receivership Orders”.

6. RSM Richter and Brian F. Griffith & Company ("Griffith"), a Barbados accounting firm, have been appointed Joint Custodians of Olympus Bank ("Joint Custodians") by Order of the Barbados High Court of Justice ("Barbados Court") dated September 22, 2005.
7. Raymond Massi, a partner of RSM Richter ("Massi"), and G. Clifford Culmer ("Culmer"), a partner of BDO Mann Judd, an accounting firm located in Nassau, in the Commonwealth of The Bahamas ("The Bahamas"), were appointed Joint Official Liquidators ("Olympus Uninvest JOLs") of Olympus Uninvest Ltd. ("Olympus Uninvest") by Order dated February 6, 2006 of the Supreme Court of the Commonwealth of The Bahamas ("Bahamas Court").
8. Massi and Culmer were appointed Joint Receivers of Mosaic Composite Limited (U.S.), Inc. ("Mosaic") by Order of the Bahamas Court dated January 20, 2006.
9. Massi and Culmer were appointed Joint Provisional Liquidators of Mosaic by Order of the Bahamas Court, dated March 22, 2006 ("Mosaic JPLs"). On January 23, 2007, Mosaic was placed under Court supervised liquidation by Order of the Bahamas Court and Massi and Culmer were appointed Joint Official Liquidators of Mosaic ("Mosaic JOLs").
10. The Receiver has relied upon information and records available from the Norshield Companies, Olympus Uninvest, Mosaic, as well as from third parties, including the September 30, 2003 audited financial statements (the most recent and complete financial statements available) of the Norshield Companies, Olympus Uninvest, Mosaic and other entities described herein. In most circumstances, the information and records were

incomplete. The Receiver therefore has not fully determined all transactions that occurred prior to June 29, 2005, the date of the Initial Order.

11. The Receiver's review of this information does not encompass an audit of the financial position or operating results of any of the entities described herein. The financial information presented by the Receiver, including asset recovery information, remains subject to change in the event further information becomes available to the Receiver. Any such additional information could affect the conclusions drawn by the Receiver in this Thirteenth Report.
12. All references to dollars are in Canadian currency unless otherwise noted. Where amounts are reflected on the originating documents in US dollars, they have been converted into CDN dollars at the exchange rate in effect at the date of the transaction.

Purpose of the Thirteenth Report

13. The purpose of the Thirteenth Report is to provide this Honourable Court with the evidentiary basis upon which to make an order:
 - (a) approving the activities of the Receiver, as disclosed in the Thirteenth Report;
 - (b) authorizing and directing the Receiver to take all necessary steps to conduct the Action (as defined below) including, without limitation, authorizing and directing Raymond Massi in his capacity as a representative of the Receiver to appear as a witness and give evidence on behalf of the Receiver within the Action;
 - (c) approving the Receiver's updated statement of gross realizations to date;
 - (d) approving the Claims Process (as defined below);

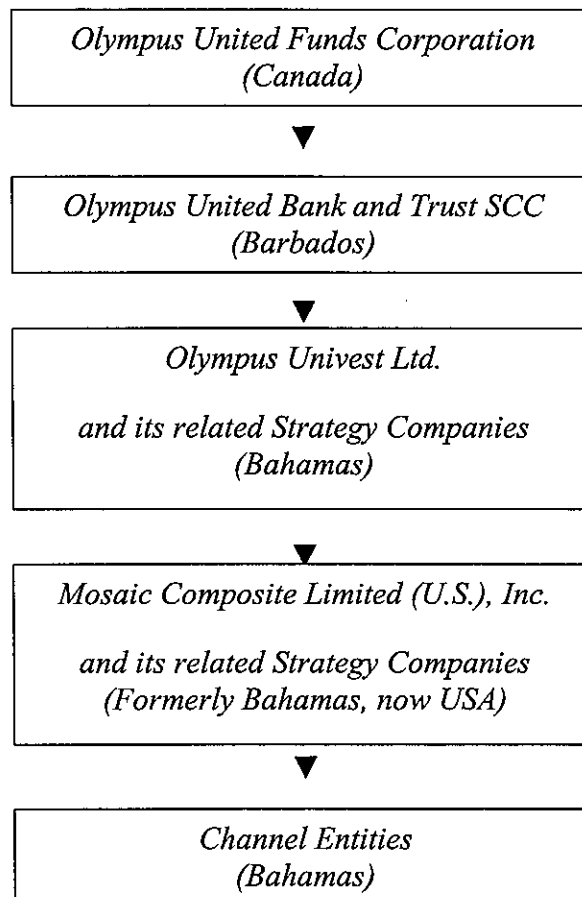
- (e) authorizing and directing the Receiver to carry out the Claims Process;
- (f) appointing Jonathan Wigley of Gardner Roberts LLP as independent counsel (the “Independent Counsel”) to review the fees and disbursements of the Receiver, its counsel and the Representative Counsel appointed by this Honourable Court, (collectively, the “Professional Fees”) and to make submissions to this Honourable Court with respect to the fairness and reasonableness of the Professional Fees and whether the Professional Fees ought to be assessed and allowed; and
- (g) dispensing with service of the within motion materials and the Thirteenth Report upon any person other than Jean Fontaine in his capacity as Representative Counsel appointed pursuant to the Order of this Honourable Court dated February 7, 2006.

A. ACTIVITIES OF THE RECEIVER

14. Certain of the Receiver’s activities since the issuance of the Receiver’s Sixth Report to the Ontario Court are set out in the Receiver’s Seventh through Twelfth Reports to the Ontario Court and are summarized below. However, the Seventh, Ninth, Tenth and Twelfth Reports of the Receiver, which describe certain of the Receiver’s realization activities, remain in whole or in part subject to sealing orders of the Court. For ease of reference, a summary of the Norshield investment structure is also included below. A more detailed explanation of the Norshield investment structure is included in the Receiver’s Sixth Report to the Ontario Court, available on the Receiver’s website.

15. Other than certain claims against third parties (described in more detail below), none of the Receiver, the Joint Custodians, the Olympus Uninvest JOLs or the Mosaic JOL has identified any additional significant assets since the date of the Sixth Report. Since the date of the Sixth Report, the Receiver's activities have been directed primarily towards realizing upon assets identified by the Receiver in an orderly fashion to maximize recoveries, as well as attempting to resolve certain competing claims to those assets. The Receiver's realization and other activities since the date of the Sixth Report are described in more detail below. For ease of reference, certain realization activities of the Joint Custodians are also included below.

(1) Overview of the Norshield Investment Structure



16. Approximately 1900 Canadian retail investors ("Retail Investors"), the majority of whom reside in Ontario, held investments in Olympus Funds in the amount of approximately \$159 million as at June 2005. The Receiver has determined that approximately 154 Retail Investors appear to have made investments in the total amount of approximately \$3.2 million in Olympus United Uninvest RRSP Fund / Fonds REER Olympus United Uninvest ("Olympus RRSP Fund"), rather than in Olympus Funds directly.
17. Given the limited records available to the Receiver, it is unclear if the funds invested in the Olympus RRSP Fund were invested in Olympus Funds. The Receiver will continue its analysis of the investments held by certain Retail Investors in the Olympus RRSP Fund and report to the Court on this issue once it has completed its investigation. The Receiver's calculation of the net proceeds available for distribution to the Retail Investors set out below is therefore subject to revision.
18. Based on the audited financial statements for Olympus Funds, Olympus Bank, Olympus Uninvest and Mosaic as at September 30, 2003, Olympus Funds made significant investments in its wholly-owned subsidiary, Olympus Bank in Barbados. Olympus Bank held investments in Olympus Uninvest in The Bahamas. These investments were then co-mingled in Olympus Uninvest with investments received from Canadian pension funds and financial institutions ("Institutional Investors") and individuals and entities whose investments were in cash/cash equivalents and/or contributions "in kind" ("Direct Uninvest Investors"). Olympus Uninvest held substantial investments in Mosaic. Mosaic, in turn, held investments in both hedged and non-hedged assets. The hedged assets were

predominantly comprised of two cash settled equity barrier call options with the Royal Bank of Canada ("RBC") which were consolidated into a single option on March 31, 2004 (the "RBC SOHO Option") while the non-hedged assets consisted mainly of investments in a number of private entities, namely:

- (a) Channel Fixed Income Fund Ltd.;
- (b) Channel F.S. Fund Ltd.;
- (c) Channel Technology Fund Ltd.; and
- (d) Channel Diversified Private Equity Fund Ltd.

(collectively, the "Channel Entities").

19. Mosaic was the largest shareholder of Channel Fixed Income Fund Ltd., which was the parent of the other three Channel Entities.
20. The RBC SOHO Option was the most significant by value of Mosaic's Hedged Assets. The RBC SOHO Option was a financial instrument by which Mosaic could gain access to a basket of portfolio investments upon payment to RBC of an amount ("Premium") which was equal to a percentage (between 15% and 25%) of the total value of said basket of portfolio investments ("Exposure"). The difference between the Premium and the Exposure represented the leverage that was inherent in the RBC SOHO Option ("Leverage").
21. The other components of Mosaic's Hedged Assets consisted of two trading activities, one activity dealing with managed futures and another activity dealing with tactical trading.

22. Based on the audited financial statements of Mosaic, as at September 30, 2003, it appears that the Hedged Assets totalled approximately USD \$387 million. The Leverage owing to RBC under the RBC SOHO Option and secured by the basket of securities within the RBC SOHO Option totalled approximately USD \$300 million.
23. The Non-hedged Assets consisted of the following underlying assets:
- (a) investments (represented by equity shares and/or debentures) in the Channel Entities; and
 - (b) cash and sundry other assets.

(2) Realization Activities

(i) RBC SOHO Option

24. At the time that Mosaic was placed into receivership by order of the Bahamas Court, it held 8,223.4 Class B shares of Univest Multi-Strategy Fund II, Ltd. ("MS-II") having a value, as declared by the former director, of approximately USD \$6.5 million.
25. Mosaic's Class B shareholding in MS-II is the result of a series of transactions, described below, that occurred in late 2004/early 2005 whereby Mosaic exchanged the RBC SOHO Option for Class A and B shares of MS-II.
26. Mosaic entered into a series of transactions between November 2004 and January 2005 with MS-II which permitted Mosaic to generate liquidity and meet certain redemption requests. At the same time, these transactions were structured so that Mosaic could retain an economic interest in the RBC SOHO Option and continue to substantially calculate its

net asset value, as well as the net asset value of Olympus Uninvest, Olympus Bank and Olympus Funds based on this financial instrument.

27. This series of transactions resulted in the RBC SOHO Option, which had an equity value, in October 2004, of approximately USD \$52 million, being transferred from Mosaic to MS-II in exchange for Class A and B shares of MS-II. Each class of shares had different attributes and rights. All the Class A shares and a portion of the Class B shares were then either redeemed, sold and/or exchanged for cash and/or other consideration. After completing a series of transactions, by January 2005, Mosaic retained no Class A shares of MS-II. On or about December 1, 2004, Mosaic redeemed 14,725.6 of the Class B shares it held in MS-II pursuant to a formal redemption request. MS-II paid USD \$15 million in return for these Class B shares. Ultimately, in January 2005, Mosaic retained approximately 8,223.4 Class B shares of MS-II, which had a value, as declared by its former director, of approximately USD \$6.5 million.
28. In the third and fourth quarters of 2005, the RBC SOHO Option was terminated by RBC and proceeds of approximately USD \$37,747,000 (the "Option Proceeds") were realized therefrom.
29. After reviewing the documents relating to the series of transactions between Mosaic and MS-II as well as the other entities involved, the Mosaic JPLs, in consultation with the Receiver, the Olympus Uninvest JOLs and the Joint Custodians, commenced proceedings in the Cayman Islands to assert the rights and entitlement of Mosaic to the Option Proceeds.

30. During these proceedings, confidential settlement discussions were initiated with the MS-II JOLs and certain other interested parties. Following several months of discussions, an agreement was reached settling the litigation and all disputes between the parties relating to the Option Proceeds and certain other issues. The terms and conditions agreed to by the parties in their settlement have been extensively recorded in a global settlement agreement ("GSA") and local jurisdiction agreements.
31. The GSA was approved by the Bahamas Court in the liquidations of each of Mosaic and Olympus Uninvest, by the Cayman Islands Court in the liquidation of MS-II and by the Barbados Court in the winding-up of Olympus Bank. By Order of the Ontario Court dated March 2, 2007, attached hereto as Schedule "E", the GSA was approved and the Receiver was authorized and directed to carry out the terms thereof. Due to the confidential nature of the settlement, the GSA remains under seal in each of the foregoing jurisdictions.
32. In accordance with the terms of the GSA, approximately USD \$7,300,000 was paid to the Receiver in trust for Mosaic as full and final settlement relating to any and all litigation among the parties as well as issues relating to the RBC SOHO Option. Those funds will be distributed in accordance with the claims process currently underway in the liquidation of Mosaic in The Bahamas, described in more detail below.

(ii) Shares of Oceanwide Inc.

33. As at the date of the Receiver's appointment, Norshield Capital Management held 3,159,669 Class A common shares of Oceanwide Inc. ("Oceanwide"), as well as certain

unsecured, convertible debentures issued by Oceanwide. Oceanwide is a private corporation which provides internet based business to business electronic commerce applications to the global transportation, logistics and marine insurance industries.

34. Subsequent to its appointment, the Ontario Court authorized and directed the Receiver to subscribe for 604,600 additional Class A common shares of Oceanwide.
35. The Receiver's ability to market and sell the Oceanwide shares and debentures was subject to restrictions contained in a unanimous shareholders agreement. Given the terms thereof, the Receiver determined that the highest and best realization upon the Oceanwide shares and debentures would be achieved through a sale to Oceanwide itself. Following lengthy negotiations with Oceanwide, the parties entered into an agreement whereby Oceanwide would purchase from the Receiver all of the Oceanwide shares and debentures.
36. Pursuant to the Order of the Ontario Court dated September 5, 2007, the Receiver was authorized to sell to Oceanwide 3,764,269 Class A common shares of Oceanwide (of which 3,159,669 shares were issued to and registered in the name of Norshield Capital Management and 604,600 shares were issued to and registered in the name of the Receiver), together with debentures issued by Oceanwide in the total principal amount of \$393,097, plus accrued interest. The proceeds of sale in the amount of \$3,276,000 are held by the Receiver in place and stead of the Oceanwide shares and debentures and are subject to competing claims by each of Mendota Capital Corporation, Cinar Corporation as well as the Official Liquidators of Globe-X Canadiana Limited and Globe-X

Management Limited (together, the “Globe-X Liquidators”) appointed by Orders of the Bahamas Court.

37. The Receiver disputes the claims to the share proceeds by each of Mendota Capital Corporation, Cinar Corporation and the Globe-X Liquidators. Those claims will be addressed as part of the claims process described in more detail below.

(iii) Shares of Niocan Inc.

38. As at the date of the Receiver’s appointment in respect of Honeybee Software, 2,000,000 shares of Niocan Inc. were issued to and registered in the name of Honeybee Software (the “Niocan Shares”). Niocan Inc. is an exploration company based in Montreal, Quebec and listed on the Toronto Stock Exchange (the “TSX”). Its primary product is niobium, a rare exotic soft metal that has the appearance of steel and resists corrosion and can maintain its qualities at very high temperatures.
39. Given that the shares of Niocan Inc. were thinly traded on the TSX, the Receiver commenced a process in 2008 to identify a purchaser of all of the Niocan Shares. Through this process, the Receiver identified the offer from Nio-Metal Holdings LLC to purchase the Niocan Shares as the highest and best realization upon the Niocan Shares.
40. Pursuant to the Order of the Ontario Court dated June 27, 2008, the Receiver was authorized and directed to sell the Niocan Shares to Nio-Metals Holdings LLC. The proceeds of sale in the amount of \$1,200,000 are currently held by the Receiver in place and stead of the shares and are subject to a competing claim by Mendota Capital

Corporation. The Mendota Capital Corporation claim is disputed by the Receiver and will be addressed as part of the claims process, described below.

(iv) Summerland Realization

41. As at the date of the Joint Custodians' appointment, Olympus Bank, through its wholly-owned subsidiary Summerland Properties Inc. ("Summerland"), held certain real property in Barbados ("Summerland Property"). Summerland is a company incorporated in the British Virgin Islands and registered in Barbados as an external company under various provisions of the laws of Barbados.
42. Approximately one year prior to the appointment of the Joint Custodians, Summerland engaged a local realtor to sell the Summerland Property. Those sales efforts were unsuccessful.
43. The Order of the Barbados Court appointing the Joint Custodians provides, among other things, that the Joint Custodians have the exclusive power to take possession and control of all of the assets of Olympus Bank wherever located, including the Summerland Property.
44. Following their appointment, the Joint Custodians commenced extensive and complex sale negotiations with H.C. Holdings Inc., the then current tenant of the Summerland Property, which owed significant arrears of rent to Summerland. Those negotiations culminated in an offer from H.C. Holdings Inc. to purchase the Summerland Property.
45. The purchase price of \$2.35 million (inclusive of rental arrears) was supported by the appraisals of the Summerland Property obtained by the Joint Custodians. In addition, the

Central Bank of Barbados, by letter dated August 14, 2007, consented to the sale of the Summerland Property to H.C. Holdings Inc.

46. The sale of the Summerland Property to H.C. Holdings Inc. closed in October 2007. The sale proceeds of approximately \$2.35 million are held by the Joint Custodians and will be distributed in accordance with the claims process to be administered by the Joint Custodians pursuant to the laws of Barbados.

(v) Actions against Third Parties

47. Since the date of the Sixth Report, the Receiver, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs have undertaken a detailed analysis of potential claims by the Norshield Companies, Olympus Bank, Olympus Uninvest and Mosaic respectively against certain third parties arising from the losses suffered at each level of the Norshield investment structure. The Receiver, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs are actively continuing their efforts to monetize these claims. At this stage, disclosure of the parties against whom the Receiver, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs have identified possible claims by any of the Norshield Companies, Olympus Bank, Olympus Uninvest or Mosaic could prejudice any possible realization in respect thereof. The Receiver will provide a further update regarding these claims following the conclusion of this process.

(vi) Civil Action Against John Xanthoudakis and Dale Smith

48. The Receiver has commenced a civil action (the "Action") in the Province of Ontario against each of John Xanthoudakis ("Xanthoudakis") and Dale Smith ("Smith") pursuant to a Notice of Action dated November 14, 2007. The Receiver is claiming damages against each of Xanthoudakis and Smith in the amount of \$159 million. A true copy of the Notice of Action is attached as Schedule "F". A true copy of the Statement of Claim issued within the Action is attached as Schedule "G".
49. As set out in the Statement of Claim, Xanthoudakis is a businessman and was at all material times a director of the following Norshield Companies: NAM, Olympus

Holdings, Olympus Funds, Olympus United, Norshield Capital Management, and Honeybee Software. Xanthoudakis was also a director of Norshield Investment Partners, Inc. ("NIP") based in the United States, which, along with NAM, provided the asset and risk management advisory services for some of the Norshield Companies, as well as Olympus Uninvest and Mosaic. As set out in the Statement of Claim, Xanthoudakis was described in marketing materials as the Chairman and Chief Executive Officer of the "Norshield Financial Group", which is described in more detail below.

50. As set out in the Statement of Claim, Smith is a chartered accountant and was at all material times a director of Olympus Funds, Olympus Uninvest and Mosaic. Smith was described in marketing materials as the President and Chief Operating Officer of the Norshield Financial Group and the President and Chief Executive Officer of Olympus Bank.
51. As set out in the Statement of Claim, there is no legal entity which bears the name, "Norshield Financial Group". However, as set out in the Statement of Claim, Xanthoudakis and Smith, as the directing minds of the Norshield Financial Group, used that term extensively as a brand name to project an image of substance and worldwide presence. For the purposes of the Action, the term "Norshield Financial Group" includes, but is not limited to, all of the Norshield Companies as well as Olympus Uninvest and Mosaic.
52. The Norshield Financial Group marketed itself as offering "alternative" investment strategies to investors by employing a variety of hedge fund investment techniques. As

of June 2005, Olympus Funds and Olympus Uninvest collectively owed approximately \$472 million to investors, including approximately \$159 million to the Retail Investors.

53. As set out in the Statement of Claim, the Receiver claims that Xanthoudakis and Smith had fiduciary obligations to act honestly and in good faith with a view to the best interests of the Norshield Companies. The Receiver claims that Xanthoudakis and Smith owed duties of care to exercise the care, diligence and skill that a reasonably prudent person would exercise in supervising and managing the affairs and assets of the Norshield Companies.
54. In particular, the Receiver claims that Xanthoudakis and Smith breached the foregoing obligations to the Norshield Companies by:
 - (a) diverting corporate assets contrary to the best interests of the Norshield Companies;
 - (b) causing the Norshield Companies and the entire Norshield Financial Group to make speculative and improvident investments contrary to the best interests of the Norshield Companies and contrary to the representations made in the public documents used to solicit investments in Canada;
 - (c) causing the Norshield Companies to enter into commercially unreasonable transactions to their detriment;
 - (d) causing the Norshield Companies to engage in non-arm's length and sham transactions for the purpose of artificially inflating the value of the Norshield Companies' assets, and concealing their wrongful conduct;

(e) operating the Norshield Companies in aid of their scheme to divert the assets of the Norshield Companies; and

(f) using new investor subscriptions entirely to fund redemptions.

55. Each of Xanthoudakis and Smith have filed a Statement of Defence within the Action. A copy of the Statement of Defence filed within the Action by each of Xanthoudakis and Smith is attached as Schedule “H” and “I” respectively.

56. In accordance with the Ontario *Rules of Civil Procedure*, the Receiver will be required to disclose to each of Xanthoudakis and Smith all documents relating to any matter in issue in the Action that has been in the possession, control or power of the Receiver. Documents are broadly defined under the Ontario *Rules of Civil Procedure* so as to include, *inter alia*, computer-stored data and information. In addition, a representative or representatives of the Receiver will be required to give oral evidence at both an examination for discovery held prior to the trial of the Action and at the trial of the Action itself. Certain of the information and documentation in the possession of the Receiver, which would be subject to production to Xanthoudakis and Smith and/or referenced in oral evidence given by the Receiver’s representatives as described above, has been provided to the Receiver by the Mosaic JPLs, the Mosaic JOLs, the Olympus Univest JOLs and/or the Joint Custodians of Olympus Bank and is therefore subject to confidentiality restrictions in Barbados and The Bahamas.

57. Accordingly, the Olympus Univest JOLs and the Mosaic JOLs sought and obtained an Order from the Bahamas Court authorizing such parties to deliver any information and/or

documentation subject to confidentiality restrictions in The Bahamas to the Receiver for disclosure within the Action. The Joint Custodians obtained a similar Order from the Barbados Court. True copies of the foregoing Orders are attached hereto as Schedules “J” and “K” respectively.

(3) Communication with Law Enforcement Authorities

58. Pursuant to the Order of the Ontario Court dated March 7, 2007, the Receiver was authorized and directed to provide to law enforcement agencies and securities regulators in Canada and other relevant foreign jurisdictions deemed appropriate by the Receiver, evidence of any possible fraudulent and/or wrongful activity identified by the Receiver in the course of executing its mandate.
59. Pursuant to the foregoing Order, the Receiver met with the RCMP and the Service de police de la ville de Montreal (City of Montreal Police Department), as well as the Bahamian securities regulator. In each case, the Receiver offered its full cooperation and assistance to these parties. Although to date no criminal prosecutions have been commenced by the relevant authorities in connection with the losses suffered by the Retail Investors, the Receiver remains prepared and available to provide any and all assistance to law enforcement agencies and securities regulators in connection with the losses suffered by Retail Investors. However, absent a criminal or regulatory prosecution being commenced by any of the above noted authorities, the Receiver is not in a position to advance this process further.

(4) Ontario Securities Commission Proceeding

60. The OSC is constituted pursuant to the provisions of the *Securities Act* (Ontario) ("*Securities Act*"). The purpose of the *Securities Act* is to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in capital markets in Ontario. The OSC is responsible for the administration and enforcement of the *Securities Act*.
61. By Notice of Hearing dated October 11th, 2006, the OSC commenced a proceeding (the "OSC Proceeding") against Xanthoudakis, Smith and Peter Kefalas ("Kefalas") pursuant to Section 127 of the *Securities Act*. NAM and Olympus United (each of which is in receivership under the administration of the Receiver) were also named as corporate respondents in the OSC Proceeding. The OSC alleges in the OSC Proceeding that the conduct engaged in by Xanthoudakis, Smith and Kefalas constituted breaches of Ontario securities law and/or was contrary to the public interest. Specifically, the OSC alleges that:
- (a) NAM, Olympus United and each of Xanthoudakis, Smith and Kefalas failed to deal fairly, honestly and in good faith with clients, contrary to Sections 2.1(1) and 2.1(2) of OSC Rule 31-505;
 - (b) NAM and Olympus United failed to keep and/or maintain proper books and records in relation to the Norshield investment structure in contravention of Section 19 of the *Securities Act* and Section 113 of Ontario Regulation 1015 of the *Securities Act*;
 - (c) as a consequence of their positions of seniority and responsibility and in their positions as officers and directors of NAM and/or Olympus United,

Xanthoudakis, Smith and Kefalas authorized, permitted or acquiesced in the violations of the requirements of Ontario securities law and breaches of duty described in subparagraphs (a) – (b) above;

- (d) the Offering Memorandum filed and distributed by Olympus United contained misleading or untrue information and/or failed to state facts which were required to be stated in contravention of clause (b) of subsection 122(1) of the *Securities Act*;
 - (e) as a consequence of their positions of seniority and responsibility and in their positions as officers and directors of Olympus United, Xanthoudakis and Smith authorized, permitted or acquiesced in the breach of Ontario securities law described in subparagraph (d) above;
 - (f) Xanthoudakis and Smith knowingly made statements and provided evidence and information to staff of the OSC that was materially misleading or untrue and/or failed to state facts which were required to be stated in an effort to hide the violations of Ontario securities laws and breaches of duty described in subparagraphs (a) – (e) above in contravention of clause (a) of subsection 122(1) of the *Securities Act*; and
 - (g) the course of conduct engaged in by Xanthoudakis, Smith and Kefalas compromised the integrity of Ontario's capital markets, was abusive to Ontario's capital markets and was contrary to the public interest.
62. On the basis of the above allegations, the OSC has sought certain sanctions against NAM, Olympus United, Xanthoudakis, Smith and Kefalas including, amongst other things, that

each such party permanently cease trading in any securities, that Xanthoudakis, Smith and Kefalas be prohibited from becoming or acting as a director or officer of any issuer under the *Securities Act* and that NAM, Olympus United, Xanthoudakis, Smith and Kefalas or any of them, pay an administrative penalty of not more than \$1,000,000 for each failure to comply with Ontario securities law to the OSC or to the Receiver, for allocation to or for the benefit of third parties.

63. Each of Xanthoudakis, Smith and Kefalas defended the allegations against them in the OSC Proceeding. The hearing in connection with the OSC Proceeding concluded in May, 2009. A decision has not yet been released by the OSC.
64. The OSC was required to disclose to Xanthoudakis, Smith and Kefalas all relevant information in its possession, whether inculpatory or exculpatory, unless such information is protected by legal privilege. Xanthoudakis and Smith took the position that the OSC was required to disclose documentation obtained by the Receiver through either the course of its appointment in Canada or documentation which was provided to the Receiver by the Olympus Uninvest JOLs, Mosaic JOLs and the Joint Custodians.
65. Certain of the information and documentation in the possession of the Receiver, which was subject to disclosure in the OSC Proceeding, was provided to the Receiver by the Mosaic JPLs, the Mosaic JOLs, the Olympus Uninvest JOLs and/or the Joint Custodians and is therefore subject to confidentiality restrictions in Barbados and The Bahamas. Accordingly, the Olympus Uninvest JOLs and the Mosaic JOLs sought and obtained an Order from the Bahamas Court authorizing such parties to deliver any information and/or documentation subject to confidentiality restrictions in The Bahamas to the Receiver for

disclosure within the OSC Proceeding. The Joint Custodians obtained a similar Order from the Barbados Court. True copies of the foregoing Orders are attached hereto as Schedules “L” and “M” respectively.

66. In order to facilitate the conduct of the OSC Proceeding, the Receiver disclosed to the OSC all documentation in its possession subject to the disclosure requirements in the OSC Proceeding. The Receiver also prepared and delivered to the OSC a Compendium Report containing evidence set out in certain of the Receiver’s reports to this Honourable Court.
67. Pursuant to the Order of the Ontario Court dated October 28, 2008, Raymond Massi, a partner with RSM Richter, was authorized to appear as a witness in the OSC Proceeding. Mr. Massi gave evidence over the course of approximately one week at the hearing of the OSC Proceeding as a representative of the Receiver.

(5) Updated Statement of Estimated Gross Realizations

68. In the Sixth Report to the Ontario Court, the Receiver provided its estimate of realizations upon assets recovered to the date of the Sixth Report as well as assets identified but not yet realized upon by each of the Receiver, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs.
69. As set out in paragraph 16 above and following, given the multi-jurisdictional nature of the Norshield investment structure, it is not possible to conduct one global claims process encompassing all of the claims and all of the assets comprising the estates of each of the Norshield Companies, Olympus Bank, Olympus Uninvest and Mosaic. Rather, the

Receiver, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs have each taken steps to realize upon assets located in or otherwise governed by the laws of its own jurisdiction and such assets will be distributed to the stakeholders of each such estate pursuant to the laws of The Bahamas in the case of Olympus Uninvest and Mosaic, the laws of Barbados in the case of Olympus Bank and the laws of Canada in the case of the Norshield Companies other than Olympus Bank.

70. The Receiver emphasizes that the following asset realization information and comments reflect **gross realizations** in respect of those assets which have been recovered to date in the various jurisdictions as well as the estimated gross realizations of those assets which have been identified but not yet realized upon, subject to the qualifications expressed below.
71. The Receiver further emphasizes that based on information currently available, the estimates of gross realizations contained in this Thirteenth Report do **not** constitute an estimate by any of the Receiver, the Joint Custodians, the Olympus Uninvest JOLs or the Mosaic JOLs of distributions that may ultimately accrue to the Retail Investors and/or other stakeholders in the various estates referred to in this Thirteenth Report.
72. The gross proceeds which will ultimately be available to satisfy the claims of the Retail Investors and other stakeholders of the Norshield Companies will be substantially reduced for the following reasons, amongst others:

- (a) the quantum of intervening claims against the estates of each of Mosaic, Olympus Uninvest and Olympus Bank as established by the claims process applicable to each jurisdiction;
 - (b) the costs associated with the disallowance of certain proofs of claim submitted in the various jurisdictions;
 - (c) competing claims against certain of the assets, both realized and identified, and the costs of resolving same;
 - (d) the illiquid nature of certain of the assets identified and which remain to be monetized;
 - (e) the erosion of the value of certain assets during the realization process; and
 - (f) the costs of the court-supervised liquidations, including professional fees, which are substantial due to the complex and multi-jurisdictional nature of the Norshield investment structure.
73. To date, the Receiver, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs have either realized or identified additional assets to be realized upon, in the gross aggregate amount of approximately \$34.4 million, which is apportioned among the four estates as follows :

Estate	Realized	Anticipated Realization	Total
Norshield Companies (excluding Olympus Bank)	\$9,722,000	Nil	\$9,722,000
Olympus Bank	\$7,334,000	Nil	\$7,334,000
Olympus Uninvest	Nil	Nil	Nil
Mosaic	<u>\$11,495,000</u>	<u>\$5,887,000</u>	<u>\$17,392,000</u>
Total	<u>\$28,551,000</u>	<u>\$5,887,000</u>	<u>\$34,448,000</u>

The gross realization of \$34.4 million does not include amounts which may be realized from existing and potential claims against third parties.

74. The Receiver, in consultation with the Representative Counsel, the Joint Custodians, the Olympus Uninvest JOLs and the Mosaic JOLs, is actively pursuing claims against third parties with a view to achieving cost effective recoveries in these liquidations. Although the Receiver is attempting to negotiate a settlement of certain of these claims, the Receiver will seek Court approval to commence the necessary legal proceedings in the event that such negotiations fail.
75. Attached as Schedule "N" is a summary of the estimated gross realization for the Norshield Companies (excluding Olympus Bank), Olympus Bank, Olympus Uninvest and Mosaic.
76. Based on information currently available to the Receiver and as reflected in Schedule "O" the Receiver estimates that the **gross** proceeds of realization will be approximately 13% of the Retail Investors' investments in Olympus Funds. The Receiver further estimates that the **net** proceeds which may ultimately be available for distribution to the Retail Investors could be between 5.5% and 7.5%.

77. As noted above, the Receiver's estimate of the gross proceeds of realization does not include any amounts which may be realized from existing and potential claims against third parties. **The Receiver cautions that its estimate of both gross and net proceeds of realization may be substantially reduced due to the factors outlined above and in particular those noted in paragraph 72.**

(6) Claims Process in Canada

(i) Retail Investor Claims

78. Given that the claims process in respect of both Mosaic and Olympus Uninvest is well underway in The Bahamas, the Receiver has developed a claims process for implementation in Canada in respect of the Norshield Companies, other than Olympus Bank. Citifund Services Canada (formerly Unisen Inc.), the independent fund administrator for Olympus Funds, maintained records of all investments made by the Retail Investors in Olympus Funds. Given the existence of these independent records, the Receiver recommends to this Honourable Court that a procedure be implemented whereby each Retail Investor would only be required to prove his, her or its investment in Olympus Funds by either confirming its agreement with the amount of the investment reflected in the Receiver's records or, if the Retail Investor believes that the Receiver's records are incorrect, by providing evidence to the Receiver of the correct investment amount. In the Receiver's view, this process will reduce the administrative burden on the Retail Investors without reducing the integrity of the Claims Process.
79. Pursuant to this process, the Receiver would send to each Retail Investor a Proof of Investment form ("POI") that would include a schedule of that Retail Investor's

investment(s) in Olympus Funds (an "Individual Investor List") based upon the records in the possession of the Receiver which were obtained from Citifund Services Canada (the "Receiver's Information").

80. The Receiver will include this Individual Investor List with the POI, in the form attached as Schedule "P".
81. Retail Investors who agree with the information contained in the Individual Investor List must fill in and sign the POI in the space provided and return the POI to the Receiver by March 31, 2010 or such later date as the Receiver may determine (the "Claims Bar Date").
82. All Retail Investors who disagree with the information contained in the Individual Investor List must complete and forward to the Receiver a completed POI on or before the Claims Bar Date. The Receiver reserves the right to revise the Receiver's Information and to revise an Individual Investor List based upon any information subsequently received (the "Subsequent Information"). Notice of a revision of a Retail Investor's POI based upon Subsequent Information shall be forwarded by ordinary mail to each affected Retail Investor.
83. The Receiver acknowledges that the Receiver's Information may not include all of the Retail Investors, since the Receiver has only had access to, and continues to work with, an incomplete set of financial records. In order to fully satisfy itself that all Retail Investors are provided with notice of the POI process and that the claims of all Retail Investors are identified prior to any distribution of funds, the Receiver will place two

separate advertisements in successive weeks in *The Globe and Mail* (national edition) and *La Presse* (in French) on or before January 16 and 20, 2010 in the form attached as Schedule “Q”.

84. The Receiver is proposing the following timeline for the POI process:

Milestones	Date
Preparation of Individual Investor Lists	Completed
Mail to all known Retail Investors a POI and Individual Investor List	Jan. 15, 2010
Post forms on the Norshield Receivership website	Jan. 15, 2010
Place advertisements in <i>The Globe and Mail</i> and <i>La Presse</i>	Jan. 16 and 20, 2010
Claims Bar Date for Retail Investors to file a POI with the Receiver	March 31, 2010

(ii) Creditor Claims

85. In conjunction with the POI process, the Receiver intends to run a Proof of Claim (“POC”) process to determine the scope and nature of the liabilities of all of the Norshield Companies (other than Olympus Bank) which are not related to the investments of Retail Investors. The POC process will follow the timeline identified above for the POI process.
86. The Receiver intends to mail a POC form to all known creditors, other than Retail Investors, in the form attached as Schedule “R”.
87. The advertisement to be placed in *The Globe and Mail* and *La Presse* will also serve as notice of the POC process.

(iii) Review and Finalization of Proofs of Investment and Proofs of Claim

88. The Receiver shall review all POIs and POCs received before the Claims Bar Date and, where a POI or POC is disputed in whole or disputed in part, the Receiver, prior to any distribution of funds to Retail Investors or to creditors, shall issue a Notice of Disallowance indicating the reasons for the disallowance in whole or in part of the POI or POC.
89. Where a Retail Investor or creditor objects to a Notice of Disallowance or, in the case of a Retail Investor, to a revision to a POI based upon Subsequent Information, the Retail Investor or creditor must notify the Receiver of the objection (“Notice of Objection”) in writing by registered mail, courier service or facsimile within fifteen (15) days following receipt of the Notice of Disallowance or a revision to a POI. The Retail Investor or

creditor must thereafter serve on the Receiver within thirty (30) days following the Notice of Objection a notice of motion in the Ontario Court for determination of the investment or claim in dispute.

90. The Receiver will issue a further report to Court summarizing the results of the POI and the POC process (together, the "Claims Process") and its proposed methodology for the distribution of funds recovered to Retail Investors and creditors.
91. The Receiver recommends that the Claims Process be approved and that the Receiver be authorized and directed to carry out the Claims Process in order to determine and confirm the claims of both the Retail Investors and creditors of the Norshield Companies.

(7) Claims Process in The Bahamas

92. The Mosaic JOLs and the Olympus Uninvest JOLs have commenced a claims process in The Bahamas with respect to each of Mosaic and Olympus Uninvest respectively. The Mosaic JOLs and the Olympus Uninvest JOLs placed advertisements in newspapers having national circulation in each of The Bahamas, The Cayman Islands, Canada, the United States requesting that all creditors file proofs of claim in each such liquidation by October 15, 2008.
93. The Mosaic JOLs and the Olympus Uninvest JOLs have completed a preliminary review of the proofs of claim filed in the liquidations of Mosaic and Olympus Uninvest by the October 15, 2008 deadline and will seek authority from the Bahamas Court to disallow certain of such proofs of claim submitted.

B. APPOINTMENT OF INDEPENDENT COUNSEL

94. The Receiver recommends that this Honourable Court appoint Jonathan Wigley of Gardner Roberts LLP as Independent Counsel to assist this Honourable Court in reviewing the Professional Fees for fairness and reasonableness and to make recommendations to the Ontario Court as to whether the Professional Fees ought to be assessed and allowed.
95. Mr. Wigley was appointed as Independent Counsel to review the fees and disbursements of the Receiver and various other professionals within the *Portus* receivership proceeding. Mr. Wigley has also invested funds with the Norshield Companies. None of his investments have been repaid by the Norshield Companies. Mr. Wigley also acts as counsel to certain financial institutions seeking to recover funds loaned to certain of the Retail Investors and invested with the Norshield Companies. In the Receiver's view, neither of the foregoing facts places Mr. Wigley in a position of conflict. It is the Receiver's view that, given his background in the Portus matter as well as his status as one of the Retail Investors, Mr. Wigley is best qualified to be appointed as Independent Counsel.

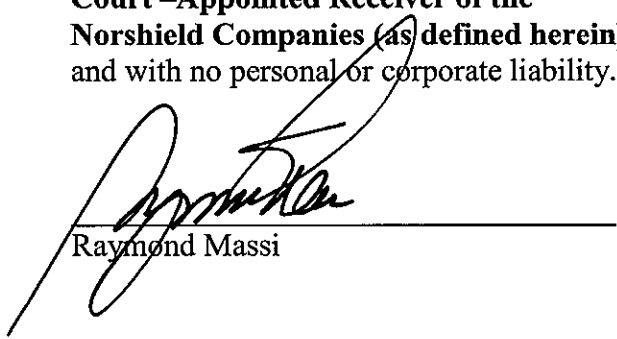
ORDER SOUGHT

96. The Receiver respectfully recommends that this Honourable Court grant an Order:
- (a) approving the activities of the Receiver, as disclosed in the Thirteenth Report;
 - (b) authorizing and directing the Receiver to take all necessary steps to conduct the Action including, without limitation, authorizing and directing Raymond Massi

in his capacity as a representative of the Receiver to appear as a witness and give evidence on behalf of the Receiver within the Action;

- (c) approving the Receiver's updated statement of gross realizations to date;
- (d) approving the Claims Process;
- (e) authorizing and directing the Receiver to carry out the Claims Process;
- (f) appointing Jonathan Wigley of Gardner Roberts LLP as Independent Counsel to review the Professional Fees and to make submissions to this Honourable Court with respect to the fairness and reasonableness of the Professional Fees and whether the Professional Fees ought to be assessed and allowed; and
- (g) dispensing with service of the within motion materials and the Thirteenth Report upon any person other than Jean Fontaine in his capacity as Representative Counsel appointed pursuant to the Order of this Honourable Court dated February 7, 2006.

**RSM Richter Inc., in its capacity as
Court –Appointed Receiver of the
Norshield Companies (as defined herein),
and with no personal or corporate liability.**



Raymond Massi