

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE REGIONAL)
SENIOR JUSTICE MORAWETZ)

WEDNESDAY, THE 27TH
DAY OF JULY, 2016

IN THE MATTER OF MAPLE BANK GmbH

AND IN THE MATTER OF THE *WINDING-UP AND RESTRUCTURING ACT*,
R.S.C. 1985, c. W.-11, AS AMENDED

AND IN THE MATTER OF THE *BANK ACT*, S.C. 1991, c. B. 46, AS AMENDED

BETWEEN:



ATTORNEY GENERAL OF CANADA

Applicant

- and -

MAPLE BANK GmbH

Respondent

APPROVAL AND VESTING ORDER


THIS MOTION, made by KPMG Inc. (“KPMG”), in its capacity as the Court-appointed Liquidator (the “**Liquidator**”) in respect of the winding up of the business in Canada (the “**Business**”) of Maple Bank GmbH (“**Maple Bank**”) and its related assets as defined in section 618 of the *Bank Act*, S.C. 1991, as amended (the “**Bank Act**”) for an order:

1. If required, abridging the time for service of the Notice of Motion and the Motion Record and validating service so that the Motion is properly returnable on the proposed date and dispensing the requirement for any further service thereof;

2. approving the actions and activities of the Liquidator as set out in the Fifth Report of the Liquidator (the “**Fifth Report**”) and the Confidential Supplement to the Fifth Report (the “**Confidential Supplement**”);
3. approving the following sale transactions (the “**Proposed Transactions**”) as contemplated by the sale agreements listed below (each a “**Sale Agreement**”) and vesting Maple Bank’s right, title and interest in and to the assets described in the applicable Sale Agreement, in the respective purchasers listed below (each a “**Purchaser**”) pursuant to the terms of this Order:
 - (a) the sale of *inter alia* certain receivable backed notes in connection with the Federal Immigrant Investor Program, more particularly described in the Fifth Report (collectively, the “**KEB Assets**”) to KEB Hana Bank Canada (“**KEB**”) pursuant to an agreement of purchase and sale between the Liquidator and KEB dated July 21, 2016 (the “**KEB Sale Agreement**”) an unredacted copy of which is appended as Schedule “**A**” to the Confidential Supplement (the “**KEB Transaction**”);
 - (b) the sale of *inter alia* certain receivable backed notes in connection with the Federal Immigrant Investor Program, more particularly described in the Fifth Report (collectively, the “**ICICI Assets**”) to ICICI Bank Canada (“**ICICI**”) pursuant to an agreement of purchase and sale between the Liquidator and ICICI dated July 21, 2016 (the “**ICICI Sale Agreement**”) an unredacted copy of which is appended as Schedule “**B**” to the Confidential Supplement (the “**ICICI Transaction**”);
 - (c) the sale of *inter alia* certain receivable backed notes in connection with the Quebec Immigrant Investor Program, more particularly described in the Fifth Report (collectively, the “**CIBC Assets**”) to Canadian Imperial Bank of Commerce (“**CIBC**”) pursuant to an agreement of purchase and sale between the Liquidator and CIBC dated July 22, 2016 (the “**CIBC Sale Agreement**”) an unredacted copy of which is appended as Schedule “**C**” to the Confidential Supplement (the “**CIBC Transaction**”);
4. authorizing and directing the Liquidator to take such additional steps and execute such additional documents including without limitation any assignment and assumption agreement(s) as may be necessary or desirable for the completion of the KEB Transaction, the ICICI Transaction and the CIBC Transaction and for the conveyance of the KEB Assets, the ICICI Assets and the CIBC Assets to KEB, ICICI and CIBC, respectively; and

5. sealing the Confidential Supplement pending further order of this Court, or the filing of the Liquidator's Certificates (described further below) in respect of each of the Proposed Transactions; and
6. such further and other relief as counsel may advise and this Court may permit,

was heard this day at 330 University Avenue, Toronto, Ontario.


ON READING the Fifth Report and on hearing the submissions of counsel for the Liquidator, the German Insolvency Administrator (the "GIA"), ~~KEB~~, ICICI and ~~CIBC~~ no one appearing for any other person on the service list, although properly served as appears from the affidavit of Frances Dunne sworn July 22, 2016 filed, and on being that advised by counsel to the GIA that the GIA consents to the Proposed Transactions:

Approval of Activities

1. **THIS COURT ORDERS**, that the time for service of the Notice of Motion and the Motion Record is validated so that the Motion is properly returnable today and hereby dispenses with further service thereof, including without limitation, any prescribed notice requirements under the *Winding-Up and Restructuring Act*.
2. **THIS COURT ORDERS** that the activities of the Liquidator, as set out in the Fifth Report, are hereby approved.

Sale and Approval

3. **THIS COURT ORDERS AND DECLARES** that (i) the Proposed Transactions are hereby approved, and (ii) the Liquidator 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 KEB Transaction, the ICICI Transaction and the CIBC Transaction, and for the conveyance of the KEB Assets, the ICICI Assets and the CIBC Assets to KEB, ICICI and CIBC, respectively.
- 4A. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Liquidator's certificate substantially in the form attached as Schedule "A" hereto (the "**Liquidator's Certificate**") to KEB all of Maple Bank's right, title and interest (including any right, title or interest held by the GIA) in and to the KEB Assets shall vest absolutely in KEB 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 "**KEB Claims**") including, without limiting the generality of the

foregoing: (i) any encumbrances or charges created by the Order of Regional Senior Justice Morawetz dated February 16, 2016; (ii) any charges created under the *Winding-Up and Restructuring Act*; and, (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, and, without limiting the generality of the foregoing, the registrations listed as Schedule "B" hereto; (all of which are collectively referred to as the "**KEB Encumbrances**") and, for greater certainty, this Court orders that all of the KEB Encumbrances affecting or relating to the KEB Assets are hereby expunged and discharged as against the KEB Assets.

4B. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Liquidator's Certificate substantially in the form attached as Schedule "A" hereto to ICICI all of Maple Bank's right, title and interest (including any right, title or interest held by the GIA) in and to the ICICI Assets shall vest absolutely in ICICI 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 "**ICICI Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of Regional Senior Justice Morawetz dated February 16, 2016; (ii) any charges created under the *Winding-Up and Restructuring Act*; and, (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, and, without limiting the generality of the foregoing, the registrations listed as Schedule "B" hereto; (all of which are collectively referred to as the "**ICICI Encumbrances**") and, for greater certainty, this Court orders that all of the ICICI Encumbrances affecting or relating to the ICICI Assets are hereby expunged and discharged as against the ICICI Assets.

4C. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Liquidator's Certificate substantially in the form attached as Schedule "A" hereto to CIBC all of Maple Bank's right, title and interest (including any right, title or interest held by the GIA) in and to the CIBC Assets shall vest absolutely in CIBC 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 "**CIBC Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of Regional Senior Justice Morawetz dated February 16, 2016; (ii) any charges created under the *Winding-Up and Restructuring Act*; and, (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system, and, without limiting the generality of the foregoing, the

registrations listed as Schedule "B" hereto; (all of which are collectively referred to as the "CIBC Encumbrances") and, for greater certainty, this Court orders that all of the CIBC Encumbrances affecting or relating to the CIBC Assets are hereby expunged and discharged as against the CIBC Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of the KEB Claims, the ICICI Claims and the CIBC Claims, the net proceeds from the sale of the KEB Assets, the ICICI Assets and the CIBC Assets shall stand in the place and stead of the KEB Assets, the ICICI Assets and the CIBC Assets, respectively, and that from and after the delivery of the applicable Liquidator's Certificate in respect of the KEB Transaction, the ICICI Transaction and the CIBC Transaction the KEB Claims, the ICICI Claims, the CIBC Claims and the KEB Encumbrances, ICICI Encumbrances and the CIBC Encumbrances as applicable shall attach to the net proceeds from the sale of the KEB Assets, the ICICI Assets and the CIBC Assets, as the case may be, with the same priority as they had with respect to the KEB Assets, the ICICI Assets and the CIBC Assets immediately prior to the sale, as if the KEB Assets, the ICICI Assets and the CIBC 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.

6. **THIS COURT ORDERS AND DIRECTS** the Liquidator to file with the Court a Liquidator's Certificate, forthwith after delivery thereof by the Liquidator in respect of each of the KEB Transaction, the ICICI Transaction and the CIBC Transaction.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Liquidator is authorized and permitted to disclose and transfer to each of KEB, ICICI and CIBC all personal information of identifiable individuals in Maple Bank's records pertaining to, as the case may be, the KEB Assets, the ICICI Assets and the CIBC Assets including personal information relating to individual investors in respect of notes included in the KEB Assets, the ICICI Assets and the CIBC Assets. Each 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 Maple Bank and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

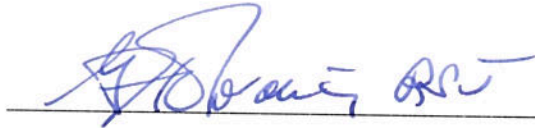
8. **THIS COURT ORDERS** that, notwithstanding the pendency of these proceedings, the vesting of the KEB Assets, the ICICI Assets and the CIBC Assets in KEB, ICICI and CIBC, respectively, pursuant to this Order shall not be void or voidable by creditors of Maple Bank, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Winding-Up and Restructuring Act* 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.

Sealing

9. **THIS COURT ORDERS** that the Confidential Supplement is hereby sealed and shall not form part of the public record until such time as the Liquidator's Certificates have been filed with the Court in respect of each of the KEB Transaction, the ICICI Transaction and the CIBC Transaction or on further order of this Court.

General

10. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the Republic of Germany, including the assistance of the Amtsgericht Frankfurt am Main [Insolvency Court] to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory or administrative bodies are hereby respectfully requested to make such orders and to provide such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Liquidator in any foreign proceeding, or to assist the Liquidator and their respective agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUL 27 2016

PER / PAR: 

Schedule A – Form of Liquidator’s Certificate

Court File No.: CV-16-11290-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF MAPLE BANK GmbH

**AND IN THE MATTER OF THE *WINDING-UP AND RESTRUCTURING ACT*,
R.S.C. 1985, c. W.-11, AS AMENDED**

AND IN THE MATTER OF THE *BANK ACT*, S.C. 1991, c. B. 46, AS AMENDED

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

- and -

MAPLE BANK GmbH

Respondent

**LIQUIDATOR’S CERTIFICATE
[Name of Transaction]**

RECITALS

A. Pursuant to an Order of Regional Senior Justice Morawetz of the Ontario Superior Court of Justice [Commercial List] (the "**Court**") dated February 16, 2016, KPMG Inc. was appointed under the provisions of the *Winding-Up and Restructuring Act (Canada)* as the Liquidator (the "**Liquidator**") of the business in Canada of Maple Bank GmbH ("**Maple Bank**") and of its related assets, as defined in section 618 of *the Bank Act*, S.C. 1991, c.46, as amended.

B. Pursuant to an Order of the Court dated July 27, 2016 (the "**Approval and Vesting Order**"), the Court approved the following sale transactions as contemplated by the sale agreements listed below to the respective purchasers listed below;

- i. the sale of *inter alia* certain receivable backed notes in connection with the Federal Immigrant Investor Program (collectively, the “**KEB Assets**”), more particularly described in the Fifth Report, to KEB Hana Bank Canada (“**KEB**”) pursuant to an agreement of purchase and sale between the Liquidator and KEB dated July 21, 2016 (the “**KEB Sale Agreement**”) an unredacted copy of which is appended as Schedule “A” to the Confidential Supplement;
- ii. the sale of *inter alia* certain receivable backed notes in connection with the Federal Immigrant Investor Program (collectively the “**ICICI Assets**”), more particularly described in the Fifth Report, to ICICI Bank Canada (“**ICICI**”) pursuant to an agreement of purchase and sale between the Liquidator and ICICI dated July 21, 2016 (the “**ICICI Sale Agreement**”) an unredacted copy of which is appended as Schedule “B” to the Confidential Supplement;
- iii. the sale of *inter alia* certain receivable backed notes in connection with the Quebec Immigrant Investor Program (collectively, the “**CIBC Assets**”), more particularly described in the Fifth Report of the Liquidator (the “**Fifth Report**”), to Canadian Imperial Bank of Commerce (“**CIBC**”) pursuant to an agreement of purchase and sale between the Liquidator and CIBC dated July 22, 2016 (the “**CIBC Sale Agreement**”) an unredacted copy of which is appended as Schedule “C” to the Confidential Supplement to the Fifth Report (the “**Confidential Supplement**”);

and provided for the vesting in;

- i. KEB of Maple Bank’s right, title and interest in and to the KEB Assets pursuant to the terms of the KEB Sale Agreement which vesting is to be effective with respect to the KEB Assets, upon the delivery by the Liquidator to KEB a certificate confirming: (i) the payment by KEB of the Purchase Price for the KEB Assets; (ii) that the conditions to Closing as set out in the KEB Sale Agreement have been satisfied or waived by the Liquidator and KEB; and (iii) the transaction has been completed to the satisfaction of the Liquidator;
- ii. ICICI of Maple Bank’s right, title and interest in and to the ICICI Assets pursuant to the terms of the ICICI Sale Agreement which vesting is to be effective with respect to the ICICI Assets, upon the delivery by the Liquidator to ICICI a certificate confirming: (i) the payment by ICICI of the Purchase Price for the ICICI Assets; (ii) that the conditions to Closing as set out in the ICICI Sale Agreement have been satisfied or waived by the Liquidator and ICICI; and (iii) the transaction has been completed to the satisfaction of the Liquidator;

iii. CIBC of Maple Bank's right, title and interest in and to the CIBC Assets pursuant to the terms of the CIBC Sale Agreement which vesting is to be effective with respect to the CIBC Assets, upon the delivery by the Liquidator to CIBC a certificate confirming: (i) the payment by CIBC of the Purchase Price for the CIBC Assets; (ii) that the conditions to Closing as set out in the CIBC Sale Agreement have been satisfied or waived by the Liquidator and CIBC; and (iii) the transaction has been completed to the satisfaction of the Liquidator;

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the [NAME OF SALE AGREEMENT].

THE LIQUIDATOR CERTIFIES the following:

1. The [NAME OF PURCHASER] has paid and the Liquidator has received the Purchase Price for the applicable Purchased Assets payable on the closing date pursuant to the [NAME OF SALE AGREEMENT].
2. The conditions to Closing as set out in Article [NUMBER OF ARTICLE] of the [NAME OF SALE AGREEMENT] have been satisfied or waived by the Liquidator and the [NAME OF PURCHASER]; and
3. The Sale Transaction has been completed to the satisfaction of the Liquidator.
4. This Certificate was delivered by the Liquidator at _____ [TIME] on _____ [DATE].

KPMG in its capacity as the liquidator (the "**Liquidator**") in respect of the winding -up of the business in Canada of Maple Bank GmbH and its related assets as defined under section 618 of the *Bank Act*.

Per: _____

Name:

Title:

Schedule B

Name of Debtor: Maple Bank GmbH

As of: July 19, 2016

Ontario PPSA Registrations

SECURED PARTY	FILE NO./ REGISTRATION NO./ REGISTRATION PERIOD	COLLATERAL CLASSIFICATION/DESCRIPTION	FINANCING CHANGE STATEMENTS
1. Maple Trust Company	888740613 20021030 1124 1590 6773 5 years	Accounts, Other	20060330 1439 1590 4212 Renewal: 99 years
2. The Bank of Nova Scotia	623817576 20060330 1407 1590 4200 99 years	Accounts, Other	
3. BMO Nesbitt Burns Inc.	679448196 20120625 1701 1532 2776 25 years	Accounts, Other GCD: Collateral pledged under the Securities Loan Agreement dated November 6th, 2007, as it may be amended, supplemented, restated or replaced from time to time.	20120627 1445 1530 4477 Amendment Amend debtor's address from 79 Wellington West, Suite 3500, Toronto, ON M5K 1K7 to 79 Wellington Street West, Suite 3500, Toronto, ON M5K 1K7

IN THE MATTER OF MAPLE BANK GmbH - AND IN THE MATTER OF THE WINDING-UP AND
RESTRUCTURING ACT, R.S.C. 1985, C.W-11, AS AMENDED - AND IN THE MATTER OF THE BANK
ACT, S.C. 1991, C.46, AS AMENDED
BETWEEN: ATTORNEY GENERAL OF CANADA, Applicant – and – MAPLE BANK GmbH, Respondent

Court File No. CV-16-11290-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER
(JULY 27, 2016)

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Lawyers for KPMG Inc., in its capacity as Liquidator of the
business in Canada of Maple Bank GmbH and its related
assets.