

EXHIBIT K-10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The Honorable Paul B. Snyder
Chapter 15

 X FILED
 LODGED
 RECEIVED

April 3, 2008

MARK L. HATCHER
CLERK U.S. BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEPUTY

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

In re:
MADILL EQUIPMENT CANADA
MADILL INC.
MADILL HOLDINGS (ONTARIO) LP
MADILL GP INC.
MADILL LP
MADILL CORPORATION
MADILL FINANCE (US) LLC
MADILL HOLDINGS (US) INC.
Debtors in a Foreign Proceeding.

Chapter 15
Case No. 08-41426 (PBS)(lead case)
08-41428
08-41429
08-41430
08-41431
08-41433
08-41434
08-41435

**ORDER ON
MOTION FOR PROVISIONAL RELIEF**

THIS MATTER comes before the Court on the Motion for Provisional Relief Pursuant To 11 U.S.C. § 1519 (the "Motion") filed on behalf of RSM Richter Inc. (the "Receiver") as foreign representative of Madill Equipment Canada, Madill Inc., Madill Holdings (Ontario) LP, Madill GP Inc., Madill LP, Madill Corporation, Madill Finance (US) LLC, and Madill Holdings (US) Inc. (collectively, the "Madill Group"). The Receiver was appointed as receiver for the Madill Group in proceedings in the Supreme Court of British Columbia (the "Canadian Receivership") pursuant to an order entered April 1, 2008, a copy of which is attached to the Verified Petition For Recognition Of Foreign Main Proceeding (the "Petition for

1 Recognition"). In the Motion for Provisional Relief, the Receiver seeks an order pursuant to 11
2 U.S.C. § 1519:

- 3 (i) staying any collection activity by creditors against the Madill Group's assets in
4 the United States consistent with 11 U.S.C. § 362;
- 5 (ii) entrusting management of the Madill Group's assets in the United States to the
6 Receiver in a manner consistent with the Receivership Order; and
- 7 (iii) authorizing the interim use of cash collateral in the United States, and granting
8 the Madill Group's Senior Lenders a replacement lien for the resulting diminution in the value
9 of their collateral pending the hearing on the Petition for Recognition, and
- 10 (iv) ordering the above relief on an ex parte basis, provided that parties in interest
11 may seek to modify the provisions of the order either at the hearing on the Petition for
12 Recognition or on shortened notice.

13 The Court has considered the Motion, the Declaration of Robert Kofman In Support Of
14 Petition for Recognition Of Foreign Main Proceeding And Related Relief, and the statements of
15 counsel in support of the Motion.

16 **BASED ON THE FOREGOING**, the Court makes the following findings of fact and
17 conclusions of law:

18 A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and
19 1334.

20 B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

21 C. Venue is properly located in this District pursuant to 28 U.S.C. § 1410.

22 D. The Canadian Receivership is pending in British Columbia, Canada, and the
23 Receiver has been authorized to take control of the assets and business of the Madill Group
24 pursuant to the terms of the Receivership Order. The Receiver has also been authorized to act
25 as foreign representative of the Madill Group in these proceedings.
26
27

1 E. Based on the pleadings filed to date, the Court concludes that the Receiver is
2 likely to prevail on the merits of the Petition for Recognition.

3 F. The relief sought by the Receiver in the Motion is authorized under Section
4 1519 of the Bankruptcy Code, and the Receiver has demonstrated that irreparable harm to the
5 Madill Group may occur in the absence of the relief sought in the Motion.

6 G. The relief granted hereby is necessary and appropriate, in the interests of the
7 public and international comity, and consistent with the public policy of the United States.

8 H. Entry of this Order on an ex parte basis is warranted under the circumstances.

9 NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

10 1. All persons and entities are hereby enjoined from:

11 (a) commencing or continuing an action or proceeding concerning the
12 Madill Group's assets, rights, obligations or liabilities;

13 (b) executing against the Madill Group's assets within the territorial
14 jurisdiction of the United States;

15 (c) taking or continuing any act to obtain possession of, or exercise control
16 over, the Madill Group or any assets of the Madill Group;

17 (d) taking or continuing any act to create, perfect or enforce a lien or other
18 security interest, set-off or other claim against the Madill Group or the Receiver (in its capacity
19 as receiver for the Madill Group) or any assets of the Madill Group;

20 (e) transferring, encumbering, relinquishing or disposing of any assets of the
21 Madill Group to any person or entity other than the Receiver and its expressly authorized
22 representatives and agents; or

23 (f) managing, exercising control over, or possessing any of the Madill
24 Group's assets except as expressly authorized by the Receiver.

25 2. The Receiver is hereby entrusted with the administration or realization of all of
26 the Madill Group's assets within the territorial jurisdiction of the United States, and in
27

1 connection therewith, subject to the terms and conditions contained in the Receivership Order,
2 pending the hearing on the Petition for Recognition. The foregoing is without prejudice to the
3 right of the Receiver to seek additional relief under applicable provisions of the Bankruptcy
4 Code.


5 3. The Receiver is hereby authorized pursuant to Section 363(a) of the Bankruptcy
6 Code to use cash collateral in the exercise of its powers under and subject to the terms and
7 conditions contained in the Receivership Order. Pursuant to Bankruptcy Code Section 361 and
8 as adequate protection for the use of their collateral by the Receiver, the ~~Lenders~~ ^{Senior} ~~(as that term~~ ^{Lenders} ~~is defined in the Receivership Order)~~ ^(PS) are hereby granted a replacement lien in the Madill
9 Group's post-petition assets of the same kind, type and nature as the ~~Lenders'~~ ^{Senior} collateral ^(PS)
10 existing as of the date of filing of the Petition for Recognition to secure the diminution in value
11 occurring in their collateral as a result of the use of cash collateral. The ~~Lenders'~~ ^{Senior} replacement ^(PS)
12 lien granted pursuant to this order shall be deemed perfected without any further action,
13 including without limitation the requirement of filing any UCC financing statements or other
14 documents with any filing authority.

15
16 4. No action taken by the Receiver, the Madill Group or each of their successors,
17 agents, representatives, advisers or counsel, in preparing, disseminating, applying for,
18 implementing or otherwise acting in furtherance of or in connection with the Canadian
19 Receivership, this Order, or this Chapter 15 case, or any adversary proceeding herein, or any
20 further proceeding commenced hereunder, shall be deemed to constitute a waiver of the
21 immunity afforded such person under Sections 306 and 1510 of the Bankruptcy Code.
22
23
24
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

5. Any party in interest may seek relief from this Order either by filing an objection to be heard at the same time as the hearing on the Petition for Recognition, or may file a motion for relief from this order on shortened time.

DATED this 3 day of April, 2008.



Honorable Paul B. Snyder
United States Bankruptcy Judge

Presented by:

Davis Wright Tremaine LLP
Attorneys for RSM Richter Inc., Receiver

By /s/ Ragan L. Powers
Ragan L. Powers, WSBA #11935