

THE SECURITIES ACT

)

ORDER NO. 4383

)

SECTION 20

)

DATE: JANUARY 21, 2004

RONA INC.

WHEREAS:

(A) Application has been made on behalf of Rona Inc. ("Rona") to The Manitoba Securities Commission (the "Commission") for an order pursuant to subsection 20(1) of *The Securities Act* R.S.M. 1988, c.S50 (as amended) (the "Act") that certain trades made in connection with an issuance of common shares in the capital of Rona to Dealer-Owners (as defined herein) shall be exempt from sections 6 and 37 of the Act.

(B) It has been represented to the Commission that:

1. RONA is a validly subsisting company which results from the amalgamation of Marchands Ro-Na Inc. and Le Groupe Ro-Na Inc. through articles of amalgamation dated January 2, 1984 under Part 1A of the *Companies Act* (Québec). RONA's head office is located at 220 chemin du Tremblay, Boucherville, Québec J4B 8H7.

2. RONA is a reporting issuer in the province of Québec since October 24, 1984 and became a reporting issuer in Manitoba (the "**Jurisdiction**") and in all other provinces of Canada when its common shares were offered to the public by prospectus dated October 25, 2002 (the "**Offering**"). As such, RONA is subject to the continuous disclosure requirements of the Act. In addition, RONA has been subject to the continuous disclosure requirements of the *Securities Act* (Québec) since 1984.

3. RONA is an electronic filer within the meaning given to such term under National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR).

4. RONA's authorized share capital consists of an unlimited number of Class A preferred shares, issuable in series of which one series, designated as an unlimited number of Class A preferred shares, series 5 (the "**Class A Preferred Shares**") is currently authorized, an unlimited number of Class B preferred shares (the "**Class B Preferred Shares**"), an unlimited number of Class C preferred shares, issuable in series of which one series, designated as an unlimited number of Class C preferred shares, series 1 (the "**Class C Preferred Shares**") is currently authorized, an unlimited number of Class D preferred shares (the "**Class D Preferred Shares**") and an unlimited number of common shares (the "**Common Shares**"), all of which are without par value (except for the Class B Preferred Shares which have a par value of \$1.00).

5. As at December 12, 2003, the only shares of RONA issued and outstanding were the following: 2,215,423 Class A Preferred Shares, 3,094 Class C Preferred Shares, 9,000,000 Class

D Preferred Shares and 56,807,065 Common Shares. No Class B Preferred Shares are currently outstanding.

6. RONA's Common Shares are currently listed on the Toronto Stock Exchange.

7. RONA stores are operated under various collective trade-marks known as "banners" and they are either owned by RONA, by dealers (the "**Dealer-Owners**") or jointly by RONA and dealers.

8. Upon joining RONA, each Dealer-Owner is required to execute a commercial license agreement (the "**License Agreement**") pursuant to which it undertakes to comply with RONA's standards, including the operating conditions of the banner under which it operates. In addition, Dealer-Owners, pursuant to their License Agreement, are typically required to purchase a minimum number of Common Shares when they begin operating a store under a RONA banner and contribute on an annual basis thereafter a percentage of their purchases from RONA to a subscription fund created and maintained by RONA (the "**Fund**"). The contributions so made to the Fund in a given year are used to purchase additional Common Shares that are issued to the Dealer-Owners the following year. Each Dealer-Owner is also required to grant in favour of RONA a security interest in all the shares of RONA held by it as continuing security for the performance of its obligations towards RONA.

9. Dealer-Owners are required to purchase, upon their adhesion to RONA's network, Common Shares from RONA's treasury in an aggregate amount of \$10,000 (which amount shall be reduced to \$5,000 for stores with estimated annual purchases from RONA equal or inferior to \$1 million), for a price per share based on their market value at such time.

10. Subject to the limitations set out below, Dealer-Owners are also required to make annual contributions to the Fund in an amount equal to 2% of their purchases from RONA of the previous calendar year, except in the case of Dealer-Owners operating under the RONA L'entrepôt (or RONA Warehouse) and RONA Le Régional banners who have the obligation to contribute a fixed amount annually.

11. All Dealer-Owners' contributions to the Fund are capped at three levels:

(a) the annual maximum: in any given year a Dealer-Owner may not contribute an amount greater than the annual maximum applicable to its store category.

(b) the cumulative subscription maximum: subject to the terms of the pledge maximum set out below, a Dealer-Owner's contributions will cease when its total contributions to the Fund, from time to time, reach a level equal to the lesser of the applicable percentage of its annual purchases for the previous calendar year or the fixed maximum threshold applicable to its store category, except in the case of Dealer-Owners operating under the RONA L'entrepôt (or RONA Warehouse) and RONA Le Régional banners who will have the obligation to contribute a fixed amount.

(c) the pledge maximum: a Dealer-Owner's contributions will be suspended for a given year if the aggregate value of the Common Shares held by the Dealer-Owner, as

determined each year on a date set by the board of directors of RONA (the "**Adjustment Date**"), is greater than the pledge maximum applicable to its store category. The total value of the Common Shares held by a Dealer-Owner on an Adjustment Date will correspond to the amount obtained by multiplying the number of such shares by 75% of the market value of a Common Share.

12. The annual maximum, the cumulative subscription maximum and the pledge maximum will vary with the different store categories in the manner set out below:

Store Category	Annual Maximum	Cumulative Subscription Maximum (lesser of)		Pledge Maximum (lesser of)	
		Annual Purchase Percentage	Maximum Threshold	Annual Purchase Percentage	Maximum Threshold
Stores with annual purchases of:					
- Between \$0 and \$1,000,000	\$10,000	12%	\$100,000	20%	\$200,000
- Between \$1,000,001 and \$2,500,000	\$20,000	12%	\$150,000	20%	\$400,000
- Between \$2,500,001 and \$5,000,000	\$25,000	12%	\$175,000	20%	\$600,000
- Between \$5,000,001 and \$10,000,000	\$30,000	12%	\$200,000	20%	\$800,000
- More than \$10,000,000	\$35,000	12%	\$225,000	20%	\$1,000,000
RONA Le Régional	\$35,000	-	\$225,000	-	\$1,000,000
RONA L'entrepôt (or RONA Warehouse)	\$75,000	-	\$450,000	-	\$1,200,000

13. If, on any Adjustment Date, the value of the Common Shares held by a Dealer-Owner is greater than its pledge maximum on that date, RONA will have to, at the Dealer-Owner's request and subject to the following conditions, refund such Dealer-Owner the balance of its contributions made to the Fund and release from the pledge and return to the Dealer-Owner the portion of its Common Shares in excess of the pledge maximum (the "**Excess Common Shares**"). The release of such Excess Common Shares is conditional, among other things, on the Dealer-Owner (i) complying with certain of its undertakings toward RONA pursuant to its License Agreement and the related commercial arrangements, and (ii) not receiving any direct or indirect financial assistance from RONA except for the amount customarily extended by RONA to such category of Dealer-Owner by way of line of credit or advance. A Dealer-Owner whose aggregate value of Common Shares (calculated as set forth above) held by it falls below its pledge maximum at any given subsequent Adjustment Date will have to resume its contributions to the Fund if its cumulative subscription maximum has not yet been reached.

14. On September 10, 2002, RONA filed an application pursuant to National Policy 12-201 – Mutual Reliance Review System for Exemptive Relief Applications to obtain exemptive relief from the applicable prospectus and registration requirements in respect of distributions of

Common Shares to Dealer-Owners. Said application was filed with the securities regulatory authority of each province of Canada, including the Jurisdiction, with the *Commission des valeurs mobilières du Québec* acting as principal regulator.

15. On November 7, 2002, the securities regulatory authorities of Québec (acting as principal regulator), Ontario, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (the "**Other Jurisdictions**") rendered a decision (the "Decision") that the applicable prospectus and registration requirements in the Other Jurisdictions shall not apply to the issuance by RONA of Common Shares to its Dealer-Owners, provided that:

(a) each purchaser of Common Shares has been approved by RONA as a Dealer-Owner; and

(b) prior to the first issuance of Common Shares to a Dealer-Owner, RONA provides such Dealer-Owner with:

(i) a copy of the Decision, and

(ii) a statement that, as a consequence of the Decision, certain protections, rights and remedies provided under applicable securities legislation, including statutory rights of rescission or damages, would not be available to Dealer-Owners.

16. The Decision also provides that, except in the province of Québec, the first trade in Common Shares acquired by a Dealer-Owner shall be deemed to be a distribution under the securities legislation of Ontario, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland unless the conditions in subsection (3) or (4) of section 2.6 of Multilateral Instrument 45-102 – Resale of Securities are satisfied. In Québec, such a first trade is not deemed a distribution.

17. The application referred to above was withdrawn by RONA in British Columbia, Alberta and Manitoba, at the request of the securities regulatory authority (including the Commission) of each such jurisdiction, for the reason that at the time of such application, there was no Dealer-Owner established in either of said jurisdictions.

18. On December 13, 2002, the British Columbia Securities Commission (the "**BCSC**") rendered a decision on facts that are substantially similar to those that are presented before this Commission. Given the ruling in the Decision, and in light of the principle of equal treatment of shareholders, the BCSC granted the same exemption which was granted pursuant to the application made under National Policy 12-201, subject to the same restrictions and conditions (the "**BC Decision**").

19. RONA is currently expanding its business operations in all provinces of Canada, including the Jurisdiction, by entering into License Agreements with individuals or businesses that meet RONA requirements. RONA currently anticipates entering into contractual arrangements with a Dealer-Owner located in the Jurisdiction and therefore wishes to obtain relief from the

prospectus and registration requirements of the Act in a manner similar to the Decision and the BC Decision.

20. RONA is a reporting issuer in all provinces, including the Jurisdiction, since the Offering (since 1984 in the province of Québec), and an electronic filer on SEDAR. RONA is therefore subject to continuous disclosure requirements in the Jurisdiction and in the other provinces. As a result, Dealer-Owners have, and will continue to have, access to continuous disclosure materials relating to RONA, including its audited annual reports and unaudited quarterly reports.

21. The offering of Common Shares under the decision requested herein will be limited to persons who qualify to become Dealer-Owners by meeting the financial and operational requirements of RONA, which class of persons is by its very nature limited in size.

22. The underlying commercial objective in offering Common Shares to Dealer-Owners is to provide RONA with capital and to encourage Dealer-Owners by virtue of their position as shareholders of RONA to utilize the volume purchasing services of RONA, thereby furthering economies of scale in RONA's purchasing activities and benefiting Dealer-Owners through the use of a collective purchasing power that would otherwise be unavailable to them.

23. Each Dealer-Owner is required to grant in favour of RONA a security interest in all the shares of RONA held by it as continuing security for the performance of its obligation towards RONA. Such shares will generally be released only in the manner described above, therefore limiting the resale of shares by the Dealer-Owner.

24. The facts presented by RONA in the Application do not substantially differ from the facts presented to the securities regulatory authorities of the Other Jurisdictions and British Columbia, which facts led to the granting of the Decision and the BC Decision.

(C) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

1. Pursuant to subsection 20(1) of the Act, that the issuance by RONA of Common Shares to Dealer-Owners in Manitoba is not subject to the prospectus and registration requirements under sections 6 and 37 of the Act provided that:

- a) each purchaser of Common Shares has been approved by RONA as a Dealer-Owner;
- b) prior to the first issuance of any Common Shares to a Dealer-Owner, RONA provides such Dealer-Owner with:
 - (i) a copy of this order, and
 - (ii) a statement that, as a consequence of this order, certain protections, rights and remedies provided by the Act, including

statutory rights of rescission or damages, will not be available to Dealer-Owners;

2. That the fee for this Order shall be \$1,000.00.

BY ORDER OF THE COMMISSION

"Chris Besko"

Deputy Director - Legal