

Court File No. CV-22-00685439-00CL

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

**SECOND REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
2314251 ONTARIO INC.**

AUGUST 4, 2023

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I. APPOINTMENT AND BACKGROUND

1. This report (the “**Second Report**”) is filed by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of 2314251 Ontario Inc. (“**2314**” or the “**Company**”) in response to the Company’s motion returnable on August 8, 2023 (the “**Company’s Motion**”).
2. 2314 is a Canadian owned, private corporation incorporated pursuant to the laws of the Province of Ontario.
3. 2314 is the owner of the real property located at 26233 Highway 48, Sutton West, Ontario (the “**Real Property**”). 2314 operated an Esso Gas Station from the Real Property. The Company ceased operating the gas station (with the exception of limited operation of the convenience store) prior to the appointment of the Receiver.
4. On October 27, 2022, The Toronto-Dominion Bank (“**TD**” or the “**Bank**”) moved by way of an application for appointment of a receiver. The Honourable Mr. Justice Osborne of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an endorsement on October 27, 2022 (the “**October Endorsement**”) declining to appoint a receiver at that time, subject to the following terms:
 - a) TD is entitled to immediately register an Order on title to the Real Property;
 - b) The Company shall remain current in all payment obligations to TD;

- c) The Company shall remain current in all other obligations and covenants under the credit agreement, including without limitation all reporting requirements; and
- d) The individual Respondent Hafiz shall provide forthwith to TD all information and documentation TD may reasonably require relating to his properties in Bangladesh.

Attached to this Second Report as **Appendix "1"** is a copy of the October Endorsement.

- 5. The October 27, 2023 endorsement stated that if any of the terms therein were defaulted on TD could seek the return of the Application and request the same relief.
- 6. Sufficient information was not provided with respect to the properties in Bangladesh and TD returned the Application before the Court. On November 15, 2023, Spergel was appointed as the Receiver of all of the assets, undertakings and properties of the Company, including the Real Property (collectively, the **"Property"**) by the Order of the Honourable Mr. Justice Osborne of the Court (the **"Receivership Order"**). Attached to this Second Report as **Appendices "2" and "3"**, respectively, are copies of the endorsement of Mr. Justice Osborne dated November 15, 2022 (the **"November Endorsement"**) and the Receivership Order.
- 7. The Receiver retained Harrison Pensa LLP (the **"Receiver's Counsel"**) as its independent legal counsel.

8. On June 14, 2023, the Receiver brought a motion to the Court for an Order approving, amongst other things, the sales and marketing process in respect of the Real Property and authorizing the Receiver to take all necessary actions to remediate the environmental issues present at the Real Property. By Order of the Honourable Mr. Justice Cavanagh dated July 4, 2023 (the “**Sales Process Order**”) the Court approved the relief sought by the Receiver. Attached to this Second Report as **Appendix “4”** is a copy of the Sales Process Order.

II. PURPOSE OF THIS SECOND REPORT AND DISCLAIMER

9. The purpose of this Second Report is to advise the Court as to the developments that have occurred in these proceedings since the Receiver’s First Report dated June 5, 2023 (the “**First Report**”) and to comment on the relief being sought in the Company’s Motion. Attached to this Second Report as **Appendix “5”** is a copy of the First Report (without appendices).

Restrictions and Disclaimer

10. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Second Report for any other purpose than intended.
11. In preparing this Second Report, the Receiver has relied upon certain information found on site and/or provided to it by the management of the Company including, without limitation, past financial performance, and other financial information. The Receiver has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private

Enterprises or International Financial Reporting Standards. Accordingly, the Receiver expresses no opinion or other forms of assurance with respect to such information. Future oriented financial information relied upon in this Second Report is based on assumptions regarding future events, actual results achieved may vary from this information and these variations may be material.

12. All references to dollars in this Second Report are in Canadian currency unless otherwise noted.

III. **RECEIVER'S ACTIVITIES SINCE THE FIRST REPORT**

13. Upon the issuance of the Sales Process Order, the Company advised that it has sufficient funds available to payout all creditors and seek discharge of the Receiver. Accordingly, the Receiver's Counsel sent an email to the Company's counsel providing a framework for advancing a re-financing/payout and discharge motion and advising that the Receiver is prepared to delay commencing the environmental remediation work required at the Real Property¹, on a one time basis, until Monday July 10, 2023 to allow the Company the opportunity to serve and file its motion materials for repayment of all obligations to its creditors and discharge of the Receiver.
14. The Company served its motion materials in relation to the Company's Motion on July 10, 2023, and amended motion materials on July 28, 2023. The Company's Motion materials contain an affidavit of Afreen Hafiz sworn on July 9, 2023 (the

¹ As detailed in the First Report

“Afreeen Affidavit”). The Afreeen Affidavit indicates that the Company, through its principal, has in excess of \$2,100,000 available to it immediately to pay to the Receiver to satisfy all obligations of the Company and that such funds have been deposited in the trust account of the Company’s counsel.

15. The Afreeen Affidavit further indicates that the Company has the following amounts owing to its creditors:
 - a) Approximately \$2,202,681.14 to TD;
 - b) The Receiver and Receiver’s Counsel with respect to outstanding fees and disbursements including a fee accrual;
 - c) A small amount, if any, in respect of utilities, but no more than \$10,000; and
 - d) Nothing, in respect of the Parkland Mortgage (as defined in the Afreeen Affidavit), which will remain on title; and nothing on the Parkland Loan (as defined in the Afreeen Affidavit), which is not yet due.
16. The Receiver’s Counsel has reviewed the security positions of both TD and Parkland and has advised, subject to usual qualifications, that TD’s and Parkland’s security positions are valid and enforceable in accordance with their terms.
17. Given the above, the Receiver contacted all creditors of the Company known to the Receiver to verify amounts outstanding to each creditor and discovered the following:

- a) On August 3, 2023, TD provided details of the amounts due by the Company to TD and accrual of interest and recovery expenses to August 18, 2023 to be \$2,214,719.76. This amount is inclusive of the Receiver's Borrowings Charge (as defined herein).
- b) The Receiver's Charge (as described in greater detail in this Second Report) is anticipated to be \$186,268.79.
- c) With respect to amounts outstanding to Canada Revenue Agency, the Receiver notes the following:
 - i. Notice of assessment dated September 14, 2022 with respect to the Company's *Harmonized Sales Tax* account indicates a balance owing of \$42,950.39; and
 - ii. Notice of assessment dated October 24, 2022 with respect to the Company's payroll liability account indicates a balance owing of \$6,529.15.
- d) The Receiver performed its obligations under the *Wage Earner Protection Program Act* and notified all eligible former employees of the Company. The Receiver estimates that the amounts owed to employees which were processed by Service Canada total \$8,992.34. Accordingly, Service Canada is estimated to be owed \$8,992.34.

- e) A property tax certificate dated July 13, 2023 indicates that the Corporation of the Town of Georgina is owed \$4,707.89 with respect to outstanding property taxes.
- f) Hydro One Networks Inc. has advised that the Company owes the following amounts:
 - i. Account# 2000 9319 5446 - \$1,848.48; and
 - ii. Account# 2001 1689 2445 - \$153.60
- g) Sparlings Propane has advised that the Company owes \$1,400.37 with respect to account# 88920015

(collectively, the "**Payments**").
- h) Parkland Fuel Corporation ("**Parkland**") has advised that it is owed \$180,000 (the "**Parkland Loan**"). There is a mortgage on title of the Real Property in favour of Parkland in the face amount of \$300,000 (the "**Parkland Mortgage**"). The Company is taking the position that the Parkland Loan is not yet due and proposing to not make any payment with respect to the Parkland Loan. To that effect, on August 3, 2023 Parkland and the Company came to the following agreement:
 - i. The Company will pay \$180,000, being the Parkland Loan, into the Company's counsel's trust account ("**Trust Funds**"), on the

Company's counsel's agreement that the Trust Funds will remain in the Company's counsel's trust account on the following terms:

1. Parkland will not oppose the discharge of the Receiver; and
 2. Within 30 days from August 3, 2023:
 - a. Parkland and the Company will come to an agreement with respect to the Parkland Loan, the Parkland Mortgage and the Trust Funds; or
 - b. The Company will commence an application for a declaration as to the rights and obligations of the parties with respect to the Parkland Loan, the Parkland Mortgage and the Trust Funds and the Trust Funds will remain in the Company's counsel's trust account until there is an agreement of the parties or an order of the Court.
 - c. The Parkland Mortgage will remain on title to the Real Property and not be discharged as part of the relief requested to discharge the Receiver.
18. A *Personal Property Security Act* search of the Company conducted on August 3, 2023 lists registrations made in favour of the Bank of Montreal and The Toronto-Dominion Bank. The Company has advised that the registration made by the Bank of Montreal is collateral security to a related company's borrowings and is currently

in good standing. Attached at **Appendix “6”** is a copy of the *Personal Property Security Act* Search.

19. A parcel abstract for the Real Property current to August 3, 2023 lists the following mortgages which are registered on title:

a) Charge in the amount of \$300,000 in favour of Parkland Fuel Corporation dated December 21, 2018; and,

b) Charge in the amount of \$2,500,000 in favour of The Toronto-Dominion Bank dated January 4, 2022.

Attached at **Appendix “7”** is a copy of the parcel abstract for the Real Property.

20. Given the above and assuming the accuracy of the information contained in the Afreen Affidavit and provided by counsel to the Company:

a) it does not appear that any creditor will be prejudiced by the Payments proposed in this Second Report and the discharge of the Receiver; and

b) the Company has advised that it will be wiring \$2,100,000 to the Receiver on August 4, 2023 and wire the remainder of \$159,343.79 to the Receiver on or before August 8, 2023, to allow the Receiver to make the Payments.

IV. PROFESSIONAL FEES AND DISBURSEMENTS

21. Attached hereto as **Appendix “8”** is the Affidavit of Mukul Manchanda sworn August 4, 2023, which incorporates by reference a copy of the Receiver’s time dockets pertaining to the receivership of 2314 from May 1, 2023 to and including

August 3, 2023, in the amount of \$19,865.97 inclusive of disbursements and HST. This represents a total of 43.80 hours at an average rate of \$401.38 per hour before HST. In addition, the fees and disbursements of the Receiver in the amount of \$60,697.39 outlined in paragraph 21 of the First Report and previously approved by the Court remain outstanding.

22. Attached hereto as **Appendix “9”** is the Affidavit of Jason DiFruscia, sworn August 4, 2023, which incorporates by reference a copy of the time docket of the Receiver’s Counsel for the period from June 5, 2023 to and including August 3, 2023, in the amount of \$20,529.09 inclusive of disbursements and HST. In addition, the fees and disbursements of the Receiver’s Counsel in the amount of \$10,176.34 outlined in paragraph 22 of the First Report and previously approved by the Court remain outstanding.
23. The Receiver has reviewed the accounts of the Receiver’s Counsel and is of the view that all the work set out in these accounts was carried out and was necessary, that the hourly rates of the lawyers who worked on this matter were reasonable in light of the services required and that the services were carried out by lawyers with the appropriate level of experience.

V. THE RECEIVER’S BORROWINGS

24. Pursuant to paragraph 21 of the Receivership Order, the Receiver borrowed monies from TD in the principal amount of \$300,000 (the “**Receiver’s Borrowings**”) to fund its activities in respect of the Company.

25. Pursuant to paragraph 21 of the Receivership order, the issuance of the Receiver's Certificate has the effect of creating a charge on the Property (as defined in the Receivership Order), by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the repayment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Receivership Order), but subordinate to the Receiver's Charge, and the charges set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*.

VI. FEE ACCRUAL

26. Provided there is no opposition to the relief sought in the Company's Motion and that such relief is granted on August 8, 2023, the Receiver estimates that the additional fees and disbursements necessary to complete these proceedings including disbursements and HST (collectively, the "Fee Accrual") will be \$75,000. Any unused amount of the Fee Accrual will be returned to the Borrower following the complete administration of the estate.

VII. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS

27. Attached hereto as **Appendix "10"** is a copy of the Interim Statement of Receipts and Disbursements as at August 3, 2023 for the Company.

VIII. DISCHARGE OF THE RECEIVER

28. Provided that the Company's Motion is granted, the Receiver proposes to attend to the following subsequent to the date of this Second Report and prior to the Receiver filing its proposed Discharge Certificate:

- a) Ensuring the Payments are made; and
- b) Other residual and/or administrative matters in connection with Spergel's appointment as the Receiver, including returning keys in respect of the Real Property to the Company, closing accounts with utility providers, dealing with CRA and filing statutory reporting with the Office of the Superintendent of Bankruptcy.

All of which is respectfully submitted.

Dated at Toronto, this 4th, day of August 2023

msi Spergel inc.,
solely in its capacity as Court-appointed
Receiver of 2314251 Ontario Inc. and not
in any corporate or personal capacities

Per:



Mukul Manchanda, CPA, CIRP, LIT

APPENDIX 1



SUPERIOR COURT OF JUSTICE
COUNSEL SLIP / ENDORSEMENT

COURT FILE

NO.: CV-22-00685439-00CL

DATE: 27 -OCT-2022

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TITLE OF
PROCEEDING

THE TORONTO-DOMINION BANK
v.
2314251 ONTARIO INC. ET AL.

BEFORE JUSTICE OSBORNE

NAMES OF COUNSEL AND PARTY:

- APPLICANT(S)
- M. Lici (Counsel to TD BANK)
- M. Spence (Counsel to TD BANK)
- PLAINTIFF(S)

PHONE (416) 863-1500;
(416) 865-3414

EMAIL mlici@airdberlis.com;
mspence@airdberlis.com

NAMES OF COUNSEL AND PARTY:

- RESPONDENT(S)
- J. Rosenstein (for Respondents)
- RESPONDENT(S)
- DEFENDANT(S)
- DEFENDANT(S)

PHONE (416) 635-9614

EMAIL jrosenstein@rosensteinlaw.ca

PHONE _____

EMAIL _____

ENDORSEMENT OF JUSTICE OSBORNE:

[1] The Applicant, TD Bank, seeks the appointment of a receiver or all of the assets of 2314251 Ontario Inc. [the "Debtor" or "231"], and judgment against each of the individual Respondents, Mohammad Abdul Hafiz ["Hafiz"] and Kawser Zahan ["Zahan"] in accordance with their joint and several guarantees in favour of TD. Each of those guarantors is a 50% owner, officer and director of 231. 231 operates an Esso gas station at its property in Sutton West, Ontario.

[2] On this motion, TD is proceeding only with its request for appointment of a receiver, and is not seeking judgment against the guarantors, which component of the relief is to be adjourned.

[3] Pursuant to a credit agreement dated November 17, 2021, TD provided 231 with a demand operating facility and a term loan, the latter facility to refinance existing loans.

[4] As security for the loan facilities, 231 granted to TD a collateral mortgage on the property and a general security agreement. Each of the Respondents provided an unlimited guarantee by which each of them jointly and severally guaranteed the payment by 231 to TD of all obligations plus interest from the date of demand.

[5] The credit agreement includes relatively typical covenants of 231 to provide prompt notice of any event of default or event that will cause a material adverse change in the financial condition, business operations or prospects of 231, to advise within 10 days of the nonrenewal of any fuel supply contract, to maintain all material contracts in good standing, and to provide annual review engagement financial statements.

[6] The credit agreement also defines typical events of default, including where any representation, warranty or statement "of the debtor" made in connection with the delivery of the credit agreement was false or misleading, if there was a breach or non-performance of any term or condition of the agreement and if, and the determination of TD, a material adverse change occurred in the financial condition, business operations or prospects of 231.

[7] In the spring of 2022, and in accordance with the credit agreement, 231 delivered to TD review engagement financial statements for the year ended December 31, 2021. Those financial statements were purportedly issued by an accounting firm, Fareed Sheik LLP.

[8] In reviewing those financial statements, TD personnel noted they were missing a cash flow statement. TD contacted the accounting firm who advised that the firm had no record of 231 as a client, nor of preparing any financial statements for that company and that the accounting firm had not used its name on letterhead of financial statements for some years [in contradistinction to the financial statements that had been provided to TD].

[9] TD had also relied on financial statements for the years 2019 and 2020, on the same accounting firm letterhead, in connection with its review of 231's original loan application and approvals, prior to entering into the credit agreement. As a result, submits TD, 231 had therefore provided false financial reporting.

[10] TD personnel then visited the gas station property, where TD discovered that there was no gas being offered for sale and assign was posted which stated: "sorry we don't have any gas. We have had no gas since January and we don't know when we will get it again."

[11] 231 had never advised TD of the discontinuance of its gas station operations or the termination of any fuel contract, both of which were covenant obligations under the credit agreement as described above. Accordingly, TD concluded that there had been a material adverse change as well as other events of default.

[12] As a result, on July 11, 2022, TD delivered a formal demand on 231, together with the usual 10 day notice under section 244 of the BIA. On the same date, TD delivered formal demands upon each of the guarantors.

[13] The operating facility is repayable on demand and the term loan is repayable upon the occurrence of an event of default. TD's position in its Notice of Application is that it has received no payment on the demand for the term loan and that non-payment also constitutes a further event of default. As of the date of the demands, approximately \$2.4 million plus costs was due and owing by 231.

[14] Under the general security agreement, TD has the right to appoint a receiver upon the occurrence of an event of default. It seeks that appointment on this motion, and will pursue the balance of the relief sought in the application [i.e., judgment on the guarantees] at a later date.

[15] TD also states that 231 had been referred to TD, together with financing opportunities for a number of other gas stations, by a real estate broker who claimed to specializing gas stations. TD has identified five other different corporate borrowers, all of whom were involved with the same broker, where the accountant who was

identified on the financial statements of the borrower has advised that they did not prepare the financial statements submitted.

[16] TD relies upon the affidavit of an account manager, Amanda Bezner, sworn July 28, 2022. Ms. Bezner has primary responsibility for the management of the loans to 231.

[17] Ms. Bezner was neither the TD employee who contacted the accounting firm [see para 15] nor was she the bank representative who attended for a site business at the property of 231 [see para 17].

[18] TD has also filed two affidavits of Mr. Peter Hanke. In the first, sworn August 26, 2022, he includes the email exchange between TD [albeit represented by a different employee, Ms. Chen] and Mr. Sheik on July 6, 2022 in which Mr. Sheik on behalf of the accounting firm states that 231 is not their client and they had never issued the financial statements. In his second affidavit sworn August 29, 2022, Mr. Hanke includes emails from a colleague within TD [Mr. Cohen] relating to the site visit at the business premises of 231 by a TD representative named Syed Barakat as described in the affidavit of Ms. Bezner.

[19] 231 takes the position that this evidence is hearsay.

[20] 231 filed an affidavit of Afreen Hafiz sworn August 29, 2022 in which Ms. Hafiz states that she is the daughter of the two individual Respondents and has operational responsibility for 231. She states that she has made no inquiries of the accounting firm and therefore has no information one way or the other about its relationship with the financial statements. She goes on to state in her affidavit that she has never had any direct communications with the accounting firm and instead, obtained the financial statements through the efforts of an individual named Vickram Malhotra ["Malhotra"]. She says that the vendor of the gas station property and business who sold it to her parents introduced them to Malhotra.

[21] According to Ms. Hafiz, Malhotra offered to assist 231 and broker the preparation of financial statements by taking from Ms. Hafiz relevant financial information for the business and delivering it to accounting professionals whom he knew following which she would coordinate with the accountants to prepare statements to satisfy the requirements of TD.

[22] Ms. Hafiz does admit in her affidavit that the gas station has not been able to sell fuel for "a number of months" due to "a dispute with its fuel supplier, Parkland". She goes on to describe the dispute with Parkland related in part to the branding of the gas station as Esso as opposed to Ultramar. That dispute, she says, resulted in part in this gas station being compelled to adjust its fuel prices with the further result that it was either selling at a loss or not selling at all. Accordingly, she says, 231 made the business decision to cease selling fuel until the dispute with Parkland is resolved [see paras 22 – 34].

[23] Finally, Ms. Hafiz states that, in the interim and notwithstanding the dispute with Parkland, 231 has at all times kept current in all of its payments with TD, and will continue to do so.

[24] TD takes the position that whether or not its evidence about the accounting firm and the financial statements is in fact inadmissible, the admitted fact is that the gas station has not been selling gas for some months, and this is clearly a material adverse change as defined in the credit agreement which is in turn an event of default entitling it to the appointment of a receiver.

[25] 231 argues that the appointment of a receiver is not just and convenient since there has been no payment default by 231. Moreover, Ms. Hafiz states in her affidavit that, without conceding that the Parkland dispute is a material adverse change, 231 accepts that TD wants the loan paid off in 231 is content to do that.

[26] On information from her father, the Respondent Hafiz, and her belief in that information, Ms. Hafiz states that her father owns real estate in Bangladesh and that he is in the process of selling one or more properties.

Those anticipated proceeds of sale exceed the balance on the loan and the sale should be completed and funds available in Canada by February, 2023.

[27] In addition, Ms. Hafiz says that the current fair market value of the business property of 231 from which the gas station was operated is approximately \$3.5 million, which exceeds the balance of the loan, and 231 will consent to an order, which may be registered on title, the 231 will not permit any disposition of any interest in the property until the loan is repaid.

[28] Finally, 231 relies on an affidavit from Hafiz himself in which he says that he has reviewed, and agrees with, the statements in his daughter's affidavit. He provides further particulars of the properties he says he owns in Bangladesh [albeit without specific addresses or property descriptions of any kind] and states that they have a value equivalent in Canadian dollars of approximately \$9 million in the aggregate.

[29] Hafiz confirms the agreement on behalf of 231 to an order as described above.

[30] Having considered all of the evidence and relevant factors, I decline to appoint a receiver at this time, specifically on terms that:

- a. TD is entitled to immediately register an order on title to the property at which the business of 231 is carried out, as described above. TD can prepare that draft order and submit it directly to me through the Commercial List Office;
- b. 231 shall remain current in all payment obligations to TD;
- c. 231 shall remain current in all other obligations and covenants under the credit agreement, including without limitation all reporting requirements. 231 and the individual Respondents shall provide forthwith to TD any and all information and documentation TD may reasonably require relating to the financial affairs and operations of the business of 231, further including without limitation any and all information about the dispute with Parkland and the resolution thereof; and
- d. the individual Respondent Hafiz shall provide forthwith to TD all information and documentation TD may reasonably require relating to his properties in Bangladesh, specific identifying information related to each property [i.e., what would be equivalent in Ontario to a legal description and municipal address of each property], the status of his efforts to sell those properties, and any information relating to any valuation or appraisal information for those properties.

[31] If the Respondent 231 defaults on any payment obligation to TD, or fails or refuses to cooperate and provide the information and materials described above, or if the respondent Hafiz fails or refuses to cooperate and provide the information and materials described above in respect of the Bangladesh properties, TD may seek the return of this motion on an urgent basis before me. Nothing in this endorsement prejudices any rights of TD including, without limitation, any relief it may seek on the return of the motion and/or application.

A handwritten signature in black ink, appearing to read "Owen, J." with a stylized flourish at the end.

APPENDIX 2



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-22-00685439-00CL DATE: November 15th 2022

NO. ON LIST: 3

TITLE OF PROCEEDING: **THE TORONTO-DOMINION BANK v 2314251 ONTARIO INC.**
et al

BEFORE JUSTICE: **OSBORNE**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
SPENCE, MIRANDA	THE TORONTO-DOMINION BANK	mspence@airberlis.com
LICI, MATILDA	THE TORONTO-DOMINION BANK	mlici@airberlis.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
ROSENSTEIN, JONATHAN	HAFIZ, MOHAMMAD ABDUL	jrosenstein@rosensteinlaw.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE OSBORNE:

1. In this Application, TD seeks the appointment of a receiver over the assets of 2314251 Ontario Inc. ["231"] and other relief. Within that Application, TD brought a motion only for the appointment of a receiver, and is content to adjourn the Application in respect of the balance of the relief sought, including judgment against the individual guarantors.
2. On October 27, 2022, after hearing that motion, I released an Endorsement in which I declined to appoint a receiver at that time for the reasons set out in that Endorsement. However, I did so on terms, and the Endorsement provided that nothing I ordered or declined to order would prejudice any rights of TD including any relief it may seek on the return of the motion and/or the application.
3. In the interests of brevity, I have not repeated the contents of that Endorsement here but incorporate it by reference in respect of the background and context for the return of the motion today.
4. TD returns today and renews its request for the appointment of a receiver. In addition to the materials before me when I made my earlier Endorsement, TD has filed a supplementary affidavit of Ms. Amanda Bezner sworn November 14, 2022.
5. 231 has filed a supplementary affidavit of Mr. Mohammad Hafiz also sworn November 14, 2022.
6. Both parties also rely on the material previously filed, as is appropriate.
7. Essentially, when the parties were last before me, Mr. Hafiz as principal of 231, and 231 itself, took the position that he owned various pieces of real property in Bangladesh and was in the process of selling those with the intention that the proceeds of sale would pay out the indebtedness to TD.
8. It is not contested by 231 that it is indebted to TD, that the security documentation contractually entitles TD to the appointment of a receiver in the event of default, nor that an event of default has occurred.
9. Regardless of whether and the extent to which financial statements delivered to TD by 231 constitute a representation by it, or a misrepresentation, the business [operating as a gas station] has failed to continue operating and this fact was not disclosed to TD.
10. 231 maintains its position today, however, that notwithstanding the clear default under the loan agreements, it is not just and convenient to appoint a receiver. It argues that nothing is to be gained by such an appointment since, if the Respondents are given enough time, sufficient proceeds from the property sales in Bangladesh should be generated and TD can be paid out.
11. Among the terms I ordered in my earlier Endorsement was the requirement for 231 and its principal to deliver to TD particulars of the proposed sale, and value, of the Bangladeshi properties.
12. The supplementary affidavit material relied upon by TD today shows that certain information has been provided. Surprisingly, in their responses to questions asked by the bank, the Respondents confirmed that one Bangladeshi property belonging to the Respondent Mr. Hafiz, was already sold but that the relevant records relating to that property and the sale were "in storage in Bangladesh".
13. Yesterday, the day before the return of this motion, the Respondents delivered a letter from the brother of Mr. Hafiz [not a sworn or affirmed affidavit] advising that he was working on reviewing the records in Bangladesh to find documentation relating to the property sold. Images of documents for the property said to be sold were included, although they are all written in Bengali and are not translated into English.
14. The supplementary affidavit of Mr. Hafiz confirmed, as noted above, that he had provided or caused to be provided certain information to TD [with the exception of the renewed Ontario Fuel Safety Licence which due to an administrative error by the TSSA, he stated, he was currently unable to get a copy.
15. The affidavit states that the records relating to the three properties referred to in his prior affidavit are in a storage unit in Bangladesh, and Mr. Hafiz attaches as Exhibit D a copy of the letter from his brother advising that he will attend the storage unit to find the records referred to above.
16. At paragraph 13, Mr. Hafiz states that based on his communications with the buyer of the property now sold, his belief is that he will receive payments in instalments. No amounts nor timetable are scheduled for the payments of those instalments is provided.

17. At paragraph 14, Mr. Hafiz states that he has already received some payments from the buyer which were deposited into his TD account, and indeed Exhibit L to his affidavit shows a balance in that account of approximately \$509,000 [as against the approximate amount of \$2.4 million plus interest owed to TD].
18. Counsel for the Respondents advised today [although the affidavit does not state this] that transfers and deposits into the account dated yesterday in the aggregate amount of \$460,000 represent a portion of the proceeds of sale, as do two earlier deposits on September 6 and 16, 2022 in the amount of \$25,000 and \$13,000 respectively.
19. TD points out that this explanation as to the source of funds is inconsistent with the statements provided to TD by the Respondents under cover of the letter from counsel dated November 10, 2022 [Exhibit C to the supplementary Bezner affidavit] in which, in response to numbered questions 18 and 19 specifically relating to the two deposits referred to above, the Respondents advised that the source of funds was another business owned by Mr. Hafiz in Toronto.
20. TD submits that its concern about the status of the sale of the properties in Bangladesh is heightened and increased by the inconsistent answers as to the source of funds in the bank account.
21. While the conduct of real estate transactions in Bangladesh may very well be different than in this jurisdiction, I find it odd that Mr. Hafiz cannot provide responses to relatively straightforward questions asked about those properties because the records are in storage, when those very properties are the subject of sale transactions literally ongoing now. It is also surprising that in the circumstances, his affidavit does not provide any particulars of the exact sale price of the property or properties sold, or the terms of sale and schedule for payments of the purchase price, if the purchase price is to be paid over time in instalments. Nor is there any evidence about the timing of sale proceeds out of Bangladesh and into Canada given what are apparently certain currency restrictions.
22. In short, there is still no evidence before me as to the specifics of the sale or what proceeds exactly will be available to TD or when.
23. Nor is there any update on the discussions with the fuel supplier of the gas station, other than the advice from counsel for the Respondents that there has been no resolution to that dispute, with the result that there continues to be no operating business nor any timeline as to when the gas station might resume operations in the future.
24. The test for the appointment of a receiver pursuant to section 243 of the BIA or section 101 of the CJA is not in dispute. Is it just and convenient to do so?
25. In making a determination about whether it is, in the circumstances of a particular case, just and convenient to appoint a receiver, the Court must have regard to all of the circumstances, but in particular the nature of the property and the rights and interests of all parties in relation thereto. These include the rights of the secured creditor pursuant to its security. (See *Bank of Nova Scotia v. Freure Village on the Clair Creek*, 1996 CanLII 8258).
26. Where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: while the appointment of a receiver is generally an extraordinary equitable remedy, the courts do not so regard the nature of the remedy where the relevant security permits the appointment and as a result, the applicant is merely seeking to enforce a term of an agreement already made by both parties. (See *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.*, 2013 ONSC 7101 at para. 27).
27. There are also examples of situations where a receiver has been appointed for the purposes of gaining access to the books and records of the company (see *DeGroot v. DC Entertainment Corp. et al*, 2013 ONSC 7101 at para. 52). I recognize that in that case, unlike here, the plaintiff had established a strong *prima facie* case of fraud. However, a number of observations of the Court in that case, including that there had been serious breaches of the agreements and the court had little faith in the defendants producing the records, were relevant to the analysis.

28. In the present case, there is no operating business. Accordingly, the appointment of a receiver would not disrupt operations.
29. In the circumstances, I am satisfied that now, if not before, it is just and convenient to appoint a receiver. TD is entitled to the contractual remedy for which it bargained in the circumstances. If, as the Respondents submit they hope will be the case, sufficient funds are generated from Bangladesh to pay out the indebtedness to TD, that would obviously go a long way to resolving matters. But today, TD is entitled to have a receiver appointed.
30. The consent of msi Spergel Inc. to act as receiver has been filed. That firm is appropriate for an engagement such as this. The terms of the proposed receivership as reflected in the draft order are appropriate in the circumstances of this case.
31. Order to go in the form signed by me today. The order is effective immediately and without the necessity of issuing and entering.

O'Shea, J.

APPENDIX 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 15TH
)
JUSTICE OSBORNE) DAY OF NOVEMBER, 2022

THE TORONTO-DOMINION BANK

Applicant

- and -

2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

**ORDER
(appointing Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing msi Spergel Inc. as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of 2314251 Ontario Inc. (the “**Debtor**”) including the real property municipally known as 26233 Highway 48, Sutton West, Ontario (the “**Real Property**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the materials of the Applicant, namely, the Affidavits of Amanda Bezner sworn July 28, 2022 and November 14, 2022, and the Affidavits of Peter Hanke sworn August 26 and August 29, 2022, with exhibits, and the materials of the Respondents, namely, the Affidavit of Mohammad Hafiz sworn August 29, 2022, the Affidavit of Afreen Hafiz sworn August 29, 2022 and the Supplementary Affidavit of Mohammad Hafiz sworn November 14, 2022, and on hearing

the submissions of counsel for the Applicant, counsel for Respondents, and no one appearing for any other party on the Service List although duly served as appears from the affidavit of service of Matilda Lici sworn November 14, 2022 and on reading the consent of msi Spergel Inc. to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Applicants is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, msi Spergel Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor including the Real Property and all proceeds thereof (collectively, the “**Property**”).

RECEIVER’S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and

on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person's

possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including

without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider

necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule “A”** hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL <https://www.spergelcorporate.ca/engagements>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

27. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtor's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

GENERAL

28. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

32. **THIS COURT ORDERS** that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicants security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

33. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that msi Spergel Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties 2314251 Ontario Inc., including all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 30th day of August, 2022 (the “**Order**”) made in an action having Court file number CV-22-00685439-00CL, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of The Toronto-Dominion Bank from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

MSI SPERGEL INC. solely in its capacity
as Court-appointed Receiver of 2314251
Ontario Inc. and the Property, and not in its
personal capacity

Per: _____
Name:
Title:

THE TORONTO-DOMINION BANK

- and - **2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ
and KAWSER ZAHAN**

Applicant

Respondents

Court File No. CV-22-00685439-00CL

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

Proceedings commenced at Toronto

RECEIVERSHIP ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9
Fax: (416) 863-1515

Kyle Plunkett (LSO # 61044N)
Tel: (416) 865-3406
Fax: (416) 863-1515
Email: kplunkett@airdberlis.com

D. Robb English (LSO # 19862F)
Tel: (416) 865-4748
Fax: (416) 863-1515
Email: renglish@airdberlis.com

Lawyers for The Toronto-Dominion Bank

51040667.2

APPENDIX 4

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 4TH
)
JUSTICE CAVANAGH) DAY OF JULY, 2023

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

2314251 ONTARIO INC. MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

ORDER

THIS MOTION, made by msi Spergel inc., in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of 2314251 Ontario Inc., appointed pursuant to the Order of the Honourable Justice Osborne dated November 15, 2022, for an order:

1. That the time for service, filing and confirmation of the Notice of Motion and the Motion Record be abridged so that this motion is properly returnable today, and dispensing with further service and confirmation hereof;
2. Approving the Receiver's First Report to the Court dated June 5, 2023 (the "**First Report**") and the activities and conduct of the Receiver as detailed therein;
3. Increasing the Receiver's Borrowings Charge under the Appointment Order from \$300,000 to \$400,000;
4. Approving the sales and marketing process in respect of the Property and the Debtor's real property legally described as PT LT 3 CON6, GEORGINA, PT 1, 65R14491; TOWN OF GEORGINA (the "**Real Property**") as set out in the First Report (collectively the "**Sales Process**");
5. Authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the Sales Process and authorizing the Receiver to take all necessary action to remediate as is required the environmental issues (the "**Environmental Remedial Work**") present

at the Real Property as identified in the report of A & A Environmental Consultants Inc. dated March 22, 2023 (the “**Environmental Report**”);

6. That the Receiver is hereby released and discharged from any and all liability that the Receiver now has or may hereafter have by reason of, or in any way arising out of the Environmental Issues at the Real Property, save and except for any gross negligence or wilful misconduct on the Receiver’s part;
7. Approving the Statement of Receipts and Disbursements of the Receiver as detailed in the First Report;
8. Approving the fees of the Receiver and its counsel, Harrison Pensa LLP (the “**Professional Fees**”), and payment of same;
9. Such further and other relief as counsel may request and this honourable court may permit,

was heard this day by judicial telephone conference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated June 5, 2023, the First Report, and on hearing the submissions of counsel for the Receiver and all other counsel and parties present, as properly served as appears from the affidavit of Lindsay Ferguson sworn June 12, 2023, filed;

1. THIS COURT ORDERS that the time for service, filing and confirmation of the Notice of Motion and the Motion Record be and is abridged so that this motion is properly returnable today and hereby dispenses with further service and confirmation hereof.
2. THIS COURT ORDERS that the First Report, and the activities and conduct of the Receiver as detailed therein, be and are approved; provided however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.
3. THIS COURT ORDERS that the Receiver’s Borrowings Charge under the Appointment Order is hereby increased to \$400,000.
4. THIS COURT ORDERS that the Sales Process is hereby approved.
5. THIS COURT ORDERS that the Receiver is authorized to take such steps as are necessary and appropriate to facilitate the Sales Process and is authorized to take all necessary action to undertake and complete the Environmental Remedial Work as is required at the Real Property as identified in the Environmental Report.

6. THIS COURT ORDERS that the Statement of Receipts and Disbursements as detailed in the First Report be approved.
7. THIS COURT ORDERS that the Professional Fees and payment of same are hereby approved.

Justice, Ontario Superior Court of Justice
(Commercial List)

THE TORONTO-DOMINION BANK

v.

2314251 ONTARIO INC., et al.

Applicant

Respondents

Court File No. CV-22-00685439-00CL

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

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

HARRISON PENZA ^{LLP}
Barristers & Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

Timothy C. Hogan (LSO #36553S)
Melinda Vine (LSO #53612R)

Tel : (519) 679-9660
Fax: (519) 667-3362
Email: thogan@harrisonpensa.com
mvine@harrisonpensa.com

Lawyers for the Receiver,
msi Spergel inc.

APPENDIX 5

Court File No. CV-22-00685439-00CL

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

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

and

2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

**FIRST REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF
2314251 ONTARIO INC.**

JUNE 5, 2023

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APPENDICES

1. Endorsement of The Honourable Mr. Justice Osborne dated October 27,2022
2. Endorsement of The Honourable Mr. Justice Osborne dated November 15, 2022
3. Receivership Order dated November 15, 2022
4. Phase II Environmental Report of A&A Environmental Consultants dated February 6, 2023
5. Delineation Report of A&A Environmental Consultants dated March 22, 2023
6. Remediation Proposal Submitted by A&A Environmental Consultants dated March 24, 2023
7. Email from Dr. Ali Rasoul dated April 4, 2023
8. Fee Affidavit of Mukul Manchanda sworn June 5, 2023
9. Fee Affidavit of Jason DiFruscia sworn June 5, 2023
10. Receiver's Interim Statement of Receipts and Disbursements as at June 5, 2023

I. APPOINTMENT AND BACKGROUND

1. This report (the “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of 2314251 Ontario Inc. (“**2314**” or the “**Company**”).
2. 2314 is a Canadian owned, private corporation incorporated pursuant to the laws of the Province of Ontario.
3. 2314 is the owner of the real property located at 26233 Highway 48, Sutton West, Ontario (the “**Real Property**”). 2314 operated an Esso Gas Station from the Real Property. The Company ceased operating the gas station (with the exception of limited operation of the convenience store) prior to the appointment of the Receiver.
4. On October 27, 2022, The Toronto-Dominion Bank (“**TD**” or the “**Bank**”) moved by way of an application for appointment of a receiver. The Honourable Mr. Justice Osborne of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an endorsement on October 27, 2022 (the “**October Endorsement**”) declining to appoint a receiver at that time, subject to the following terms:
 - a) TD is entitled to immediately register an order on title to the Real Property;
 - b) The Company shall remain current in all payment obligations to TD;

- c) The Company shall remain current in all other obligations and covenants under the credit agreement, including without limitation all reporting requirements; and
- d) The individual Respondent Hafiz shall provide forthwith to TD all information and documentation TD may reasonably require relating to his properties in Bangladesh.

Attached to this First Report as **Appendix "1"** is a copy of the October Endorsement.

- 5. The October 27, 2023 endorsement stated that if any of the terms therein were defaulted on TD could seek the return of the Application and request the same relief.
- 6. Sufficient information was not provided with respect to the properties in Bangladesh and TD returned the Application before the Court. On November 15, 2022, Spergel was appointed as the Receiver of all of the assets, undertakings and properties of the Company, including the Real Property (collectively, the "**Property**") by the Order of the Honourable Mr. Justice Osborne of the Ontario Superior Court of Justice (Commercial List) (the "**Receivership Order**"). Attached to this First Report as **Appendices "2" and "3"**, respectively, are copies of the endorsement of Mr. Justice Osborne dated November 15, 2022 (the "**November Endorsement**") and the Receivership Order.

7. The Receiver retained Harrison Pensa LLP (the “**Receiver’s Counsel**”) as its independent legal counsel.

II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER

8. The purpose of this First Report is to advise the Court as to the steps taken by the Receiver to date in these proceedings and to seek Orders from the Court, including
 - a) approving this First Report and the actions and activities of the Receiver described herein;
 - b) increasing the Receiver’s Borrowings Charge (as defined in the Receivership Order) from \$300,000 to \$400,000;
 - c) authorizing the sales and marketing process in respect of the Real Property;
 - d) authorizing the Receiver to take such steps as are necessary and appropriate to facilitate the Sales Process (as defined herein) and authorizing the Receiver to take all necessary actions to remediate, as is required, the environmental issues present at the Real Property;
 - e) releasing and discharging the Receiver from any and all liability that the Receiver now has or may hereafter have by reason of, or in any way arising out of the environmental issues at the Real Property, save and except for any gross negligence or wilful misconduct on the Receiver’s part;
 - f) approving the Receiver’s Interim Statement of Receipts and Disbursements as at June 5, 2023; and

- g) approving the fees and disbursements of the Receiver to and including April 30, 2023 and the fees and disbursements of the Receiver's Counsel to and including June 4, 2023.

Disclaimer

9. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Report for any other purpose than intended.
10. In preparing this First Report, the Receiver has relied upon certain information found on site and/or provided to it by the management of the Company including, without limitation, past financial performance, and other financial information. The Receiver has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Receiver expresses no opinion or other forms of assurance with respect to such information. Future oriented financial information relied upon in this First Report is based on assumptions regarding future events, actual results achieved may vary from this information and these variations may be material.
11. All references to dollars in this First Report are in Canadian currency unless otherwise noted.

III. RECEIVER'S ACTIVITIES

12. A copy of the Receivership Order was provided to the Company. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) (“**BIA**”) and mailed same to all creditors known to the Receiver.
13. Since the appointment of the Receiver on November 15, 2022, the Receiver directly or through the Receiver’s Counsel attended to the following:
 - a) secured possession of the Real Property and to all necessary repairs where applicable;
 - b) arranged for insurance on the Real Property and other assets;
 - c) communicating with utility companies and arranging for continuation of supply;
 - d) arranged for snow removal during the winter months;
 - e) arranged for alarm service and regular site (at least three (3) times per week) inspections by a property manager engaged by the Receiver;
 - f) communicated with former employees with respect to the Wage Earner Protection Program (“**WEPP**”) and other issues;
 - g) communicated with the York Region with respect to its drinking water system directive and steps required at the Real Property with respect to same;

- h) communicated with the Canada Revenue Agency (“**CRA**”);
- i) obtained two appraisals of the Real Property; and
- j) engaged the services of an environmental consultant to conduct a Phase II Environmental Assessment and a Soil and Groundwater Delineation Assessment which is discussed in greater detail below.

IV. REAL PROPERTY

- 14. As noted previously in this First Report, 2314 owns the Real Property. The Receiver retained the services of Antec Appraisal Group Inc. (“**Antec**”) and Wagner, Andrews & Kovacs Ltd. (“**Wagner**”) to provide an appraisal of the value of the Real Property. The Receiver also engaged the services of A&A Environmental Consultants Inc. (“**A&A**”) to prepare a Phase II Environmental Assessment Report related to the Real Property.
- 15. On February 6, 2023, A&A provided a Phase II Environmental Site Assessment (“**A&A’s Phase II Report**”) for the Real Property. A&A’s Phase II Report discovered slight exceedances in both soil and groundwater samples and A&A recommended that a delineation assessment should be conducted to identify the extent of the identified impacts. Subsequently, the Receiver engaged A&A to conduct the delineation assessment. Attached to this First Report as **Appendix “4”** is a copy of the A&A Phase II Report.
- 16. On March 22, 2023, A&A provided the Receiver with the delineation assessment report with respect to the Real Property (“**A&A’s Delineation Report**”). A&A’s

Delineation Report confirmed the contamination on site and indicated that the impacted area of the site appears localized to the northern area of the site. A&A further recommended a cleanup program to reduce the identified impacts to below applicable MECP guidelines. In addition, A&A recommended that all monitoring wells should be maintained in accordance with the provisions of Ontario Regulation 903 including particular attention to ensuring surface casings are properly sealed and protected from damage due to winter maintenance. Attached to this First report as **Appendix “5”** is a copy of A&A’s Delineation Report.

17. On March 24, 2023, A&A provided a quotation for the cleanup/remediation of the contaminated soil and groundwater at the Real Property (the “**A&A Cleanup Proposal**”). Attached to this First Report as **Appendix “6”** is a copy of the A&A Cleanup Proposal. Subsequent to receipt of the A&A Cleanup Proposal, the Receiver participated in multiple conversations with A&A regarding the scope of the work and the potential for fully remediating the Real Property. On April 4, 2023, the Receiver received an email from Dr. Ali Rasoul of A&A providing conclusions and recommendations to address the contamination at the Real Property. Attached to this First Report as **Appendix “7”** is a copy of the email from Dr. Ali Rasoul.
18. The Receiver has discussed this issue with TD, the senior secured creditor of the Company. TD has advised that it is in support of carrying out the cleanup/remediation of the Real Property as outlined in the A&A Cleanup Proposal and has also advanced funds to the Receiver to fund the remediation and the Receiver issued a Receiver’s Certificate to TD with respect to the funding. Accordingly, the Receiver is seeking an order from the Court authorizing the

Receiver to take all necessary actions to remediate, as is required, the environmental issues present at the Real Property.

V. PROPOSED SALES PROCESS

19. Pursuant to paragraph 3(j) of the Receivership Order, the Receiver is empowered and authorized to, amongst other things, market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate.

20. Accordingly, the Receiver is proposing that the following sale process be followed in relation to the Real Property (the “**Sales Process**”):
 - a) the Receiver to complete the remediation of the Real Property as described in the A&A Cleanup Proposal; and

 - b) Upon the successful completion of the remediation, the Receiver to:
 - i. obtain marketing proposals from at least two (2) real estate brokerages to list and sell the Real Property;

 - ii. list the Real Property with a real estate brokerage on the multiple listing service in accordance with the marketing plan of the chosen real estate broker; and

- iii. enter into an agreement of purchase and sale, subject to approval of the Court on a subsequent motion brought by the Receiver, with the successful purchaser.

VI. PROFESSIONAL FEES AND DISBURSEMENTS

21. Attached hereto as **Appendix “8”** is the Affidavit of Mukul Manchanda sworn June 5, 2023, which incorporates by reference a copy of the Receiver’s time dockets pertaining to the receivership of 2314 to and including April 30, 2023, in the amount of \$60,697.39 inclusive of disbursements and HST. This represents a total of 149.10 hours at an average rate of \$360.26 per hour before HST.
22. Attached hereto as **Appendix “9”** to this First Report is the Affidavit of Jason DiFruscia, sworn June 5, 2023, which incorporates by reference a copy of the time dockets of the Receiver’s Counsel for the period to and including June 4, 2023, in the amount of \$10,176.34 inclusive of disbursements and HST.
23. The Receiver has reviewed the accounts of the Receiver’s Counsel and is of the view that all the work set out in these accounts was carried out and was necessary, that the hourly rates of the lawyers who worked on this matter were reasonable in light of the services required and that the services were carried out by lawyers with the appropriate level of experience.

VII. FUNDING OF THE RECEIVERSHIP

24. Pursuant to paragraph 21 of the Receivership Order, the Receiver is empowered to borrow by way of a revolving credit or otherwise, such monies from time to time

as it may considers necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by the Receivership Order, including interim expenditures.

25. In accordance with the above, the Receiver has borrowed \$300,000 from TD to deal with the operational and environmental issues related to the Real Property. As at June 5, 2023, the Receiver has \$228,373.02 in the receivership estate's trust account which is mostly earmarked for payment of cost associated with: a) the remediation described under A&A's Cleanup Proposal; and b) operational expenses for the next six months. In the event, the Receiver was required to borrow further funds to deal with unknown issues, it will not be able to borrow additional funds given the Receiver has already borrowed the maximum allowed under the Receivership Order. Accordingly, the Receiver is requesting that the Court increase the Receiver's Borrowing Charge (as defined in the Receivership Order) from \$300,000 to \$400,000.

VIII. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS
AS AT JUNE 5, 2023

26. Attached hereto as **Appendix "10"** is a copy of the Interim Statement of Receipts and Disbursements as at June 5, 2023 prepared by the Receiver.

IX. RECOMMENDATIONS

27. The Receiver respectfully requests that this Honourable Court grant the relief sought in this First Report.

All of which is respectfully submitted.

Dated at Toronto, this 5th, day of June 2023

msi Spergel inc.,
solely in its capacity as Court-appointed
Receiver of 2314251 Ontario Inc. and not
in any corporate or personal capacities

Per:



Mukul Manchanda, CPA, CIRP, LIT

APPENDIX 6

Enquiry Result

File Currency: 03AUG 2023



Show All Pages

All Pages



Note: All pages have been returned.

Type of Search	Business Debtor								
Search Conducted On	2314251 ONTARIO INC.								
File Currency	03AUG 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	747019602	1	5	1	12	20DEC 2024			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
747019602		001	004		20181220 1348 1862 9340	P PPSA	6		
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2667313 ONTARIO INC.					2667313			
	Address			City	Province	Postal Code			
	81 CHURCHILL AVE			TORONTO	ON	M2N 1Y8			
Individual Debtor	Date of Birth	First Given Name		Initial	Surname				
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2667313 ONTARIO INC.					2667313			
	Address			City	Province	Postal Code			
	2871 EGLINTON AVENUE EAST			TORONTO	ON	M1J 2E3			
Secured Party	Secured Party / Lien Claimant								
	BANK OF MONTREAL								
	Address			City	Province	Postal Code			
	475 QUEEN STREET SOUTH			BOLTON	ON	L7E 2B5			
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			
Motor Vehicle Description	Year	Make		Model		V.I.N.			
General Collateral Description	General Collateral Description								
	GENERAL SECURITY AGREEMENT OVER ALL PRESENT AND AFTER-ACQUIRED PERSONAL PROPERTY.								
	49								

Registering Agent	Registering Agent			
	MANN LAW, BARRISTERS & SOLICITORS			
	Address	City	Province	Postal Code
	920 DERRY ROAD EAST	MISSISSAUGA	ON	L5T 2X6

CONTINUED

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747019602	1	5	2	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747019602		002	004		20181220 1348 1862 9340		

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	2314251 ONTARIO INC.	2314251		
	Address	City	Province	Postal Code
	81 CHURCHILL AVENUE	TORONTO	ON	M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	2314251 ONTARIO INC.	2314251		
	Address	City	Province	Postal Code
	2871 EGLINTON AVENUE EAST	TORONTO	ON	M1J 2E3

Secured Party	Secured Party / Lien Claimant

	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent

	Address	City	Province	Postal Code

CONTINUED

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747019602	1	5	3	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747019602		003	004		20181220 1348 1862 9340		

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			Ontario Corporation Number
	2470291 ONTARIO INC.			2470291
	Address	City	Province	Postal Code
	81 CHURCHILL AVE	TORONTO	ON	M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			Ontario Corporation Number
	2470291 ONTARIO INC.			2470291
	Address	City	Province	Postal Code
	2871 EGLINTON AVENUE EAST	TORONTO	ON	M1J 2E3

Secured Party	Secured Party / Lien Claimant			
	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description			

Registering Agent	Registering Agent			
	Address	City	Province	Postal Code

CONTINUED

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747019602	1	5	4	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747019602		004	004		20181220 1348 1862 9340		

Individual Debtor

Date of Birth	First Given Name	Initial	Surname

Business Debtor

Business Debtor Name	Ontario Corporation Number
EGLINTON PETROLEUM LIMITED	2537682

Address	City	Province	Postal Code
81 CHURCHILL AVE	TORONTO	ON	M2N 1Y8

Individual Debtor

Date of Birth	First Given Name	Initial	Surname

Business Debtor

Business Debtor Name	Ontario Corporation Number
EGLINTON PETROLEUM LIMITED	2537682

Address	City	Province	Postal Code
2871 EGLINTON AVENUE EAST	TORONTO	ON	M1J 2E3

Secured Party

Secured Party / Lien Claimant

Address	City	Province	Postal Code

Collateral Classification

Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description

Year	Make	Model	V.I.N.

General Collateral Description

General Collateral Description

Registering Agent

Registering Agent

Address	City	Province	Postal Code

END OF FAMILY

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747020115	2	5	5	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747020115		001	004		20181220 1357 1862 9352	P PPSA	6

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			
	2667313 ONTARIO INC.			
	Address		City	Province
	81 CHURCHILL AVE		TORONTO	ON
				Postal Code
				M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			
	2667313 ONTARIO INC.			
	Address		City	Province
	2871 EGLINTON AVENUE EAST		TORONTO	ON
				Postal Code
				M1J 2E3

Secured Party	Secured Party / Lien Claimant			
	BANK OF MONTREAL			
	Address		City	Province
	475 QUEEN STREET SOUTH		BOLTON	ON
				Postal Code
				L7E 2B5

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description
	ASSIGNMENT OF RENTS ON FILE

Registering Agent	Registering Agent			
	MANN LAW, BARRISTERS & SOLICITORS			
	Address		City	Province
	920 DERRY ROAD EAST		MISSISSAUGA	ON
				Postal Code
				L5T 2X6

CONTINUED

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747020115	2	5	6	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747020115		002	004		20181220 1357 1862 9352		

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			Ontario Corporation Number
	2314251 ONTARIO INC.			2314251
	Address	City	Province	Postal Code
	81 CHURCHILL AVENUE	TORONTO	ON	M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			Ontario Corporation Number
	2314251 ONTARIO INC.			2314251
	Address	City	Province	Postal Code
	2871 EGLINTON AVENUE EAST	TORONTO	ON	M1J 2E3

Secured Party	Secured Party / Lien Claimant			
	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description			

Registering Agent	Registering Agent			
	Address	City	Province	Postal Code

CONTINUED

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747020115	2	5	7	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747020115		003	004		20181220 1357 1862 9352		

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	2470291 ONTARIO INC.	2470291		
	Address	City	Province	Postal Code
	81 CHURCHILL AVE	TORONTO	ON	M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname

Business Debtor	Business Debtor Name	Ontario Corporation Number		
	2470291 ONTARIO INC.	2470291		
	Address	City	Province	Postal Code
	2871 EGLINTON AVENUE EAST	TORONTO	ON	M1J 2E3

Secured Party	Secured Party / Lien Claimant			
	Address	City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent			
	Address	City	Province	Postal Code

CONTINUED

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	747020115	2	5	8	12	20DEC 2024	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
747020115		004	004		20181220 1357 1862 9352		

Individual Debtor	Date of Birth	First Given Name	Initial	Surname	
Business Debtor	Business Debtor Name			Ontario Corporation Number	
	EGLINTON PETROLEUM LIMITED			2537682	
	Address		City	Province	Postal Code
	81 CHURCHILL AVE		TORONTO	ON	M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname	
Business Debtor	Business Debtor Name			Ontario Corporation Number	
	EGLINTON PETROLEUM LIMITED			2537682	
	Address		City	Province	Postal Code
	2871 EGLINTON AVENUE EAST		TORONTO	ON	M1J 2E3

Secured Party	Secured Party / Lien Claimant				
	Address		City	Province	Postal Code

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description			

Registering Agent	Registering Agent				
	Address		City	Province	Postal Code

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	2314251 ONTARIO INC.								
File Currency	03AUG 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	778853466	3	5	9	12	07DEC 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
778853466		001	1		20211207 1521 1590 8177	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2314251 ONTARIO INC.					2314251			
	Address				City	Province	Postal Code		
	26233 HIGHWAY 48				SUTTON	ON	L0E 1R0		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK								
	Address				City	Province	Postal Code		
	2300 STEELES AVE. W., SUITE 200				VAUGHAN, ON	ON	L4L 5X6		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	RELATING TO GENERAL ASSIGNMENT OF RENTS AND LEASES FOR PROPERTY								
	LOCATED AT 26233 HIGHWAY 48, SUTTON, ONTARIO								
Registering Agent	Registering Agent								
	KEYSER MASON BALL, MISSISSAUGA LAWYERS								
	Address				City	Province	Postal Code		
	900-3 ROBERT SPECK PARKWAY				MISSISSAUGA	ON	L4Z 2G5		

END OF FAMILY

Type of Search	Business Debtor						
Search Conducted On	2314251 ONTARIO INC.						
File Currency	03AUG 2023						
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status
	778853475	4	5	10	12	07DEC 2026	

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period
778853475		001	1		20211207 1522 1590 8178	P PPSA	5

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			Ontario Corporation Number
	2314251 ONTARIO INC.			2314251
	Address		City	Province Postal Code
	81 CHURCHILL AVE.		TORONTO	ON M2N 1Y8

Individual Debtor	Date of Birth	First Given Name	Initial	Surname
Business Debtor	Business Debtor Name			Ontario Corporation Number
	2314251 ONTARIO INC.			2314251
	Address		City	Province Postal Code
	26233 HIGHWAY 48		SUTTON	ON L0E 1R0

Secured Party	Secured Party / Lien Claimant			
	THE TORONTO-DOMINION BANK			
	Address		City	Province Postal Code
	2300 STEELES AVE. W., SUITE 200		VAUGHAN, ON	ON L4L 5X6

Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
		X	X	X	X	X			

Motor Vehicle Description	Year	Make	Model	V.I.N.

General Collateral Description	General Collateral Description

Registering Agent	Registering Agent			
	KEYSER MASON BALL, MISSISSAUGA LAWYERS			
	Address		City	Province Postal Code
	900-3 ROBERT SPECK PARKWAY		MISSISSAUGA	ON L4Z 2G5

END OF FAMILY

Type of Search	Business Debtor								
Search Conducted On	2314251 ONTARIO INC.								
File Currency	03AUG 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	779008374	5	5	11	12	14DEC 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
779008374		001	2		20211214 0849 1590 9230	P PPSA	5		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2314251 ONTARIO INC.					2314251			
	Address				City	Province	Postal Code		
	81 CHURCHILL AVE.				TORONTO	ON	M2N 1Y8		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	2470291 ONTARIO INC.					2470291			
	Address				City	Province	Postal Code		
	81 CHURCHILL AVE.				TORONTO	ON	M2N 1Y8		
Secured Party	Secured Party / Lien Claimant								
	THE TORONTO-DOMINION BANK								
	Address				City	Province	Postal Code		
	2300 STEELES AVE. W., SUITE 200				VAUGHAN	ON	L4L 5X6		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
				X	X				
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
	RELATING TO POSTPONEMENT AND ASSIGNMENT OF CREDITORS CLAIM BETWEEN THE DEBTORS TO THE SECURED PARTY.								
Registering Agent	Registering Agent								
	KEYSER MASON BALL, MISSISSAUGA LAWYERS								
	Address				City	Province	Postal Code		
	900-3 ROBERT SPECK PARKWAY				MISSISSAUGA	ON	L4Z 2G5		

CONTINUED

Type of Search	Business Debtor								
Search Conducted On	2314251 ONTARIO INC.								
File Currency	03AUG 2023								
	File Number	Family	of Families	Page	of Pages	Expiry Date	Status		
	779008374	5	5	12	12	14DEC 2026			
FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN									
File Number	Caution Filing	Page of	Total Pages	Motor Vehicle Schedule	Registration Number	Registered Under	Registration Period		
779008374		002	2		20211214 0849 1590 9230				
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
	10OCT1952	MOHAMMAD			A	HAFIZ			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
	81 CHURCHILL AVE.				TORONTO	ON	M2N 1Y8		
Individual Debtor	Date of Birth	First Given Name			Initial	Surname			
	12MAR1965	ZAHAN			A	KAWSER			
Business Debtor	Business Debtor Name					Ontario Corporation Number			
	Address				City	Province	Postal Code		
	81 CHURCHILL AVE.				TORONTO	ON	M2N 1Y8		
Secured Party	Secured Party / Lien Claimant								
	Address				City	Province	Postal Code		
Collateral Classification	Consumer Goods	Inventory	Equipment	Accounts	Other	Motor Vehicle Included	Amount	Date of Maturity or	No Fixed Maturity Date
Motor Vehicle Description	Year	Make			Model	V.I.N.			
General Collateral Description	General Collateral Description								
Registering Agent	Registering Agent								
	Address				City	Province	Postal Code		

LAST PAGE

Note: All pages have been returned.

[BACK TO TOP](#)



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APPENDIX 7

PROPERTY DESCRIPTION: PT LT 3 CON 6, GEORGINA, PT 1, 65R14491; TOWN OF GEORGINA

PROPERTY REMARKS:

ESTATE/QUALIFIER:
FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:
DIVISION FROM 03543-0016

PIN CREATION DATE:
2013/07/05

OWNERS' NAMES
2314251 ONTARIO INC.

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 1998/12/21 **						
A18540A	1958/05/08	BYLAW				C
REMARKS: AREA OF SUBDIVISION CONTROL (ADDED 99/02/17 @ 15:37 BY S. COLES, ADLR)						
65R14491	1990/06/27	PLAN REFERENCE				C
YR1482704	2010/05/21	NOTICE OF LEASE		2195428 ONTARIO INC.	ULTRAMAR LTD.	C
YR1860827	2012/07/26	TRANSFER	\$1,700,000	SERVAXION INC.	2314251 ONTARIO INC.	C
REMARKS: PLANNING ACT STATEMENTS						
YR1970509	2013/04/29	NO ASSG LESSEE INT		ULTRAMAR LTD.	CST CANADA CO.	C
REMARKS: YR1482704.						
YR2754660	2017/11/03	APL CH NAME INST		CST CANADA CO.	COUCHE-TARD INC.	C
REMARKS: YR1970509						
YR2756373	2017/11/08	NO ASSG LESSEE INT		COUCHE-TARD INC.	PARKLAND FUEL CORPORATION	C
REMARKS: YR1482704.						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

LAND
REGISTRY
OFFICE #65

03543-0333 (LT)

PAGE 2 OF 2
PREPARED FOR dipierdomenico
ON 2023/08/04 AT 11:12:36

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
YR2783431	2018/01/15	CHARGE	\$300,000	2314251 ONTARIO INC.	PARKLAND FUEL CORPORATION	C
YR3362192	2022/01/04	CHARGE	\$2,500,000	2314251 ONTARIO INC.	THE TORONTO-DOMINION BANK	C
YR3362193	2022/01/04	NO ASSGN RENT GEN		2314251 ONTARIO INC.	THE TORONTO-DOMINION BANK	C
REMARKS: YR3362192.						

APPENDIX 8

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

AFFIDAVIT OF MUKUL MANCHANDA
(Sworn August 4, 2023)

I, **MUKUL MANCHANDA**, of the City of Brampton, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Licensed Insolvency Trustee with msi Spergel inc. (“**Spergel**”), the Court-Appointed Receiver (the “**Receiver**”) of 2314251 Ontario Inc. (the “**Debtor**”), and as such have knowledge of the matters to be deposed herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The Receiver was appointed, without security, of all of the assets, undertakings and properties of the Debtor by Order of the Honourable Justice Osborne dated November 15, 2022.
3. In connection with the receivership for the period to and including August 3, 2023 fees of \$19,865.97 inclusive of HST was charged by Spergel as detailed in the billing summary and time

dockets attached hereto as **Exhibit "1"** to this, my Affidavit. This represents 43.80 hours at an effective rate of \$401.38 per hour.

4. The hourly billing rates detailed in this Affidavit are comparable to the hourly rates charged by Spergel for services rendered in relation to similar proceedings.

5. I make this Affidavit for no improper purpose.

SWORN before me at the City of
Toronto, in the Province of Ontario
this 4th day of August 2023.

B. Eileen Sturge

)
)
)
)
)
)
)
)

Mukul

Mukul Manchanda

Commissioner for Taking Affidavits
Barbara Eileen Sturge,
a Commissioner, etc. for rnsi Spergel inc
and Spergel & Associates Inc.
Expires September 21, 2025

**This is Exhibit "1" of the Affidavit of
Mukul Manchanda
Sworn before me on this 4th day of August 2023**



A Commissioner, Etc.

Barbara Eileen Sturge,
a Commissioner, etc. for msi Spergol inc.
and Spergel & Associates Inc.
Expires September 21, 2025



August 04, 2023

Invoice #: 12560

2314251 Ontario Inc.

Invoice

RE: 2314251 Ontario Inc.

FOR PROFESSIONAL SERVICES RENDERED for the period from May 1, 2023 to August 3, 2023 in connection with our appointment as Court-Appointed Receiver.

	Hours	Hourly Rate	Total
Philip H. Gennis, LL.B., CIRP, LIT	8.50	\$450.00	\$3,825.00
Gillian Goldblatt, CPA, CA, CIRP, LIT	1.00	375.00	375.00
Mukul Manchanda, CPA, CIRP, LIT	25.10	450.00	11,295.00
Eileen Sturge	1.10	250.00	275.00
Susan Downey	3.10	190.00	589.00
Paula Amaral	3.10	290.00	899.00
Others	1.90	169.74	322.50
Total Professional fees	43.80	\$401.38	\$17,580.50
HST			2,285.47
Total			\$19,865.97

HST Registration #R103478103

(AA2314-R)

Filters Used:

- File ID: AA2314-R: to AA2314-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

File Name (ID): 2314251 Ontario Inc. (AA2314-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Eileen Sturge (EST)					
Tues	05/16/2023	Process requisition for payment of insurance extension	0.50	\$250.00	\$125.00
Wed	05/17/2023	Admin on file	0.50	\$250.00	\$125.00
Mon	06/05/2023	Admin on file	0.10	\$250.00	\$25.00
Eileen Sturge (EST)			1.10		\$275.00
Gillian Goldblatt (GGO)					
Mon	05/29/2023	review and approve disbursements.	0.20	\$375.00	\$75.00
Thur	06/22/2023	Review and approval of bank reconciliation on May 31st, 2023	0.10	\$375.00	\$37.50
Thur	07/06/2023	Receipt and review of bank reconciliation.	0.10	\$375.00	\$37.50
Wed	07/19/2023	review and approve disbursements.	0.30	\$375.00	\$112.50
Fri	07/21/2023	review and approve disbursements.	0.30	\$375.00	\$112.50
Gillian Goldblatt (GGO)			1.00		\$375.00
Haran Sivanathan (HSI)					
Mon	05/29/2023	EFT/Wire, Deposit	0.80	\$175.00	\$140.00
Wed	06/28/2023	Setup ac/ EFT /Cheque Req posting	0.40	\$175.00	\$70.00
Wed	06/28/2023	Setup ac/ EFT /Cheque Req posting	0.30	\$175.00	\$52.50
Haran Sivanathan (HSI)			1.50		\$262.50
Inga Friptuleac (IFR)					
Thur	06/01/2023	Deposit, Issue cheques	0.40	\$150.00	\$60.00
Inga Friptuleac (IFR)			0.40		\$60.00
Mukul Manchanda (MMA)					
Fri	05/05/2023	Email communication with A.Bezner regarding the reciever's additional borrowing and remediation plan.	0.20	\$450.00	\$90.00
Mon	05/08/2023	Email exchanges with A&A Environmental regarding the Delineation Report. Receipt and review of an email from T. Hogan containing a memo regarding the environmental issues. Discusison with T. Hogan regarding same.	0.90	\$450.00	\$405.00
Wed	05/10/2023	Email communication with A.Bezner regarding transfer of funds. Receipt and review of email communication between Banking department and S.Downey regarding the deposit slip and confirmation of funds. Email exchanges with T. Hogan regarding scheduling a hearing for approval of the remediation of the property.	0.40	\$450.00	\$180.00
Mon	05/15/2023	Receipt and review of Email communication from T.Hogan and M.Manelie regarding the court hearing. Receipt and review of email from L. Coghill regarding the pending delineation invoice.	0.20	\$450.00	\$90.00
Wed	05/17/2023	Receipt and review of multiple email communication from P.Gennis regarding the file,	0.20	\$450.00	\$90.00
Tues	05/23/2023	Email exchange with S.Downey regarding the quote received for the sutton west gas station.	0.10	\$450.00	\$45.00
Thur	05/25/2023	Receipt and review of email from S.Downey and P.Gennis regarding the type of invoice to be issued.	0.10	\$450.00	\$45.00
Sun	05/28/2023	Receipt, review and approval of Cheque requisitions shared by P.Amaral and S.Downey.	0.50	\$450.00	\$225.00
Mon	05/29/2023	Receipt, review and approval of 4 BMO EFTS shared by H.Sivanathan,	0.40	\$450.00	\$180.00
Wed	05/31/2023	Receipt, review and execution of the affidavit shared by S.Downey.	0.10	\$450.00	\$45.00

Filters Used:

- File ID: AA2314-R: to AA2314-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

File Name (ID): 2314251 Ontario Inc. (AA2314-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Fri	06/02/2023	Receipt and review of an email from T. Hogan containing draft notice of motion and order with respect to the upcoming hearing. Provided comments regarding same.	0.60	\$450.00	\$270.00
Sat	06/03/2023	Email exchanges with M. Vine regarding appendices of the report.	0.20	\$450.00	\$90.00
Sun	06/04/2023	Review and draft the report to court. Prepared appendices to the report. Email communication with T. Hogan and M. Vine containing the draft report of the receiver for review. Receipt and review of comments on the report. Incorporated same to the report and prepared a finalized copy.	3.60	\$450.00	\$1,620.00
Mon	06/05/2023	Telephone call with T. Hogan with regards to the file. Instructions to S. Downey regarding compilation of the report to court and appendices Multiple email exchange with S.Downey and E. Sturge with regards to R&D, fee affidavit and commissioning. Email exchange with J. Difruscia and M.Vine containing the final version of the First report of the receiver. Receipt and review of email from T. Hogan about the report. Receipt and review of the motion record of the receiver. Uploaded same to the Case Website.	3.60	\$450.00	\$1,620.00
Tues	06/13/2023	Receipt and review of an email from T. Hogan containing an email from J. Rosenstein regarding service issue. Telephone discussion with T. Hogan and M. Vine regarding same.	0.50	\$450.00	\$225.00
Wed	06/14/2023	Discussion with counsel regarding the outcome of the court hearing. Discussion with P. Hanke regarding same.	0.40	\$450.00	\$180.00
Thur	06/15/2023	Receipt and review of the endorsement of Justice Steele. Discussion with K. Plunkett regarding same.	0.50	\$450.00	\$225.00
Wed	06/21/2023	Receipt, review and approval of cheque requisition shared by S.Downey.	0.20	\$450.00	\$90.00
Fri	06/23/2023	Email exchanges with P. Hanke regarding providing payout numbers to the debtor. Email exchanges with R. English regarding same.	0.20	\$450.00	\$90.00
Mon	06/26/2023	Email exchanges with A. Bezner and R. English regarding inclusion of Receiver's Line in the payout figures.	0.20	\$450.00	\$90.00
Thur	06/29/2023	Receipt, review and approval of EFT payments and payroll shared by I.Lriptuleac. Receipt and review of an email from M. Vine providing a remediation plan obtained by the debtor. Email exchanges with counsels and TD regarding the matter.	0.20	\$450.00	\$90.00
Fri	06/30/2023	Participated in a conference call with T. Hogan and M. Vine. Participated in a call with R. English and T. Hogan. Receipt and review of an email from J. ROsenstein providing, amongst other things, an offer to purchase the property. Discussion regarding same with M. Vine. Instructed M. Vine to advise J. Rosenstein that the Receiver is not entertaining offers at this point. Review of email exchanges between counsels. Review of environmental legislation regarding exposure of receiver for selling a contaminated property.	1.60	\$450.00	\$720.00
Sun	07/02/2023	Telephone call with M. Vine and T. Hogan regarding the upcoming hearing.	0.50	\$450.00	\$225.00
Tues	07/04/2023	Review materials in advance of the court hearing. Attended the court hearing. Discussion with P. Hanke after the court hearing. Discussion with M. Vine regarding providing the company with a framework for a re-financing motion and providing a deadline to advance same. Sent the draft framework to M. Vine.	2.40	\$450.00	\$1,080.00
Wed	07/05/2023	Review of multiple email exchanges between M. Vine and J. Rosenstein regarding the refinancing motion.	0.40	\$450.00	\$180.00

Filters Used:

- File ID: AA2314-R: to AA2314-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

File Name (ID): 2314251 Ontario Inc. (AA2314-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Fri	07/07/2023	Telephone call and email exchanges with P. Hanke and A. Bezner regarding a payout statement. Forwarded same to M. Vine. Receipt and review of email exchanges between M. Vine and J. Rosenstein regarding same.	0.30	\$450.00	\$135.00
Sun	07/09/2023	Receipt and review of email from P. Gennis regarding the file.	0.10	\$450.00	\$45.00
Mon	07/10/2023	Receipt and review of the motion record of the company. Email exchanges with R. English, P.Hanke and M. Vine regarding same.	1.10	\$450.00	\$495.00
Tues	07/11/2023	Review of email exchanges regarding outstanding property taxes.	0.20	\$450.00	\$90.00
Mon	07/24/2023	Receipt and review of draft orders and provide comments.	0.50	\$450.00	\$225.00
Wed	07/26/2023	Review of multiple email exchanges between M. Vine and J. Rosenstein regarding the re-financing motion.	0.40	\$450.00	\$180.00
Thur	07/27/2023	Receipt and review of a further draft order from J. Rosenstein.	0.30	\$450.00	\$135.00
Fri	07/28/2023	Review of email exchanges between J. Rosenstein and M. Vine regarding the draft order.	0.20	\$450.00	\$90.00
Sun	07/30/2023	Telephone call with M. Vine and T. Hogan regarding the file.	0.50	\$450.00	\$225.00
Mon	07/31/2023	Review of email exchanges between T. Hogan, M. Vine and m. Crilly regarding Parkland's position.	0.30	\$450.00	\$135.00
Wed	08/02/2023	Receipt and review of email from P. Amaral regarding the outstanding pre-receivership amounts.	0.10	\$450.00	\$45.00
Thur	08/03/2023	Review of multiple emails regarding agreement between Parkland and the Company. Review of motion materials and amended motion materials of the Company in advance of drafting the report. Commence drafting the report.	2.90	\$450.00	\$1,305.00
Mukul Manchanda (MMA)			25.10		\$11,295.00
Paula Amaral (PAM)					
Wed	06/21/2023	Download utility bills. Prepare requisitions for payment of payables.	0.50	\$290.00	\$145.00
Thur	06/22/2023	Receive email and call from Lockit regarding a power chord on the property that previous employee claims is owned by him. Receive call from previous employee requesting access to the property to obtain personal papers. Coordinate visit with Lockit.	0.60	\$290.00	\$174.00
Fri	06/30/2023	Receive emails regarding the status of the road work adjacent to the gas station.	0.10	\$290.00	\$29.00
Tues	07/04/2023	Receive email with update on security check with photos and upload to R drive	0.10	\$290.00	\$29.00
Tues	07/11/2023	Receive and respond to various emails regarding coordinating appointments with OLG to remove Lottery machines and pick up tickets.	0.30	\$290.00	\$87.00
Tues	07/18/2023	Prepare requisitions for payment for insurance and utilities. Source invoices and back up reports and confirm previous payments prior to creating requisitions.	1.50	\$290.00	\$435.00
Paula Amaral (PAM)			3.10		\$899.00
Philip H. Gennis (PGE)					
Fri	05/05/2023	Telephone discussion with Receiver's Counsel regarding court attendance to approve remediation plan and proposed sales process;	0.25	\$450.00	\$112.50
Fri	05/05/2023	Internal discussions regarding environmental cleanup; telephone discussion with Receiver's Counsel regarding need for Court approval for cleanup; preliminary drafting of report to Court seeking approval of cleanup and sales process;	1.00	\$450.00	\$450.00
Mon	05/15/2023	Email exchange with Receiver's Counsel regarding Court date for hearing approving remediation and content of a report in support of the motion;	0.25	\$450.00	\$112.50

Filters Used:

- File ID: AA2314-R: to AA2314-R:
- Time Entry Bill Status: Un-Billed to Un-Billed

File Name (ID): 2314251 Ontario Inc. (AA2314-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Philip H. Gennis (PGE)					
Tues	05/16/2023	Initial Draft of First Report;	3.00	\$450.00	\$1,350.00
Wed	05/17/2023	Email exchange with Environmental Consultant regarding timing of remediation commencement;	0.25	\$450.00	\$112.50
Thur	05/25/2023	Email from Susan Downey regarding insurance premium; review of fee affidavit for inclusion in First Report;	0.25	\$450.00	\$112.50
Tues	06/06/2023	Telephone discussion with Counsel for Debtor; forwarding Motion Record for motion returnable June 14, 2023.	0.50	\$450.00	\$225.00
Tues	06/13/2023	email exchange and telephone discussion with MM and following with Receiver's Counsel regarding Motion set for June 14th;	0.50	\$450.00	\$225.00
Wed	06/14/2023	Email exchanges with Counsel in advance of hearing;attend hearing before HHJ Cavanagh telephone discussions with Counsel after adjourned hearing;	1.00	\$450.00	\$450.00
Tues	06/27/2023	Call with Jack Frymer, solicitor for Debtor; internal discussion with MM;	0.50	\$450.00	\$225.00
Wed	06/28/2023	Telephone discussion with Jack Frymer regarding sale of gas station; internal discussion with MM; telephone discussion with Receiver's Counsel;	0.50	\$450.00	\$225.00
Sun	07/02/2023	Email exchange with property manager;	0.25	\$450.00	\$112.50
Sun	07/09/2023	Receipt and review of correspondence from Counsel for debtor regarding proposed discharge of Receiver on payment of all indebtedness, etc.,	0.25	\$450.00	\$112.50
Philip H. Gennis (PGE)			8.50		\$3,825.00
Susan Downey (SDW)					
Wed	05/10/2023	Process receipt of advance of funds from bank.	0.20	\$190.00	\$38.00
Tues	05/23/2023	E-mails to/from Noel regarding insurance renewal	0.20	\$190.00	\$38.00
Thur	05/25/2023	Prepare Affidavit of fees, WIP analysis SRD for court approval.	2.00	\$190.00	\$380.00
Fri	05/26/2023	Process disbursement - Forstar insurance.	0.20	\$190.00	\$38.00
Mon	06/05/2023	Finalize affidavit of the Receiver and current SRD.	0.20	\$190.00	\$38.00
Sat	06/10/2023	E-mails to/from and telephone discussion with Noel re: Insurance renewal.	0.30	\$190.00	\$57.00
Susan Downey (SDW)			3.10		\$589.00
Total for File ID AA2314-R:			43.80		\$17,580.50
Grand Total:			43.80		\$17,580.50

APPENDIX 9

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

**AFFIDAVIT OF JASON DIFRUSCIA
(Sworn August 4, 2023)**

I, **JASON DIFRUSCIA**, of the City of London, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a solicitor qualified to practice law in the Province of Ontario and I am a lawyer with Harrison Pensa ^{LLP}, who acts as counsel for msi Spergel inc., in its capacity as Court-Appointed Receiver of the Respondent, 2314251 Ontario Inc. in the within proceeding, and as such I have knowledge of the matters to which I hereinafter depose except for those matters based expressly upon information and belief.
2. Attached hereto and marked as Exhibit "A" are particulars of time spent by professionals at Harrison Pensa ^{LLP} in connection with this matter for the period of June 5, 2023 to August 3, 2023 and an account statement detailing the services provided dated August 4, 2023.
3. The hourly billing rates set out in the Exhibits are comparable to the hourly rates charged by Harrison Pensa ^{LLP} for services rendered in relation to similar proceedings.
4. The fees and disbursements of Harrison Pensa ^{LLP} in this matter to August 3, 2023 are as follows:

a. Total Billed Fees and Disbursements from June 5, 2023 to August 3, 2023 - \$20,529.09

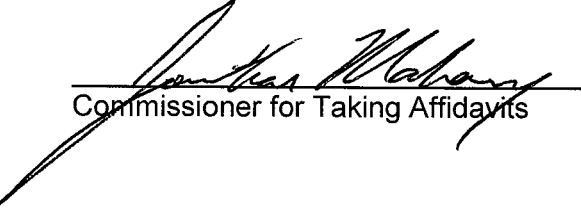
b. Total - \$20,529.09.

5. The weighted average hourly rate charged by professionals at Harrison Pensa^{LLP} is \$340.25.

6. I make this Affidavit in support of among other things, approval of fees and disbursements of the counsel for the Receiver.

Sworn before me: in person OR by video conference

by Jason DiFruscia at the City of London in the County of Middlesex, before me on August 4, 2023.


Commissioner for Taking Affidavits


JASON DIFRUSCIA

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

2314251 ONTARIO INC., MOHAMMAD ABDUL HAFIZ and KAWSER ZAHAN

Respondents

EXHIBITS

TAB "A" IS THE
EXHIBIT TO THE AFFIDAVIT OF
JASON DIFRUSCIA
SWORN THIS 4TH DAY OF AUGUST, 2023

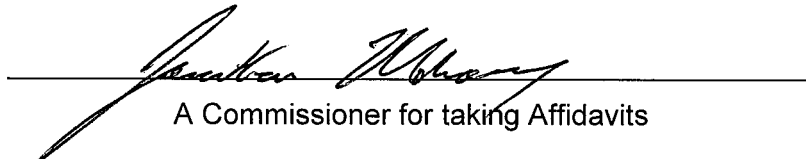

A Commissioner for taking Affidavits

EXHIBIT A

(From June 5, 2022 to August 3, 2023)

	NAME	YEAR OF CALL	ACTUAL HOURS	HOURLY RATE	TOTAL
Partners	Melinda Vine	2007	28.00	\$350.00	\$9,800.00
	Timothy C. Hogan	1995	6.80	\$546.76	\$3,718.00
Associates	Jason DiFruscia	2021	8.90	\$215.00	\$1,913.50
Clerks	Isabelle Stacey		0.40	\$145.00	\$58.00
	Lindsay Ferguson		11.30	\$180.00	\$2,034.00
TOTAL FEES					\$17,543.50
HST ON FEES					\$2,280.66
TOTAL TAXABLE DISBURSEMENTS					\$316.75
TOTAL NON TAXABLE DISBURSEMENTS					\$347.00
HST DISBURSEMENTS					\$41.18
TOTAL FEES, DISBURSEMENTS AND HST					\$20,529.09

Harrison Pensa

LAWYERS

130 Dufferin Avenue, Suite 1101
P.O. Box 3237
London, ON N6A 4K3

Telephone: (519) 679 9660
Facsimile: (519) 667 3362

msi Spegel inc.

August 4, 2023
Invoice #: *****
Account #: *****-193108

File #: 193108/Timothy C. Hogan
RE: 2314251 Ontario Inc.

TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter, including:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
5-Jun-23	To fee affidavit; to various correspondence re: motion;	.50	\$175.00	MVI
5-Jun-23	To correspondence with Receiver;	.20	\$70.00	MVI
5-Jun-23	To various correspondence re: service and filing of motion record;	.20	\$70.00	MVI
5-Jun-23	Review revise report	.40	\$220.00	TCH
5-Jun-23	To prepare Motion Record; To e-mail correspondence with service list;	1.30	\$234.00	LFE
5-Jun-23	To draft fee affidavit; to emails with client re fee affidavit; to revise notice of motion; to draft motion record	1.70	\$365.50	JDI
6-Jun-23	To draft letter to service list; To draft Affidavit of Service; To reduce Motion Record; To file Motion Record and AOS with Court; To e-mail correspondence from Court;	.90	\$162.00	LFE
7-Jun-23	To draft factum	.50	\$107.50	JDI
8-Jun-23	To draft factum	2.00	\$430.00	JDI
9-Jun-23	To draft factum and book of authorities	2.80	\$602.00	JDI
9-Jun-23	To edit Factum; To edit Book of Authorities; To e-mail correspondence with service list; To draft cover letter to service list;	.60	\$108.00	LFE
9-Jun-23	Review/revise factum	.50	\$275.00	TCH
12-Jun-23	To draft Affidavit of Service; To file Factum and BOA with Court; To upload materials to CaseLines;	1.60	\$288.00	LFE

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
12-Jun-23	To review service list;	.10	\$18.00	LFE
13-Jun-23	To update file re hearing change; To e-mail correspondence with service list;	.50	\$90.00	LFE
13-Jun-23	E-mail from counsel and to client	.40	\$220.00	TCH
13-Jun-23	E-mails/call with client	.20	\$110.00	TCH
13-Jun-23	To various correspondence re: motion;	.30	\$105.00	MVI
13-Jun-23	To various correspondence to counsel;	.20	\$70.00	MVI
14-Jun-23	To correspondence to counsel for o/c; to communication with counsel for the Bank; to conference client; to conference counsel for Borrower; to review materials; to correspondence to court; to Order;	1.40	\$490.00	MVI
14-Jun-23	To prepare for and attendance at Court;	1.50	\$525.00	MVI
14-Jun-23	To conference Plunket and call to Miranda;	.30	\$105.00	MVI
14-Jun-23	To various correspondence with client;	.50	\$175.00	MVI
14-Jun-23	To attendance at court; to various correspondence with client;	1.00	\$350.00	MVI
14-Jun-23	To receipt and review of endorsement;	.20	\$70.00	MVI
14-Jun-23	To revise draft order	.20	\$43.00	JDI
14-Jun-23	To update CaseLines; To review Order;	.30	\$54.00	LFE
15-Jun-23	To update file re Endorsement; To e-mail correspondence with service list;	.20	\$36.00	LFE
23-Jun-23	E-mail from client	.20	\$110.00	TCH
28-Jun-23	E-mail with client	.20	\$110.00	TCH
28-Jun-23	To various correspondence with client;	.30	\$105.00	MVI
29-Jun-23	To receipt and review of Remediation plan; to various correspondence and conference with client; to various correspondence and conference with Rosenstien; to conference Miller Thomson;	1.00	\$350.00	MVI
29-Jun-23	To e-mail correspondence with service list; To e-mail correspondence with Court; To upload materials to CaseLines;	1.00	\$180.00	LFE
30-Jun-23	To update CaseLines; To edit Service List;	.80	\$144.00	LFE
30-Jun-23	To review correspondence from counsel; to various correspondence;	1.00	\$350.00	MVI
30-Jun-23	Call with client	.40	\$220.00	TCH
30-Jun-23	Call with client/counsel	.40	\$220.00	TCH
2-Jul-23	E-mails/correspondence with client	.40	\$220.00	TCH
2-Jul-23	Call with client	.40	\$220.00	TCH

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
3-Jul-23	E-mails with counsel	.40	\$220.00	TCH
4-Jul-23	To various correspondence with client and Rosenstein;	.50	\$175.00	MVI
4-Jul-23	To prepare for motion, to various correspondence with client and counsel; to attend at motion; to amend order; to correspondence to court; to conference client; to receipt and review of order; to conference client re next steps;	4.00	\$1,400.00	MVI
4-Jul-23	To conference client; to correspondence with opposing counsel; to correspondence to counsel; to draft correspondence to Rosenstein re: discharge; to review discharge requirements;	1.00	\$350.00	MVI
4-Jul-23	To edit Order; To e-mail with Court;	.50	\$90.00	LFE
5-Jul-23	To correspondence to counsel;	.20	\$70.00	MVI
5-Jul-23	To various correspondence with client;	.30	\$105.00	MVI
5-Jul-23	E-mails with counsel and client	.20	\$110.00	TCH
7-Jul-23	To various correspondence counsel; to various correspondence with client;	.50	\$175.00	MVI
9-Jul-23	To correspondence from Frymer; to correspondence from Receiver;	.30	\$105.00	MVI
10-Jul-23	To receipt and review of motion record; to various correspondence; to request PPSA; to request tax certificate; to conference client; to conference Jonathan;	1.50	\$525.00	MVI
10-Jul-23	To various correspondence re: scheduling;	.60	\$210.00	MVI
10-Jul-23	To correspondence re: scheduling;	.20	\$70.00	MVI
10-Jul-23	To obtain PPSA search;	.10	\$20.00	ORA
10-Jul-23	To update file re Respondents' Motion Record; To e-mail correspondence from counsel; To obtain tax certificate and PPSA search; To draft Orders; To draft letter to tax department;	1.20	\$216.00	LFE
11-Jul-23	To issue letter and cheque;	.40	\$58.00	IST
11-Jul-23	To e-mail correspondence with counsel; To update Commercial List Request Form; To draft letter to tax department; To draft Orders;	1.60	\$288.00	LFE
11-Jul-23	To ppsa; to correspondence to client;	.30	\$105.00	MVI
11-Jul-23	To correspondence re: scheduling date;	.20	\$70.00	MVI
12-Jul-23	To e-mail correspondence with counsel; To update file re hearing date;	.10	\$18.00	LFE
12-Jul-23	E-mail from counsel	.20	\$110.00	TCH
13-Jul-23	To update file re Tax Certificate;	.20	\$36.00	LFE
13-Jul-23	To various correspondence with client and o/c;	.30	\$105.00	MVI

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
18-Jul-23	To correspondence with court; to correspondence with client;	.40	\$140.00	MVI
18-Jul-23	To tax certificate;	.20	\$70.00	MVI
18-Jul-23	To e-mail correspondence with counsel and Court; To update file re hearing date;	.10	\$18.00	LFE
24-Jul-23	To edit Orders;	.10	\$18.00	LFE
24-Jul-23	To revise draft order	.20	\$43.00	JDI
24-Jul-23	To emails with counsel re draft orders	.20	\$43.00	JDI
24-Jul-23	To conference client;	.20	\$70.00	MVI
24-Jul-23	To draft Order x2;	.70	\$245.00	MVI
25-Jul-23	To revise draft orders	1.10	\$236.50	JDI
25-Jul-23	To emails with debtor counsel re draft orders	.20	\$43.00	JDI
25-Jul-23	Review/revise Court Orders, e-mails and calls with client	1.50	\$825.00	TCH
26-Jul-23	To correspondence with client;	.20	\$70.00	MVI
26-Jul-23	To correspondence to o/c;	.20	\$70.00	MVI
27-Jul-23	To various correspondence with o/c;	.20	\$70.00	MVI
27-Jul-23	To various correspondence with o/c re: motion; to correspondence with client;	.40	\$140.00	MVI
27-Jul-23	To conference client;	.20	\$70.00	MVI
28-Jul-23	To review draft order; to correspondence with o/c; to review factum; to correspondence with client;	.60	\$210.00	MVI
28-Jul-23	To various correspondence with o/c;	.30	\$105.00	MVI
28-Jul-23	To e-mail correspondence from counsel; To update file re Amended Motion Record;	.10	\$18.00	LFE
29-Jul-23	To correspondence with client; to review Order; to telephone conference client;	.50	\$175.00	MVI
30-Jul-23	Review Debtor order and issues on discharge	.50	\$275.00	TCH
30-Jul-23	Call with client	.30	\$165.00	TCH
31-Jul-23	To e-mail correspondence from counsel;	.10	\$18.00	LFE
31-Jul-23	To correspondence with o/c;	.20	\$70.00	MVI
31-Jul-23	To various correspondence re: motion, order, transaction;	1.00	\$350.00	MVI
31-Jul-23	To various issues re: Parkland;	.20	\$70.00	MVI
1-Aug-23	To various correspondence re: parkland;	.30	\$105.00	MVI
1-Aug-23	To correspondence with Parkland;	.20	\$70.00	MVI
1-Aug-23	To conference Jonathan; to correspondence with Morgan;	.40	\$140.00	MVI

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
1-Aug-23	To prepare for and call with Parkland; to report to client;	.60	\$210.00	MVI
1-Aug-23	To correspondence with client;	.20	\$70.00	MVI
2-Aug-23	To conference Parkland; to conference client;	.40	\$140.00	MVI
3-Aug-23	To receipt and review of Hydro; to correspondence with Rosenstien;	.20	\$70.00	MVI
3-Aug-23	To various correspondence re: motion;	1.40	\$490.00	MVI
3-Aug-23	To telephone conference with counsel for Parkland;	.30	\$105.00	MVI
3-Aug-23	E-mail on Parkland issue	.20	\$110.00	TCH
Total Fees:			\$ 17,565.50	
Plus GST:			0.00	
Plus HST:			<u>2,283.52</u>	
Total Fees (INCL TAX)				<u>\$ 19,849.02</u>

FEE SUMMARY:

LAWYER	HOURS	RATE	AMOUNT
Timothy C. Hogan	6.80	\$550.00	\$3,740.00
Melinda Vine	28.00	\$350.00	\$9,800.00
Jason DiFruscia	8.90	\$215.00	\$1,913.50
Lindsay Ferguson	11.30	\$180.00	\$2,034.00
Olivia Rajsp	.10	\$200.00	\$20.00
Isabelle Stacey	.40	\$145.00	\$58.00

NON-TAXABLE DISBURSEMENTS

Government Filing Fees	\$8.00
File Motion Record	<u>\$339.00</u>
Total Non-Taxable Disbursements:	347.00

TAXABLE DISBURSEMENTS

MPAC - Assessment Search	10.00
PPSA	29.05
Courier	150.95
Photocopies/Printing	1.75
Tax Certificate Search	75.00
Title Services	50.00
Total Taxable Disbursements:	\$ 316.75
Plus GST:	0.00
Plus HST:	<u>41.18</u>
Total Disbursements (INCL TAX)	<u>\$ 704.93</u>

TOTAL DUE & OWING

\$ 20,553.95

THIS IS OUR ACCOUNT HEREIN

HARRISON PENSA LLP



Per: _____
Timothy C. Hogan

E. & O.E.

**Harrison Pensa LLP is a registered payee with most Canadian banks.
Payment can be made online through your bank's website or mobile app.**

GST / HST REGISTRATION NO: R867630543
Interest of 4.8% is charged based on the Courts of Justice Act at time of billing on all invoices over 30 days

**TERMS: DUE UPON RECEIPT
Cheque, Mastercard and VISA also accepted.**

Please make cheque payable to:
HARRISON PENSA LLP, 130 Dufferin Avenue, Suite 1101, P.O. Box 3237, London ON N6A 4K3

THE TORONTO-DOMINION BANK

v.

2314251 ONTARIO INC., et al.

Plaintiff

Defendants

Court File No. CV-22-00685439-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at TORONTO

AFFIDAVIT OF JASON DIFRUSCIA

Harrison Pensa ^{LLP}
Barristers and Solicitors
130 Dufferin Avenue, Suite 1101
London, Ontario N6A 5R2

Timothy C. Hogan (LSO #36553S)
Melinda Vine (LSO #53612R)

Tel: (519) 679-9660

Fax: (519) 667-3362

Email: thogan@harrisonpensa.com
mvine@harrisonpensa.com

Lawyers for the Receiver, msi Spergel inc.

APPENDIX 10

District of Toronto
 Division No. 09
 Estate No. 31-459454

**In the matter of the Receiverships of
 2314251 Ontario Inc.
 of the Town of Georgina, in the Province of Ontario**

Receiver's Statement of Receipts and Disbursements
 As at August 3, 2023

RECEIPTS

1	Miscellaneous		
	Interest Allocation	\$	2,202.74
	Receiver Borrowing from Secured Creditor		300,000.00
TOTAL RECEIPTS			<u>302,202.74</u>

DISBURSEMENTS

2.	Federal and Provincial taxes		
	HST paid on Ascend License Fee		35.75
	HST paid on Disbursements Exclusive of Fees		9,226.76
			<u>9,262.51</u>
3.	Miscellaneous		
	Appraisal Fees		14,425.19
	Ascend License Fee		275.00
	Change Locks		412.36
	Environmental Assessment		34,925.00
	Filing Fees Paid to O/R		72.82
	Insurance		17,565.12
	Repairs & Maintenance		4,412.36
	Security		11,189.49
	Travel		659.54
	Utilities		5,967.40
			<u>89,904.28</u>
TOTAL DISBURSEMENTS			<u>99,166.79</u>
Net Receipts over Disbursements			<u>203,035.95</u>
			E&OE