



Court File No. BK-24-00208666-OT31

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
AVIDA 2015 INC. OF THE  
CITY OF TORONTO,  
IN THE PROVINCE OF ONTARIO**

**APPLICATION FOR BANKRUPTCY ORDER**

Bank of Montreal, having an office in the City of Toronto, Province of Ontario, hereby applies to the Court that Avida 2015 Inc. (the “**Company**”), a company duly incorporated under the laws of Ontario, and having its registered office in the City of Toronto, Province of Ontario, be adjudged bankrupt and that a Bankruptcy Order be made in respect of the property of the Company and says:

1. That the Company has, at some time during the twelve months immediately preceding the date of the filing of this Application, carried on business in the City of Toronto, Province of Ontario, within the jurisdiction of this Court.
2. That the Company is justly and truly indebted to Bank of Montreal in the approximate amount of \$6,053,259.27 for principal and interest on loans and credit card facilities extended by Bank of Montreal to the Company as follows:

<b><u>Loan No.</u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>
Overdraft Lending C/A Loan No. 0002-1690-709	\$4,574,833.52	\$1,452.34
Demand Loan Non Revolving Loan No. 3724-7607-7004	\$383,333.24	\$91.37
Demand Loan Non Revolving Loan No. 3724-7607-7002	\$1,067,133.67	\$254.36

MasterCard Account Card No. 5264550000236194	\$26,160.77	-
<b>TOTAL:</b>	\$6,051,461.20	\$1,798.07

3. That Bank of Montreal holds security on the assets, property and undertaking of the Company for the payment of the said indebtedness and estimates the value of such security at \$2,000,000.00.

4. The Company has, within the six months next preceding the filing of this Application, committed the following act of bankruptcy, namely it has ceased to meet its liabilities generally as they become due.

5. msi Spergel Inc. is qualified to act as trustee of the property of the Company and has agreed to act as such, and is acceptable to the undermentioned creditor:

<u>Creditor</u>	<u>Address</u>	<u>Amount of Debt</u>
Bank of Montreal	1 First Canadian Place 100 King Street West, 7th Floor Toronto, ON M5X 1A1	\$6,053,259.27

DATED at Toronto, Ontario, this 9<sup>th</sup> day of January, 2024.

*Eugene Chow*

Name: Eugene Chow  
Title: Senior Account Manager I have  
authority to bind the Bank.

ISSUED at Toronto, Ontario this 11<sup>TH</sup> day of January, 2024.

J. Alexander

Digitally signed by J. Alexander  
Date: 2024.01.11 12:44:24  
-05'00'

PER Jove Ponniah, Registrar in Bankruptcy  
OFFICER OF THE BANKRUPTCY COURT IN ONTARIO

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**IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF**  
**AVIDA 2015 INC. OF THE**  
**CITY OF TORONTO, IN THE**  
**PROVINCE OF ONTARIO**

**AFFIDAVIT OF VERIFICATION**

I, Eugene Chow, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am a Senior Account Manager with the Special Accounts Management Unit of Bank of Montreal (the “**Bank**”) and as such have personal knowledge of the facts hereinafter deposed.

2. Avida 2015 Inc. (the “**Company**”) is justly and truly indebted to the Bank in the approximate amount of \$6,053,259.27 for principal and interest on loans and credit card facilities extended by Bank of Montreal to the Company as follows:

<b><u>Loan No.</u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>
Overdraft Lending C/A Loan No. 0002-1690-709	\$4,574,833.52	\$1,452.34
Demand Loan Non Revolving Loan No. 3724-7607-7004	\$383,333.24	\$91.37

Demand Loan Non Revolving Loan No. 3724-7607-7002	\$1,067,133.67	\$254.36
MasterCard Account Card No. 5264550000236194	\$26,160.77	-
<b>TOTAL:</b>	\$6,051,461.20	\$1,798.07

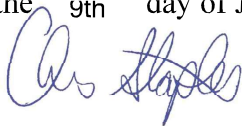
3. The Bank made demand on the Company for the indebtedness outstanding by letter dated November 3, 2023. A true copy of this demand is attached hereto as **Exhibit "A"**. Despite demand, no amounts were received by the Bank from the Company.

4. The Bank holds security on the assets, property and undertaking of the Company for the payment of the indebtedness described above through a general security agreement dated December 11, 2020 and estimates the value of such security at \$2,000,000.00. A true copy of this general security agreement is attached hereto as **Exhibit "B"**.

5. There is at least an unsecured amount of \$1,000 owing to the Bank by the Company.

6. The facts alleged in the Application for Bankruptcy Order are within my knowledge true.

SWORN before me by videoconference, )  
the affiant and commissioned both located )  
in the City of Toronto, Ontario, )  
on the 9th day of January, 2024 )  
)



Christopher Staples  
A Commissioner, etc.



Eugene Chow

This is Exhibit "A" referred to in the  
affidavit of Eugene Chow sworn January 9, 2024



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A Commissioner for the Taking of Affidavits



FILE NO.: 84826  
DIRECT: 416-218-1130  
FAX: 416-218-1130  
EMAIL: gary@chaitons.com

November 3, 2023

**VIA COURIER AND REGISTERED MAIL  
PERSONAL AND CONFIDENTIAL**

Avida 2015 Inc.  
72 Six Point Road  
Toronto, ON M8Z 2X2

**Attention: David A. Reale, President**

**Re: Bank of Montreal (the "Bank") loans to  
Avida 2015 Inc. (the "Company")**

Dear Sir,

We act as solicitors for the Bank. According to our client's records, the Company is indebted to the Bank as of November 1, 2023 in the amount of \$6,053,259.27, particulars of which are as follows:

<u>Loan No.</u>	<u>Principal</u>	<u>Interest</u>
Overdraft Lending C/A Loan No. 0002-1690-709 (Bank prime plus 1.50% per annum)	\$4,574,833.52	\$1,452.34
Demand Loan Non Revolving Loan No. 3724-7607-7004 (Bank prime plus 1.00% per annum)	\$383,333.24	\$91.37
Demand Loan Non Revolving Loan No. 3724-7607-7002 (Bank prime plus 1.50% per annum)	\$1,067,133.67	\$254.36
MasterCard Account Card No. 5264550000236194 (Standard Rates)	\$26,160.77	-
<b>TOTAL:</b>	<b>\$6,051,461.20</b>	<b>\$1,798.07</b>

Interest continues to accrue on the principal amounts aforementioned from November 2, 2023 to the date of payment at the rates of interest as set out above.

The indebtedness of the Company is secured by certain securities including a General Security Agreement dated December 11, 2020 (the "**Security**").

On behalf of the Bank, we hereby demand payment of the indebtedness of the Company pursuant to the Security and all other security held by the Bank from it as security for the payment of its indebtedness, together with payment of interest thereon, any further principal advances and legal costs to the date of payment.



In the event that payment in full is not made as required, the Bank will be obliged to take such proceedings as it considers necessary to recover payment of the indebtedness of the Company in full and to enforce its Security, which proceedings may involve the appointment of an agent or receiver and manager.

Enclosed please find our client's Notice of Intention to Enforce Security which is served on the Company pursuant to the provisions of the *Bankruptcy and Insolvency Act*.

Yours truly,  
CHAITONS LLP

A handwritten signature in blue ink, appearing to read "Gary N. Feldman". The signature is fluid and extends to the right.

Gary N. Feldman  
PARTNER

GNF/sd  
Encl.

## NOTICE OF INTENTION TO ENFORCE SECURITY (given pursuant to section 244 of the *Bankruptcy and Insolvency Act*)

TO: AVIDA 2015 INC., an insolvent person,

Take notice that:

1. Bank of Montreal, a secured creditor, intends to enforce its security on the hereinafter described property of the insolvent person:  
  
All assets, property and undertaking of Avida 2015 Inc.
2. The security that is to be enforced is in the form of a General Security Agreement dated December 11, 2020 (the "**Security**").
3. The total amount of indebtedness secured by the Security as at November 1, 2023 is \$6,053,259.27, plus costs.
4. The secured creditor will not have the right to enforce the Security until after the expiry of the 10 day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

DATED at Toronto this 3<sup>rd</sup> day of November, 2023.

BANK OF MONTREAL  
by its solicitors, Chaitons LLP



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Gary N. Feldman



Canada Postes  
Post Canada

**Registration Receipt (Bulk)**

**Récépissé de recommandation (en nombre)**

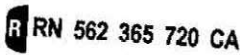
This receipt is necessary if enquiry is desired.

A presaire en cas de réclamation

Mailed By (Name and address of firm)	Dépose par (Nom et adresse de la maison expeditrice)	Stamp of Firm	Timbre ce la maison expeditrice	Date Stamp	Timbre a date of Post Office	du bureau de poste
<b>Chaitons LLP (Silvia)</b> 5000 Yonge Street, 10th Floor Toronto, Ontario M2N 7E9	November 3, 2023  #84826 (GF/ac)					

Fragile and perishable articles are not indemnified against damage.  
Indemnity and REGISTRATION FEES information is available  
on request at the Post Office.

Aucune indemnité ne sera versée pour l'avaire d'un objet fragile ou périssable.  
Vous pouvez obtenir des renseignements sur les indemnités versées et les  
DROITS DE RECOMMANDATION en vous adressant à votre bureau de poste.

Number Numero	
	<b>Avida 2015 Inc.</b> <b>72 Six Point Road</b> <b>Toronto, ON M8Z 2X2</b>  <b>Attention: David A. Reale, President</b>

This is Exhibit "B" referred to in the  
affidavit of Eugene Chow sworn January 9, 2024



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A Commissioner for the Taking of Affidavits



## SECURITY AGREEMENT

The undersigned (hereinafter called the "**Debtor**") hereby enters into this Security Agreement with Bank of Montreal (hereinafter called the "**Bank**") for valuable consideration and as security for the repayment of all present and future indebtedness of the Debtor to the Bank and interest thereon and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, of the Debtor to the Bank (all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the "**Obligations**"). This Security Agreement is entered into pursuant to and is governed by the *Personal Property Security Act* (Ontario) insofar as it affects personal property located in Ontario.

1. The Debtor hereby represents and warrants to the Bank that it has assets at the following locations in Ontario:

72 Six Point Road, Toronto, ON M8Z 2X2

2. The Debtor hereby:

- (a) mortgages and charges to the Bank as and by way of a fixed and specific mortgage and charge, and grants to the Bank a security interest in, all its present and future equipment and any proceeds therefrom, including, without limiting the generality of the foregoing, all fixtures, plant, machinery, tools and furniture now or hereafter owned or acquired or in respect of which the Debtor has rights now or in the future and any equipment specifically listed or otherwise described in any Schedule hereto ;
- (b) mortgages and charges to the Bank, and grants to the Bank a security interest in, all its present and future inventory and any proceeds therefrom, including, without limiting the generality of the foregoing, all raw materials, goods in process, finished goods and packaging material and goods acquired or held for sale or furnished or to be furnished under contracts of rental or service;
- (c) assigns, transfers and sets over to the Bank and grants to the Bank a security interest in, all its present and future intangibles and any proceeds therefrom, including, without limiting the generality of the foregoing, all its present and future accounts, accounts receivable, client lists, client records, client files, contract rights and other choses in action of every kind or nature now due or hereafter to become due, including insurance rights arising from or out of the assets referred to in sub-clauses (a) and (b) above ;
- (d) grants, mortgages, charges, transfers and assigns to the Bank a security interest in, all its present and future chattel papers, documents of title, instruments, money and securities, and any proceeds therefrom ; and
- (e) charges in favour of the Bank as and by way of a floating charge its undertaking and all its property and assets, real and personal, moveable or immovable, of whatsoever nature and kind, both present and future (other than property and assets hereby validly assigned or subjected to a specific mortgage and charge and to the exceptions hereinafter contained). For the purposes of this Security Agreement, the equipment, inventory, intangibles, undertaking and all other property and assets of the Debtor referred to in this clause 2 are hereinafter sometimes collectively called the "**Collateral**". Without limiting the generality of the description of Collateral as set out in this clause 2, and for the greater certainty, the Collateral shall include all present and future personal property of the Debtor of the type described in any schedule attached hereto. The Debtor agrees that it shall promptly advise the Bank in writing of any acquisition of personal property which is

not of the type herein described. The Debtor agrees to execute and deliver from time to time, at its own expense, amendments to this Security Agreement or additional security agreements, which may be reasonably required by the Bank to ensure attachment of security interests in such personal property.

3. The Collateral is on the date hereof primarily situate or located at the location(s) set out in clause 1 hereof but may from time to time be located at other premises of the Debtor. The Collateral may also be located at other places while in transit to and from such locations and premises; and the Collateral may from time to time be situated or located at any other place when on lease or consignment to any lessee or consignee from the Debtor.

4. It is hereby declared that the last day of any term of years reserved by any lease, verbal or written, or any agreement therefor, now held or hereafter acquired by the Debtor, is hereby and shall be excepted out of the mortgages, charges and security interests hereby created, but the Debtor shall stand possessed of the reversion of one day remaining in the Debtor in respect of any such term of years, for the time being demised, as aforesaid upon trust to assign and dispose of the same as any purchaser of such term of years shall direct. There shall also be excluded from the security created by this Security Agreement any property of the Debtor that constitutes consumer goods for the personal use of the Debtor.

5. The Debtor shall not without the prior written consent of the Bank sell or dispose of any of the Collateral other than that described in sub-clause (b) of clause 2 above which may be sold only in the ordinary course of business and for the purpose of carrying on the same; and if the amounts of any of the intangibles referred to in sub-clause (c) of clause 2 above or any proceeds arising from the Collateral described in sub-clauses (a) and (b) of clause 2 above shall be paid to the Debtor, the Debtor shall receive the same as agent of the Bank and forthwith pay over the same to the Bank. The Debtor shall not without the prior written consent of the Bank create any liens upon or assign or transfer as security or pledge or hypothecate as security or create a security interest in the Collateral except to the Bank. The Debtor agrees that the Bank may require any account debtor to the Debtor to make payment to the Bank and the Bank may take control of any proceeds referred to in sub-clauses (a), (b) and (c) of clause 2 hereof and may hold all amounts received from any account debtors and any proceeds as cash collateral as part of the Collateral and as security for the Obligations of the Debtor to the Bank.

6. The Debtor shall at all times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all and singular every such further acts, deeds, transfers, assignments, security agreements and assurances as the Bank may reasonably require for the better granting, transferring, assigning, charging, setting over, assuring and confirming unto the Bank the property and assets hereby mortgaged and charged or subjected to security interests or intended so to be or which the Debtor may hereafter become bound to mortgage, charge, transfer, assign or subject to a security interest in favour of the Bank and for the better accomplishing and effectuating of this Security Agreement.

7. The Debtor shall at all times have and maintain insurance over the Collateral against risks of fire (including so-called extended coverage), theft, and such other risks as the Bank may reasonably require in writing, containing such terms, in such form, for such periods and written by such companies as may be reasonably satisfactory to the Bank. The Debtor shall duly and seasonably pay all premiums and other sums payable for maintaining such insurance and shall cause the insurance money thereunder to be payable to the Bank as its interest hereunder may appear and shall, if required, furnish the Bank with certificates or other evidence satisfactory to the Bank of compliance with the foregoing insurance provisions.

8. The Debtor shall at all times upon request by the Bank furnish the Bank with such information concerning the Collateral and the Debtor's affairs and business as the Bank may reasonably request, including lists of inventory and equipment and lists of accounts and accounts receivable showing the amounts owing upon each account and securities therefor and copies of all financial statements, books and accounts, invoices, letters, papers and other documents in any way evidencing or relating to the account.

9. The Debtor shall be in default under this Security Agreement upon the occurrence of any one of the following events:

- (a) the Debtor shall default under any of the Obligations;
- (b) the Debtor shall default in the due observance or performance of any covenant, undertaking or agreement heretofore or hereafter given to the Bank, whether contained herein or not and including any covenant or undertaking set out in any Schedule to this Security Agreement;
- (c) an execution or any other process of any court shall become enforceable against the Debtor or a distress or analogous process shall be levied upon the property of the Debtor or any part thereof;
- (d) the Debtor shall become insolvent or commit an act of bankruptcy, or make an assignment in bankruptcy or a bulk sale of its assets or a bankruptcy petition shall be filed or presented against the Debtor and not be *bona fide* opposed by the Debtor;
- (e) the Debtor shall cease to carry on business.

10. Upon any default under this Security Agreement, the Bank may declare any or all of the Obligations to be immediately due and payable and may proceed to realize the security hereby constituted and to enforce its rights by entry; or by the appointment by instrument in writing of a receiver or receivers of the subject matter of such security or any part thereof and such receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Bank or not, and the Bank may remove any receiver or receivers so appointed and appoint another or others in his or their stead, or by proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers or for sale of the Collateral or any part thereof; or by any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity; and may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relative to the Debtor. Any such receiver or receivers so appointed shall have power to take possession of the Collateral or any part thereof and to carry on the business of the Debtor, and to borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor, and to further charge the Collateral in priority to the security constituted by this Security Agreement as security for money so borrowed, and to sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as he shall determine. In exercising any powers any such receiver or receivers shall act as agent or agents for the Debtor and the Bank shall not be responsible for his or their actions.

In addition, the Bank may enter upon the applicable premises and lease or sell the whole or any part or parts of the Collateral. The Debtor agrees that considering the nature of that part of the Collateral that is not perishable it will be commercially reasonable to sell such part of the Collateral:

- (a) as a whole or in various lots;
- (b) by a public sale or call for tenders by advertising such sale once in a local daily newspaper at least seven (7) days before such sale; and
- (c) by private sale after the receipt by the Bank of at least two offers from prospective purchasers who may include persons related to or affiliated with the Debtor or other customers of the Bank.

Any such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to the Bank in its sole discretion may seem advantageous and such sale may take place whether or not the Bank has taken possession of such property and assets.

No remedy for the realization of the security hereof or for the enforcement of the rights of the Bank shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination. The term "receiver" as used in this Security Agreement includes a receiver and manager.

11. Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Bank may see fit, and the Bank shall at all times and from time to time have the right to change any appropriation as the Bank may see fit.

12. The Debtor agrees to pay all reasonable expenses, including solicitor's fees and disbursements and the remuneration of any receiver appointed hereunder, incurred by the Bank in the preparation, perfection and enforcement of this Security Agreement, including all expenses incurred by the Bank and its agents to put into place and confirm the priority of any security interest in this Security Agreement and the payment of such expenses shall be secured hereby.

13. The Bank may waive any default herein referred to; provided always that no act or omission by the Bank in the premises shall extend to or be taken in any manner whatsoever to affect any subsequent default or the rights resulting therefrom.

14. The Debtor acknowledges that value has been given, that the Debtor has rights in the Collateral and that the parties have not agreed to postpone the time for attachment of any security interest in this Security Agreement.

15. The security hereof is in addition to and not in substitution for any other security now or hereafter held by the Bank and shall be general and continuing security notwithstanding that the Obligations of the Debtor shall at any time or from time to time be fully satisfied or paid.

16. Nothing herein shall obligate the Bank to make any advance or loan or further advance or loan or to renew any note or extend any time for payment of any indebtedness or liability of the Debtor to the Bank.

17. This Security Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Debtor and the Bank.

18. This Security Agreement is a security agreement within the meaning of the Personal Property Security Act (Ontario) and does not constitute an acknowledgement of any particular indebtedness or liability of the Debtor to the Bank.

19. The Debtor acknowledges receipt of a copy of this agreement.

20. In construing this Security Agreement, terms herein shall have the same meaning as defined in the *Personal Property Security Act* (Ontario), unless the context otherwise requires. The word "Debtor", the personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used depending upon whether the Debtor is one or more individuals, corporations or partnerships and, if more than one, shall apply and be binding upon each of them severally. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation and, where the Debtor is a partnership, any new partnership resulting from the admission of new partners or any other change in the Debtor, including, without limiting the generality of the foregoing, the death of any or all of the partners.


Insert date of  
execution

IN WITNESS WHEREOF this Security Agreement has been executed by the Debtor on 11 day of  
December, 2020

To be signed by  
Debtor, if Debtor is a  
corporation ensure  
signatures are  
authorized and if  
Debtor is a  
corporation with a  
corporate seal, affix  
Corporate Seal;  
Debtor's name

**AVIDA 2015 INC.**

Per:



\_\_\_\_\_  
Name: David Anthony Reale  
Title: President

I have the authority to bind the Corporation.

TO: Avida 2015 Inc.

Court File No. BK-24-00208666-OT31

TAKE NOTICE that an Application for a Bankruptcy Order will be made in respect of your property will be heard before the presiding Bankruptcy Judge (or, if unopposed, before the Registrar in Chambers), at 330 University Avenue, in the City of Toronto, Ontario on the 6th day of March, 2024 at the hour of \_\_\_\_\_ o'clock in the forenoon, or as soon thereafter as the Application can be heard;

AND TAKE NOTICE that if notice of cause against the Application is not filed in Court and a copy thereof served on the solicitor for the Application Creditor at least two days before the hearing, the Court may make a Bankruptcy Order on such proof of the statements in the Application as the Court shall think sufficient.

DATED at Toronto, this 11TH day of January, 2024.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**IN BANKRUPTCY AND**  
**INSOLVENCY**

**IN THE MATTER OF THE**  
**BANKRUPTCY OF**  
**AVIDA 2015 INC. OF THE CITY OF**  
**TORONTO, IN THE PROVINCE OF**  
**ONTARIO**

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**APPLICATION FOR**  
**BANKRUPTCY ORDER**

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Chaitons LLP  
5000 Yonge Street, 10<sup>th</sup> Floor  
Toronto, ON M2N 7E9

**Christopher J. Staples** (LSUC #31302R)  
Tel: (416) 218-1147  
chris@chaitons.com

Lawyers for the Applicant