

Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Plaintiff

and

**1731861 ONTARIO INC. operating as PLASTICAP, PETER J. GOSSMANN
and THOMAS FRANK LATO**

Defendants

SUPPLEMENTARY MOTION RECORD

(Hearing Date: March 24, 2023 at 9:45 a.m., Via Video Conference)

March 22, 2023

MINDEN GROSS LLP
Barristers and Solicitors
2200 - 145 King Street West
Toronto ON M5H 4G2

Rachel Moses (LSO# 42081V)
rmoses@mindengross.com
Tel: 416-369-4115
Fax: 416-864-9223

Lawyers for Royal Bank of Canada

TO:
SERVICE LIST

SERVICE LIST

(Hearing Date: March 24, 2023)

NO.	NAME	METHOD OF SERVICE
1.	1731861 ONTARIO INC. operating as PLASTICAP 8600 Keele Street, Unit 11A Concord ON L4K 2N2	BY E-MAIL TO: tlato@plasticap.com pgossmann@plasticap.com
2.	PETER J. GOSSMANN 5 Oakington Place Mississauga ON L5N 3V9	BY E-MAIL TO: pgossmann@plasticap.com
3.	THOMAS FRANK LATO 6021 19 th Avenue Markham ON L3P 3J3	BY E-MAIL TO: tlato@plasticap.com
4.	REGENCY LAW GROUP 194 James Street South Hamilton ON L8P 3A7 John V. Kranjc Tel: (905) 383-0550 Ext. 802 E-Mail: jkranjc@regencylawgroup.ca Lawyers for 1731861 Ontario Inc. operating as Plasticap, Peter J. Gossmann and Thomas Frank Lato	BY E-MAIL TO: jkranjc@regencylawgroup.ca
5.	MSI SPERGEL INC. 505 Consumers Road, Suite 200, Toronto ON M2J 4V8 Mukul Manchanda Tel: (416) 498-4314 E-Mail: mmanchanda@spergel.ca Proposed Receiver	BY E-MAIL TO: mmanchanda@spergel.ca
6.	HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented by Ministry of Finance Legal Services Branch 77 Bay Street, 11th Floor Toronto ON M5G 2C8 Attention: Anthony R. Golding Senior Counsel, Ministry of Finance Tel: (416) 938-5069 E-Mail: anthony.golding@ontario.ca	BY E-MAIL TO: anthony.golding@ontario.ca

NO.	NAME	METHOD OF SERVICE
7.	<p>CANADA REVENUE AGENCY c/o Department of Justice Ontario Regional Office The Exchange Tower, Box 36 130 King Street West, Suite 3400 Toronto ON M5X 1K6</p> <p>Attention: Diane Winters Tel: (416) 952-8563 E-Mail: diane.winters@justice.gc.ca</p>	<p>BY E-MAIL TO: diane.winters@justice.gc.ca</p>
8.	<p>INSOLVENCY UNIT Province of Ontario E-Mail: insolvency.unit@ontario.ca</p>	<p>BY E-MAIL TO: insolvency.unit@ontario.ca</p>

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Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

ROYAL BANK OF CANADA

Plaintiff

and

**1731861 ONTARIO INC. operating as PLASTICAP, PETER J. GOSSMANN and
THOMAS FRANK LATO**

Defendants

**AFFIDAVIT OF JAN OROS
(sworn March 22, 2023)**

I, **JAN OROS**, of the Town of Georgina, in the Regional Municipality of York, **MAKE OATH AND SAY:**

1. I am a Senior Manager of the Special Loans & Advisory Services Group of Royal Bank of Canada ("**RBC**"), with carriage of the RBC accounts of the defendant, 1731861 Ontario Inc. operating as Plasticap ("**Plasticap**"). As such, I have knowledge of the matters to which I hereinafter depose.
2. I am making this affidavit supplementary to my affidavit sworn December 21, 2022. I will use the same defined terms as in my previous affidavit.

3. On January 19, 2023, the Honourable Mr. Justice Wilton-Siegel made an endorsement, on consent, in connection with the receivership motion brought by RBC (the “**Endorsement**”). A copy of the Endorsement is attached as **Exhibit “A”**.

4. The Endorsement requires Plasticap to perform certain obligations, including making the March Reduction Payment (as defined in the Endorsement) by March 15, 2023 to RBC. Under the Endorsement, the failure of Plasticap to perform its obligations constitutes default, entitling RBC to take out and enforce the consent to receivership and the consent to judgment which form part of the Endorsement.

5. On March 14, 2023, Plasticap’s lawyers, Stephen Walters, acknowledged by email sent to RBC’s lawyers, Rachel Moses a partner with Minden Gross LLP, that the March Reduction Payment was due on March 15, 2023 pursuant to the Endorsement, but requested an extension to March 20, 2023. A copy of the Mr. Walters’ email (redacted) is attached as **Exhibit “B”**.

6. By email sent on March 16, 2023, Ms. Moses, on behalf of RBC, agreed to the short extension request of March 20, 2023. Ms. Moses advised Mr. Walters:

“Hi Stephen,

The Bank is very unhappy with the conduct of your clients post the endorsement of Justice Wilton-Siegel (the “**Order**”).

In granting the adjournment of the receivership motion, the Bank bargained for and expects strict compliance with the Order. To date, this has not been the case. The late reporting and now failure to make the March Reduction Payment is concerning to the Bank. In addition, the Bank is concerned with the nature of the information being provided – i.e., the communications we have had today and earlier this week.

In short, the Bank will reluctantly agree to a very short extension to **12:00 p.m. on March 20, 2023** for your clients to make the March Reduction Payment. The March Reduction Payment must be made in accordance with the wire instructions provided. If the \$200,000.00 is coming from Tom, why does the Bank have to wait until Monday? Aren't the funds available now?

Please be advised that the Bank is not prepared to tolerate any further requests for indulgences and expects strict compliance with the terms of the Order, i.e., the reporting requirements and the April Reduction Payment, failing which it will proceed to take out the consent to receivership and consent to judgment.”


A copy of Ms. Moses' email to Mr. Walters is attached as **Exhibit "C"**.

7. Plasticap did not make the March Reduction Payment on March 20, 2023.


8. At all times, RBC through its lawyers advised Plasticap that it was reserving all of its rights and remedies, including enforcement of the consent to receivership and the consent to judgment in the event the March Reduction Payment was not made on March 20, 2023.

9. As of the date of swearing this affidavit, Plasticap remains in default of the Endorsement in failing to make the March Reduction Payment which remains outstanding.

SWORN by Jan Oros of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on March 22, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Rachel Moses (Mar 22, 2023 14:23 EDT)
Commissioner for Taking Affidavits
(or as may be)
Rachel Moses / LSO# 42081V

}


JAN OROS

This is Exhibit "A" referred to
in the Affidavit of Jan Oros
Sworn this 22nd
day of March, 2023.



Rachel Moses (Mar 22, 2023 14:23 EDT)

.....
A Commissioner for Taking Affidavits



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-22-00691955-00CL DATE: 19 JANUARY 2023

NO. ON LIST: 2

TITLE OF PROCEEDING: ROYAL BANK OF CANADA v. 1731861 ONTARIO INC. et al

BEFORE JUSTICE: JUSTICE WILTON-SIEGEL

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
RACHEL MOSES (<i>counsel</i>)	Royal Bank of Canada	rmoses@mindengross.com

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
JOHN KRANJC (<i>counsel</i>)	1731861 Ontario Inc., operating as Plasticap, Peter J. Grossman, and Thomas Frank Lato	jkranjc@regencylawgroup.ca

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

ENDORSEMENT OF JUSTICE WILTON-SIEGEL:

On consent, this matter is adjourned to May 23, 2023 (30 minutes) on the terms and conditions set out in Schedule "A" attached hereto.

Wilton-Siegel

SCHEDULE "A"

Royal Bank of Canada ("RBC") and 1731861 Ontario Inc. operating as Plasticap (the "Debtor" or "Plasticap") agree to adjourn the receivership hearing currently scheduled for January 19, 2023 in Court File No. CV-22-00691955-00CL on the following additional terms and conditions:

1. Payment in the amount of \$200,000 shall be made to RBC by no later than **February 3, 2023** (the "**February Reduction Payment**"). The February Reduction Payment shall be supported by a signed letter from the donor confirming the source of these funds are from family/friends. RBC shall have the sole and absolute discretion to apply the February Reduction Payment to the indebtedness owing, as it sees fit.
2. Payment in the amount of \$200,000 shall be made to RBC by no later than **March 15, 2023** (the "**March Reduction Payment**"). The March Reduction Payment shall be supported by a signed letter from the donor confirming the source of these funds are from family/friends. RBC shall have the sole and absolute discretion to apply the March Reduction Payment to the indebtedness owing, as it sees fit.
3. Payment in the amount of \$50,000 shall be made to RBC by no later than **April 14, 2023** (the "**April Reduction Payment**"). RBC shall have the sole and absolute discretion to apply the April Reduction Payment to the indebtedness owing, as it sees fit;
4. All indebtedness owing by the Debtor under the Credit Agreement(s) with RBC, such as the Operating Facility, the Visa Facility, the two Term Loans and all legal and professional fees and costs, shall be repaid in full by **May 19, 2023**. The Debtor agrees to provide RBC with evidence satisfactory to RBC that all Canada Revenue Agency obligations for HST and source deductions are current as at the date of payout, being May 19, 2023;
5. Plasticap, Mr. Gossmann and Mr. Lato consent to the Receivership Order attached hereto as **Schedule "1"**, to be held in escrow, and to only be enforced by RBC in the event that Plasticap defaults with its obligations herein;
6. Mr. Gossmann and Mr. Lato consent to the Consent to Judgment attached hereto as **Schedule "2"**, to be held in escrow, and to only be enforced by RBC in the event that Plasticap defaults with its obligations under herein;
7. Plasticap shall provide monthly reporting of account receivables listing to RBC at the end of each month commencing January 31, 2023, i.e., the account receivables listing as of December 31, 2022 shall be provided by

January 31, 2023 and monthly reporting shall continue thereafter until May 19, 2023;

8. At RBC's discretion, RBC and/or its agent, on reasonable notice, shall be entitled to attend the premises of Hawk Plastics Ltd. and Polycap LLC for the purposes of appraising and confirming the list of Plasticap assets;
9. On or before **February 15, 2023**, Plasticap, Mr. Gossmann and Mr. Lato shall provide to RBC, evidence satisfactory to RBC, of the amount of indebtedness owing in connection with the real property known as 219 Joe Gillespie Drive, Lebanon, Virginia;
10. On or before **February 15, 2023**, Plasticap, Mr. Gossmann and Mr. Lato shall provide to the Bank, evidence satisfactory to the Bank, of the amount of indebtedness owing by Polycap LLC in connection with Polycap LLC's equipment/assets; and
11. On or before **February 15, 2023**, Plasticap shall provide to the Bank confirmation that Plasticap's insurance is renewed effective January 1, 2023 to December 31, 2023.

Court File No. CV-22-00691955-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

THE HONOURABLE ~~MADAM~~ ^{MISTER})
JUSTICE ~~CONWAY~~ ^{14. J. WILTON-SIEGEL})

THURSDAY, THE 19TH
DAY OF JANUARY, 2023

KBW-S

ROYAL BANK OF CANADA

Plaintiff

- and -

1731861 ONTARIO INC. operating as PLASTICAP, PETER J. GOSSMANN and
THOMAS FRANK LATO

Defendants

ORDER
(appointing Receiver)

THIS MOTION made by the Plaintiff 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 [and manager] (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 1731861 Ontario Inc. operating as Plasticap (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Jan Oros sworn December 21, 2022 and the Exhibits thereto, and on hearing the submissions of counsel for the Plaintiff, no one appearing for the Debtor although duly served as appears from the affidavit of service of Christine Cavarzan sworn December 21, 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 Motion and the Motion 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 acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (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

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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 \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$150,000.00; 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, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (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;

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- (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.
- (s) to assign the Debtor into bankruptcy.

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 \$150,000.00 (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/e-service-protocol/>) 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.

GENERAL

27. **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.

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

29. **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.

30. **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.

31. **THIS COURT ORDERS** that the Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's 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.

32. **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 1731861 Ontario Inc. operating as Plasticap acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 20__ (the "**Order**") made in an action having Court file number CV-22-00691955-00CL, 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 Bank of _____ 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.

- 2 -

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 Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

BETWEEN

ROYAL BANK OF CANADA
Plaintiff

-and-

1731861 ONTARIO INC. operating as PLASTICAP, et al
Defendants
Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

MINDEN GROSS LLP
Barristers and Solicitors
2200 - 145 King Street West
Toronto, ON M5H 4G2

Rachel Moses (LSO# 42081V)
rmoses@mindengross.com
Tel: 416-369-4115

Lawyers for the Plaintiff

(File No. 4130784)

Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

) DAY, THE
)
) DAY OF , 2023

BETWEEN:

ROYAL BANK OF CANADA

Plaintiff

and

**1731861 ONTARIO INC. operating as PLASTICAP, PETER J.
GOSSMANN and THOMAS FRANK LATO**

Defendants

JUDGMENT

THIS MOTION made by the plaintiff, Royal Bank of Canada ("RBC"), on consent, for judgment against the defendants, Peter J. Gossmann and Thomas Frank Lato, was heard this day in person at 330 University Avenue, Toronto, Ontario.

ON READING the notice of motion, including an affidavit of verification, bill of costs ("Bill of Costs") and the consent of the parties, filed,

1. **THIS COURT ORDERS** that defendant, Peter J. Gossmann, shall pay to RBC the sum of \$ (not to exceed the principal amount of \$1,120,000.00) in respect of his personal guarantee and postponement of claim limited to the principal amount of \$1,120,000.00 and dated July 26, 2020 in respect of the debts, liabilities and

obligations of 1731861 Ontario Inc. operating as Plasticap.

2. **THIS COURT ORDERS** that defendant, Thomas Frank Lato, shall pay to RBC the sum of _____ (not to exceed the principal amount of \$1,120,000.00) in respect of his personal guarantee and postponement of claim limited to the principal amount of \$1,120,000.00 and dated July 26, 2020 in respect of the debts, liabilities and obligations of 1731861 Ontario Inc. operating as Plasticap.

3. **THIS COURT ORDERS** that the defendants are jointly and severally liable to pay to RBC the sum of \$ _____ for professional fees and disbursements incurred by RBC in connection with this proceeding in accordance with their respective personal guarantee and postponement of claim to be verified by the Bill of Costs.

THIS JUDGMENT BEARS INTEREST as follows:

(a) On the judgment debt of \$1,120,000.00 as set out in above paragraph 1 payable by the defendant, Peter J. Gossmann, to RBC at the rate of RBC's prime interest rate per annum in effect from time to time plus 5.00% from the date of judgment.

(b) On the judgment debt of \$1,120,000.00 as set out in above paragraph 2 payable by the defendant, Thomas Frank Lato, to RBC at the rate of RBC's prime

- 2 -

interest rate per annum in effect from time to time plus 5.00% from the date of judgment.

(c) On the judgment debt of \$ _____ as set out in above paragraph 3 payable by the defendants to RBC at the rate of RBC's prime interest rate per annum in effect from time to time plus 5.00% from the date of judgment.

BETWEEN

ROYAL BANK OF CANADA
Plaintiff

-and-

1731861 ONTARIO INC. operating as PLASTICAP, et al.
Defendants

Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

JUDGMENT

MINDEN GROSS LLP
Barristers and Solicitors
2200 - 145 King Street West
Toronto, ON M5H 4G2

Rachel Moses (LSO# 42081V)
rmoses@mindengross.com
Tel: 416-369-4115

Lawyers for the Plaintiff, Royal Bank of Canada

(File No. 4130784)

This is Exhibit "B" referred to
in the Affidavit of Jan Oros
Sworn this 22nd
day of March, 2023.



Rachel Moses (Mar 22, 2023 14:23 EDT)

.....
A Commissioner for Taking Affidavits

Christine Cavarzan

From: Stephen Walters <sdw@business-law.biz>
Sent: Tuesday, March 14, 2023 5:46 PM
To: Rachel Moses
Cc: Peter Gossmann; Tom Plasticap; John Kranjc; Oros, Jan
Subject: RE: Plasticap -
Attachments: Executed Letter & Term Sheet A by Tom and Peter 14Mar23.pdf

Rachel,

Tomorrow, Wednesday, March 15, 2023, Plasticap is required to pay RBC an additional \$200,000 in accordance with its forbearance arrangements.

Unfortunately, Plasticap is not in a position to make that payment tomorrow, Wednesday, but will be later this week.

Plasticap has executed a term sheet for an equity investment, a portion of which will be applied to pay out all obligations to RBC. A copy of that signed term sheet is attached. The funds to be made available, you will note, will be to retire the RBC operating and term facilities. Closing is expected within 4 weeks.

As for Plasticap's immediate obligation to RBC, another party will be purchasing equity later this week for in excess of the amount required to be paid by Plasticap to RBC and these funds, upon receipt by Plasticap, will be used to meet Plasticap's immediate obligations to RBC under the forbearance arrangements.

Plasticap has made great strides to meet all of its obligations to RBC and also to identify and negotiate a term sheet so that Plasticap's obligations to RBC will be fully satisfied prior to the termination of the forbearance arrangements. In light of the foregoing, we request RBC allow Plasticap a small and brief indulgence to make its payment of \$200,000 to RBC no later than Monday, March 20, 2023.

Please confirm that this is acceptable to RBC.

If you have any questions, please advise.

Thanks, S.

STEPHEN WALTERS, LL.B., LL.M. (Banking), LL.M. (Tax)
P: 905-826-0651 / F: 905-826-3001 / E: sdw@business-law.biz

STEPHEN WALTERS PROFESSIONAL CORPORATION
50 Paxman Road, Unit 11, Toronto ON M9C 1B7

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From: Rachel Moses <RMoses@mindengross.com>
Sent: Thursday, February 16, 2023 5:39 AM
To: Stephen Walters <sdw@business-law.biz>



March 14, 2022

1731861 Ontario Inc.
8600 Keele Street, Unit 11A
Concord ON L4K2N2

Attention: Thomas Lato and Peter Gossmann

RE: Term Sheet

Gentlemen, we are pleased to provide the following Schedule A Term Sheet for your acceptance.

With these types of transactions, closing dates are difficult to forecast, however, we believe that by late April we should be in a position to close this transaction with you.

S J Multi Global Investments Limited and our Private Equity Partners have successfully committed and funded over US\$ 262 million into several companies in United Arab Emirates, Germany, Poland and Canada over the past couple of years.

Our Private Equity Partners have successfully invested in real estate development, carbon capture, mobile network spectrum, and silica mining and processing (for the production of silica wafers – soon to be the largest producer in Europe).

With our support and investment, we believe your QuorMax product could become a game changer for the plastics industry.

Yours truly,

S J Multi Global Investments Limited

Michael Mckie

Michael Mckie – Director (416) 888-9595

mmckie@multiinternational.com

On behalf of 1731861 Ontario Limited, we accept the Schedule A Term Sheet.

Per: 

Thomas Lato

Per: 

Peter Gossmann

SCHEDULE A**TERM SHEET****1731861 ONTARIO INC. (Poly)**

Funding Amount:	\$5.3 Million in the aggregate, additional funding amounts will be provided for expansion without any shareholder dilution, recognized to be \$10 – 15 Million.
Currency:	US dollars.
Use of Funds:	To retire RBC operating and term facility (currently in default); and Working capital.
Ownership:	Current Shareholders (CS) will retain 25% of the equity in Poly, the Parent Company and associated and related companies; and Private Equity Investor Group (PE) will receive 75% of the equity in Poly, the Parent Company and associated and related companies.
Profit Participation:	CS and PE shall be made whole on a pari-passu basis before profit participation; ie CS's shareholder advances/loans and PE investment; All declared profits by the Board of Directors will be distributed annually within 90 days of the year-end after CS and PE have been made whole; and CS and PE will receive a 25/75 split as per their respective shareholdings of the declared profits and payable at their discretion.
Board of Directors:	Parent Company: <ul style="list-style-type: none">▪ At Closing there will be 5 Directors: 2 nominees from CS, and 3 nominees from PE; Board decisions will be made on a majority basis.
Financial Statements:	Audited financial statements prepared within 90 days of year-end with internally-prepared quarterly statements within 15 days of quarter's end and monthly P/L statements prepared within 10 days of month's end.

SCHEDULE A**Conditions of Closing:**

Completion of a satisfactory due diligence investigation of Poly and its legal affairs by PE;

The execution and delivery of definitive documents to include standard disclosure schedules, representations and warranties, in form and substance satisfactory to PE and CS;

The execution of an executive employment or consulting agreements between CS Parent Co. and key members of the executive management team, including Thomas Lato, Peter Gossmann, a CFO (to be named) and any other employee identified by PE;

PE shall appoint the CFO;

The absence of any material change in the business of Poly and related and associated companies; and

Shareholder Agreement(s) shall include standard Arbitration and Indemnification clauses.

Shareholder Agreement between CS and PE, including, but not limited to, the following provisions:

- non-competition and non-solicitation clause for all key personnel;
- none of the PE stakeholders or any of their employees, agent or other representatives shall interfere with the supervision and management of the day-to-day operations of the business provided all metrics are met as set out by management and approved by the Board of Directors;
- the management team reserves the right for the design, engineering, and equipment selection, for any expansion or new facilities and approved by the Board of Directors; and
- the provision that any resolution to increase the fixed number of directors and to elect directors shall require unanimous shareholder approval at the parent company level.

An employee stock option/profit-sharing plan shall be instituted within 1 year of the investment; and

Any funding and/or financial commitments by PE shall only occur after the execution of the shareholders' agreement.

Success Fees:

10% of the Funding Amount PE contributed to Poly and/or associated or related companies shall be payable to PE at the Closing.

SCHEDULE A

Work Fee: Upon acceptance of this Term Sheet by CS, a Work Fee of 1% of the Funding Amount will be paid to PE to cover the cost of due diligence.

Legal Fees: In the event Closing does not occur after execution of the Term Sheet, CS will be required to reimburse PE for legal expenditures relating to this transaction.

No Solicitation or Negotiation: From the execution date of this Term Sheet until Closing, CS will cease and cause to be terminated any discussions or negotiations with and terminate any data room access (or other diligence access) of any person and its affiliates, directors, officers, employees, consultants, agents, representatives and advisors (collectively, "Representatives") relating to this transaction.

Furthermore, CS and their respective directors, executive and other officers will not authorize or direct any of its employees, consultants or other Representatives to, directly or indirectly:

- (i) solicit, initiate, propose or induce the making, submission or announcement of, or knowingly encourage, facilitate or assist, any proposal that constitutes, or is reasonably expected to lead to, an Investment into Poly or its' related or associated companies;
- (ii) furnish to any person any non-public information relating to Poly or afford to any person access to the business, properties, assets, books, records or other non-public information;
- (iii) participate or engage in discussions or negotiations with any Person with respect to an investment, or with respect to any inquiries from third Persons relating to making a potential Investment; and
- (iv) enter into any letter of intent, memorandum of understanding, merger agreement, acquisition agreement or other contract relating to an investment into Poly.

Any breach of this clause by CS will result in a Break Fee charge of \$200,000.00, payable immediately to the PE.

CS shall inform in writing to PE of any Negotiations or Solicitations that have occurred within the last 45 days prior to accepting this Term Sheet.

This is Exhibit "C" referred to
in the Affidavit of Jan Oros
Sworn this 22nd
day of March, 2023.



.....
Rachel Moses (Mar 22, 2023 14:23 EDT)

A Commissioner for Taking Affidavits

Christine Cavarzan

From: Rachel Moses
Sent: Thursday, March 16, 2023 3:23 PM
To: Stephen Walters
Cc: Peter Gossmann; Tom Plasticap; John Kranjc; Oros, Jan
Subject: RE: Plasticap - March Reduction Payment-Letter attached = Reply-Reply = reply

Hi Stephen,

The Bank is very unhappy with the conduct of your clients post the endorsement of Justice Wilton-Siegel (the “**Order**”).

In granting the adjournment of the receivership motion, the Bank bargained for and expects strict compliance with the Order. To date, this has not been the case. The late reporting and now failure to make the March Reduction Payment is concerning to the Bank. In addition, the Bank is concerned with the nature of the information being provided – i.e., the communications we have had today and earlier this week.

In short, the Bank will reluctantly agree to a very short extension to **12:00 p.m. on March 20, 2023** for your clients to make the March Reduction Payment. The March Reduction Payment must be made in accordance with the wire instructions provided. If the \$200,000.00 is coming from Tom, why does the Bank have to wait until Monday? Aren't the funds available now?

Please be advised that the Bank is not prepared to tolerate any further requests for indulgences and expects strict compliance with the terms of the Order, i.e., the reporting requirements and the April Reduction Payment, failing which it will proceed to take out the consent to receivership and consent to judgment.

**RACHEL MOSES**

T: [416.369.4115](tel:416.369.4115) **F:** 416.864.9223 www.mindengross.com

145 King St. West, Suite 2200, Toronto, ON M5H 4G2

Save contact details: [Rachel Moses](#)

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From: Stephen Walters [mailto:sdw@business-law.biz]
Sent: Thursday, March 16, 2023 3:03 PM
To: Rachel Moses <RMoses@mindengross.com>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>; Oros, Jan <jan.oros@rbc.com>
Subject: RE: Plasticap - March Reduction Payment-Letter attached = Reply-Reply = reply

Rachel,

My clients have been investigating a number of sources for funds, and, you can understand given the circumstances, for a variety of purposes.

Because of the restrictions placed on Plasticap by RBC, Plasticap requires working capital. In my discussions with my clients, I confused the efforts they have been making to find additional equity investors to provide

Plasticap with working capital with the funds that Tom will be able to make available for the March Reduction Payment.

They are two different sources of funds. The March Reduction Payment will be coming from Tom and will not be coming from Plasticap. It is a separate source of funds.

Plasticap still requires working capital and is continuing to seek equity investors as evidenced by the term sheet provided.

I don't see how this puts RBC in any worse position, and in fact, I would suggest puts RBC in a better position given the March Reduction Payment soon to be made in compliance with RBC's requirements and because of the term sheet received equity investor.

Thanks, S.

STEPHEN WALTERS, LL.B., LL.M. (Banking), LL.M. (Tax)
P: 905-826-0651 / F: 905-826-3001 / E: sdw@business-law.biz

STEPHEN WALTERS PROFESSIONAL CORPORATION
 50 Paxman Road, Unit 11, Toronto ON M9C 1B7

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From: Rachel Moses <RMoses@mindengross.com>
Sent: Thursday, March 16, 2023 1:50 PM
To: Stephen Walters <sdw@business-law.biz>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>; Oros, Jan <jan.oros@rbc.com>
Subject: RE: Plasticap - March Reduction Payment-Letter attached = Reply-Reply

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Hi Stephen,

The position now taken is inconsistent with what you advised on March 14, 2023 wherein you stated:

“As for Plasticap's immediate obligation to RBC, another party will be purchasing equity later this week for in excess of the amount required to be paid by Plasticap to RBC and these funds, upon receipt by Plasticap, will be used to meet Plasticap's immediate obligations to RBC under the forbearance arrangements.”

The inconsistent positions are concerning to the Bank. The additional “\$50,000.00” to make up the \$250,000.00 March Reduction Payment is not a “penalty”. The funds will be used to reduce the indebtedness owing.


RACHEL MOSES

T: [416.369.4115](tel:416.369.4115) F: 416.864.9223 www.mindengross.com
 145 King St. West, Suite 2200, Toronto, ON M5H 4G2
 Save contact details: [Rachel Moses](#)

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From: Stephen Walters [<mailto:sdw@business-law.biz>]
Sent: Thursday, March 16, 2023 12:26 PM
To: Rachel Moses <RMoses@mindengross.com>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>; Oros, Jan <jan.oros@rbc.com>
Subject: RE: Plasticap - March Reduction Payment-Letter attached = Reply-Reply

Rachel,

Arrangements have been made for the \$200,000 required for the March Reduction Payment. I have spoken with my clients and it is not possible for them to obtain an additional \$50,000, let alone to do so in two days.

We have provided you with a copy of the term sheet for equity financing with its noted intent to retire all obligations to RBC.

My clients have been working diligently to identify and put in place arrangements to satisfy all of the obligations to RBC, both during the forbearance and to fully retire RBC, and those efforts have paid off.

My clients have asked for an indulgence of only two days on the March Reduction Payment; they have not asked for a waiver. With respect, a "penalty" of an additional \$50,000, and on such short notice, is not reasonable.

Please advise how RBC intends to proceed.

Thanks, S.

STEPHEN WALTERS, LL.B., LL.M. (Banking), LL.M. (Tax)
P: 905-826-0651 / F: 905-826-3001 / E: sdw@business-law.biz

STEPHEN WALTERS PROFESSIONAL CORPORATION
 50 Paxman Road, Unit 11, Toronto ON M9C 1B7

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From: Rachel Moses <RMoses@mindengross.com>
Sent: Thursday, March 16, 2023 11:53 AM

To: Stephen Walters <sdw@business-law.biz>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>; Oros, Jan <jan.oros@rbc.com>
Subject: RE: Plasticap - March Reduction Payment-Letter attached = Reply

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Hi Stephen,

The Bank will agree to extend the deadline for making the March Reduction Payment to March 20, 2023 on the terms that the payment is **\$250,000.00**. Please confirm that your clients acknowledge and agree that the March Reduction Payment due yesterday will now be made on **March 20, 2023** and in the amount of **\$250,000.00**. Please confirm before the end of today.



RACHEL MOSES

T: [416.369.4115](tel:416.369.4115) **F:** 416.864.9223 www.mindengross.com
145 King St. West, Suite 2200, Toronto, ON M5H 4G2
Save contact details: [Rachel Moses](#)

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From: Stephen Walters [<mailto:sdw@business-law.biz>]
Sent: Thursday, March 16, 2023 11:41 AM
To: Rachel Moses <RMoses@mindengross.com>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>; Oros, Jan <jan.oros@rbc.com>
Subject: RE: Plasticap - March Reduction Payment-Letter attached = Reply

Rachel,

Please see my comments interspersed below.

Thanks, S.

STEPHEN WALTERS, LL.B., LL.M. (Banking), LL.M. (Tax)
P: 905-826-0651 / F: 905-826-3001 / E: sdw@business-law.biz

STEPHEN WALTERS PROFESSIONAL CORPORATION
50 Paxman Road, Unit 11, Toronto ON M9C 1B7

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From: Rachel Moses <RMoses@mindengross.com>
Sent: Thursday, March 16, 2023 11:31 AM
To: Stephen Walters <sdw@business-law.biz>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>; Oros, Jan <jan.oros@rbc.com>
Subject: FW: Plasticap - March Reduction Payment-Letter attached

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Hi Stephen,

The attached Gift Letter is dated and signed yesterday – just wondering why it was sent to us today and not yesterday?
[SDW Comment: The "gift letter" was a requirement to accompany the March Reduction Payment. I had my clients prepare it in anticipation of delivery.]

We were hoping that, in addition to the "gift letter", we would be able to deliver some other documentary assurances that the monies would be available on or before Monday, March 20, 2023. When we received notice of your deadline of 12 o'clock noon, we realized that we would not be able to obtain documentary assurances prior to that deadline.

We will continue to seek that additional documentary assurance and will provide upon our receipt.]

Can you please clarify:

1. "the source of funds is from contributions made by Tom Lato personal funds from Conway Law" – based on this statement, is Conway Law holding personal funds of Tom Lato?

[SDW Comment: Conway Law is not currently holding funds for the March Reduction Payment or any other funds for Tom. Tom is arranging for the funds. The funds will be deposited into Paul Conway's trust account for transfer to your trust account.]

2. The Gift Letter does not indicate that the \$200,000 March Reduction Payment will be made on or before March 20, 2023.

[SDW Comment: On reviewing your request, it did not indicate that this undertaking was required in the "gift letter". I had sent you an email about this indicating that the funds would be available on or before Monday, March 20, 2023. I'd assumed this would be sufficient.]

I assume that Conway Law is waiting for these funds to hit their trust account before the wire can be initiated to our law firm on or before March 20, 2023?

[SDW Comment: Confirmed.]

If you have any further questions, please let me know.]



RACHEL MOSES

T: [416.369.4115](tel:416.369.4115) F: 416.864.9223 www.mindengross.com

145 King St. West, Suite 2200, Toronto, ON M5H 4G2

Save contact details: [Rachel Moses](#)

MERITAS LAW FIRMS WORLDWIDE

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From: Stephen Walters [<mailto:sdw@business-law.biz>]
Sent: Thursday, March 16, 2023 11:25 AM
To: Rachel Moses <RMoses@mindengross.com>
Cc: Peter Gossmann <pgossmann@plasticap.com>; Tom Plasticap <tlato@plasticap.com>; John Kranjc <jkranjc@regencylawgroup.ca>
Subject: RE: Plasticap - March Reduction Payment-Letter attached

Rachel,

Please find attached the letter re the March Reduction Payment.

Thanks, S.

STEPHEN WALTERS, LL.B., LL.M. (Banking), LL.M. (Tax)
P: 905-826-0651 / F: 905-826-3001 / E: sdw@business-law.biz

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BETWEEN

ROYAL BANK OF CANADA
Plaintiff

-and-

1731861 ONTARIO INC. operating as PLASTICAP, et al.
Defendants
Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

AFFIDAVIT OF JAN OROS

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Toronto, ON M5H 4G2

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rmoses@mindengross.com
Tel: 416-369-4115

Lawyers for Royal Bank of Canada

(File No. 4130784)

B E T W E E N

ROYAL BANK OF CANADA
Plaintiff

-and-

1731861 ONTARIO INC. operating as PLASTICAP, et al.
Defendants

Court File No. CV-22-00691955-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

SUPPLEMENTARY MOTION RECORD

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Lawyers for the Plaintiff, Royal Bank of Canada

(File No. 4130784)