

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

H.M POLYTHENE PRODUCTS LIMITED

Respondent

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## **MOTION RECORD OF THE RECEIVER**

**Returnable November 14, 2023**

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November 7, 2023

**HARRISON PENZA LLP**

Barristers & Solicitors

130 Dufferin Avenue, Suite 1101

London, ON N6A 5R2

**Timothy C. Hogan (LSO #36553S)**

**Melinda Vine (LSO #53612R)**

Tel: 519-679-9660

Fax: 519-667-3362

Email: [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com)

[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

Solicitors for the Receiver,  
msi Spergel inc.

TO **SERVICE LIST**

**SERVICE LIST**

TO: **DEVRY SMITH FRANK LLP**  
Lawyers & Mediators  
95 Barber Greene Rd., Suite 100  
Toronto, ON M3C 3E9

**James Satin (LSO #44025R)**  
Tel: 416-449-1400  
Email: [james.satin@devrylaw.ca](mailto:james.satin@devrylaw.ca)

Lawyers for the Applicant, Royal Bank of Canada

AND

TO: **BROADWATER LLP**  
Barristers. Solicitors & Notaries  
1457 McCowan Road, Suite 204  
Toronto, ON M1S 5K7

**Shahzad Siddiqui (LSO #47934E)**  
Tel: 416-291-6786  
Email: [shahzad@broadwaterllp.ca](mailto:shahzad@broadwaterllp.ca)

Lawyers for the Respondent, H.M Polythene Products Limited

AND

TO: **HARRISON PENZA LLP**  
Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, ON N6A 5R2

**Melinda Vine (LSO #53612R)**  
Tel: 519-661-6705  
Fax: 519-667-3362  
Email: [mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

Lawyers for the Receiver, msi Spergel inc.

AND

TO: **MSI SPERGEL INC.**  
200 Yorkland Blvd., Suite 1100  
Toronto, ON M2J 5C1

**Mukul Manchanda**  
Tel: 416-498-4314  
Fax: 416-498-4314/416-777-7230  
Email: [mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)

Receiver

AND

TO: **CANADA REVENUE AGENCY**  
c/o Department of Justice  
Ontario Regional Office  
120 Adelaide St. W., Suite 400  
Toronto, ON M5H 1T1

Email: [AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca](mailto:AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca)

AND

TO: **HER MAJESTY THE QUEEN IN RIGHT  
OF ONTARIO AS REPRESENTED BY  
THE MINISTRY OF FINANCE**  
Revenue Collections Branch – Insolvency Unit  
33 King Street W., P.O. Box 627  
Oshawa, ON L1H 8H5

Email: [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca)

AND

TO: **AIRD & BERLIS LLP**  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Faruk Gafic (LSO # 55522U)**  
Tel: 416-865-4629  
Email: [fgafic@airdberlis.com](mailto:fgafic@airdberlis.com)

Lawyers for the Landlord

AND

TO: **SALLYPORT COMMERCIAL FINANCE ULC**  
2233 Argentia Road, East Tower, Suite 30  
Mississauga, ON L5N 2X7

AND

TO: **MARYUM REHMAN**  
23 Celeste Drive  
Vaughan, ON L6A 4R4

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# Tab 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

H.M POLYTHENE PRODUCTS LIMITED

Respondent

**NOTICE OF MOTION  
(returnable November 14, 2023)**

msi Spergel inc. ("**Spergel**") in its capacity as Court-appointed receiver (the "**Receiver**") appointed pursuant to the Order of the Honourable Justice Steele dated May 26, 2023 (the "**Appointment Order**") of the Property, as defined in the Appointment Order, of H.M. Polythene Products Limited (the "**Debtor**"), will make a Motion to a Judge presiding over the Commercial List.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard:

- In writing under subrule 37.12.1 (1) because it is on consent;
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

On November 14, 2023 at 10:00 a.m., or as soon after that time as the Motion can be heard by judicial teleconference via Zoom at Toronto, Ontario.

**THE MOTION IS FOR:**

1. An Order (Distribution and Discharge), substantially in the form attached hereto at Schedule “A”, *inter alia*:
  - a. 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 hereby dispensing with further service and confirmation hereof;
  - b. Approving the Receiver’s Second Report to the Court dated November 3, 2023 (the “**Second Report**”) and the activities and conduct of the Receiver as detailed therein, and 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 the approval of the Second Report;
  - c. Unsealing Confidential Appendix “1” to the First Report;
  - d. Approving the fees and disbursements of the Receiver and the Receiver’s Counsel for the period to and including October 31, 2023 and the Fee Accrual (both as detailed in the Second Report), and payment of same;
  - e. Approving the Interim Statement of Receipts and Disbursements as detailed in the Second Report;
  - f. Approving the Proposed Distribution, as detailed in the Second Report and defined herein;
  - g. Discharging Spergel as the Receiver on the filing of the Certificate of Completion as provided for in the Second Report, and releasing the Receiver from liability for its actions while acting in such capacity, save and except for the Receiver’s gross negligence or willful misconduct; and,
2. Such further and other relief as counsel may request and this honourable court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

The Debtor and the Appointment of the Receiver



1. The Debtor is incorporated pursuant to the laws of the Province of Ontario, with its registered office located in Mississauga, Ontario. The Debtor operated from a leased premises located at 7650 Kimbel Street, Unit 18 & 19, Mississauga, Ontario (the “**Leased Premises**”).
2. The Applicant, Royal Bank of Canada (the “**Bank**”), provided certain credit facilities to the Debtor.
3. The Bank is a secured creditor of the Debtor, and the Debtor is indebted to the Bank.
4. On April 12, 2023, the Bank applied for and obtained the Appointment Order, appointing Spergel as court-appointed receiver of the Property (as defined in the Appointment Order) of the Debtor.
5. The Appointment Order was obtained on consent of the Debtor and was held in escrow by Counsel for the Bank on certain terms, including the requirement of the Debtor to make a \$50,000 payment to the Bank by June 2, 2023.
6. The Debtor failed to make the \$50,000 payment to the Bank and Counsel for the Bank released the Appointment Order from escrow on June 2, 2023.

#### The Auction

7. Following the issuance of the Approval and Vesting Order and Endorsement of Justice Centa dated June 15, 2023 (the “**Endorsement**”), the Receiver completed the closing of the Auction Agreement (as defined in the Endorsement) and assisted the Auctioneer in the completion of the auction of the Assets (as defined in the Auction Agreement) to the extent required by the Auction Agreement (the “**Auction**”).

#### Accounts Receivable

8. The Receiver obtained an accounts receivable listing from the Debtor’s accounting server and took steps to realize on the Debtor’s accounts receivable. On the Receiver’s review of the accounts receivable listing and available supporting documents, the receiver determined that a substantial amount of the accounts receivable were aged over 90 days. The Receiver issued to demand letters to all customers listed on the accounts receivable listing; however, given the responses from customers, lack of

supporting documents and aging of the receivables, there was no realization from receivables.

### The Leased Premises

9. The Receiver entered into an occupation license agreement with the landlord at the Leased Premises dated June 14, 2023 to occupy the Leased Premises for the purposes of completing the Auction.

### Proposed Distribution

10. Pursuant to Paragraph 21 of the Appointment Order, the Receiver borrowed funds from the Bank in the principal amount of \$40,000 (the “**Receiver’s Borrowing**”) to fund its disbursements during the Receivership.
11. The Receiver has determined that there are deemed trust claims owing by the Debtor to the Canada Revenue Agency (“**CRA**”) for payroll totalling \$8,085.60 (the “**Payroll Deemed Trust Claim**”) and for Harmonized Sales Tax totalling \$7,154.80 (the “**HST Deemed Trust Claim**”) which give the CRA a priority claim.
12. The Bank holds certain security over the Debtor, including a general security agreement dated March 19, 2020. The Receiver’s Counsel has reviewed the Bank’s security and subject to the usual assumptions and qualifications, has opined that the Bank’s security is validly perfected.
13. As at November 6, 2023, the Debtor is indebted to the bank in the total amount of \$839,209.43 plus accruing fees and interest.
14. Following the Auction, all known assets of the Debtor have been realized on by the Receiver.
15. Therefore, the Receiver intends, with the approval of this Court, to complete the Proposed Distribution (as detailed in the Second Report), following the payment of all Professional Fees and the Fee Accrual (as defined herein), as follows:
  - a. To the Bank for repayment of the Receiver’s Borrowing Charge;

- b. To CRA in the amount of \$8,085.60 with respect to the Payroll Deemed Trust Claim;
- c. To CRA in the amount of \$7,154.80 with respect to the HST Deemed Trust Claim; and,
- d. The balance of all funds available in the Receiver's account less the Fee Accrual to RBC on account of the Debtor's secured indebtedness to the Bank for principal, interests and costs up to the amount of the Debtor's indebtedness to the Bank.

#### Approval of Receiver's Accounts

- 16. The Appointment Order requires the Receiver and its legal counsel to pass its accounts from time to time.
- 17. The Receiver has properly incurred fees and disbursements as detailed in the Second Report.
- 18. The fees incurred by the Receiver for services provided by its legal counsel, Harrison Pensa LLP are detailed in the Second Report.
- 19. The Receiver seeks the approval of the Professional Fees, the Fee Accrual, and payment of same, as defined in the Second Report.
- 20. The Bank, who will suffer a shortfall in these proceedings, supports the Receiver's fees and disbursements.

#### Discharge

- 21. Following the completion of the payment of the Professional Fees and the Settlement Agreement and the filing of a certificate by the Receiver certifying that all outstanding matters to be attended to in connection with the Receivership have been completed to the satisfaction of the Receiver, the Receiver will have completed the administration of the estate of the Debtor, and as such requests its discharge as Receiver.
- 22. Section 243 of the *BIA*.
- 23. Sections 100 and 137(2) of the *Courts of Justice Act*.

24. Rules 2, 3, 37, 38, and 60.10 of the *Rules of Civil Procedure*.

25. The grounds as detailed in the Second Report.

26. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The Appointment Order;
2. The Second Report of the Receiver and the Appendices thereto; and,
3. Such materials as counsel may advise and this Honourable Court may permit.

November 7, 2023

**HARRISON PENZA LLP**

Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, ON N6A 5R2

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

Tel: 519-679-9660

Fax: 519-667-3362

Email: [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com)  
[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

Solicitors for the Receiver,  
msi Spergel inc.

To: Service List

**Schedule "A-1" - Discharge Order (Clean)**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) TUESDAY, THE 14TH  
JUSTICE WILTON-SIEGEL ) DAY OF NOVEMBER, 2023

B E T W E E N:

**ROYAL BANK OF CANADA**

Applicant

- and -

**H.M. POLYTHENE PRODUCTS LIMITED**

Respondent

**DISCHARGE 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 H.M. Polythene Products Limited (the "Debtor"), 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 hereby dispensing with further service and confirmation hereof;
2. Approving the activities and conduct of the Receiver as set out in the Second Report of the Receiver dated November 6, 2023 (the "Second Report") and 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 the approval of the Second Report;

3. Approving the fees of the Receiver and its counsel (the “Professional Fees”) and the Fee Accrual, as defined and detailed in the Second Report, and payment thereof;
4. Approving the Receiver’s Statement of Receipts and Disbursements as of October 31, 2023 as defined and detailed in the Second Report (the “Statement of Receipts and Disbursements”);
5. Approving the Proposed Distribution, as detailed and defined in the Second Report;
6. Unsealing the Confidential Appendix “1” to the First Report;
7. Discharging msi Spergel inc. as Receiver of the undertaking, property and assets of the Debtor on the filing of the Certificate of Completion, as provided for in the Second Report; and
8. releasing msi Spergel inc. from any and all liability, as set out in paragraph 8 of this Order,

was heard this day by way of judicial teleconference via Zoom at the Court House, 330 University Avenue, Toronto, Ontario.

ON READING the Receiver’s Notice of Motion dated November 7, 2023, the Second Report, the affidavits of the Receiver and its counsel as to the Professional Fees (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of Service of Isabelle Stacey sworn November 7, 2023, filed;

1. THIS COURT ORDERS 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 hereby dispensing with further service and confirmation hereof.
2. THIS COURT ORDERS that the activities of the Receiver, as set out in the Second Report, are hereby approved and 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 the approval of the Second Report, as detailed herein.
3. THIS COURT ORDERS that the Professional Fees and the Fee Accrual, as set out in the Report and the Fee Affidavits, and payment thereof, be and are hereby approved.

4. THIS COURT ORDERS that the Statement of Receipts and Disbursements be and is hereby approved.

5. THIS COURT ORDERS that the Confidential Appendix “1” to the First Report is unsealed.

6. THIS COURT ORDERS that, after payment of the Professional Fees herein approved, and subject to the Fee Accrual, the Receiver be and is authorized and directed to make the Proposed Distribution, as detailed and described in the Second Report, as follows:

- (a) To Royal Bank of Canada for the repayment of the Receiver’s Borrowing Charge (as detailed and defined in the Second Report) in the amount of \$40,000 plus interest thereon;
- (b) To Canada Revenue Agency in the amount of \$8,085.60 with respect to the Payroll Deemed Trust Claim (as detailed and defined in the Second Report);
- (c) To Canada Revenue Agency in the amount of \$7,154.80 with respect to the HST Deemed Trust Claim (as detailed and defined in the Second Report); and,
- (d) The balance of all funds available in the Receiver’s account less the Fee Accrual to Royal Bank of Canada on account of the Debtor’s secured indebtedness to the Bank for principal, interests and costs up to the amount of the Debtor’s indebtedness to the Bank.

7. THIS COURT ORDERS that upon payment of the amounts set out in paragraphs 3 and 6 hereof and upon the Receiver filing The Certificate of Completion as provided for in the Second Report certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of msi Spergel inc. in its capacity as Receiver.

8. THIS COURT ORDERS AND DECLARES that msi Spergel inc. is hereby released and discharged from any and all liability that msi Spergel inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of msi Spergel inc. while acting in its capacity



as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, msi Spergel inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

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Justice, Ontario Superior Court of Justice (Commercial List)

ROYAL BANK OF CANADA

v.

H.M POLYTHENE PRODUCTS LIMITED

Applicant

Respondent

Court File No. CV-23-00697106-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO, ONTARIO

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**ORDER**

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**HARRISON PENZA** <sup>LLP</sup>  
Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, Ontario N6A 5R2

**Melinda Vine (LSO #53612R)**

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

Lawyers for the Receiver,  
msi Spergel inc.

**Schedule "A-2" - Discharge Order (Blacklined)**

Revised: May 11, 2010

Court File No. ~~CV-23-00697106-00CL~~

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) ~~WEEKDAY~~TUESDAY, THE #14TH  
JUSTICE ~~WILTON-SIEGEL~~ ) DAY OF ~~MONTH~~NOVEMBER,  
20YR2023

BETWEEN:

~~PLAINTIFF~~ ROYAL BANK OF CANADA

Plaintiff Applicant

- and -

~~DEFENDANT~~ H.M. POLYTHENE PRODUCTS LIMITED

Defendant Respondent

DISCHARGE ORDER

THIS MOTION, made by ~~{RECEIVER'S NAME}~~msi Spergel inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of ~~{DEBTOR}~~H.M. Polythene Products Limited (the "Debtor"), 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 hereby dispensing with further service and confirmation hereof;

2. Approving the activities and conduct of the Receiver as set out in the ~~Second R~~report of the Receiver dated ~~{DATE}~~November 6, 2023 (the "~~Second~~ Report") and 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 the approval of the ~~Second~~ Report;

~~3. Approving the fees of the Receiver and its counsel (the "Professional Fees") and the Fee Accrual, as defined and detailed in the Second Report, and payment thereof; disbursements of the Receiver and its counsel;~~

~~2-4. Approving the Receiver's Statement of Receipts and Disbursements as of October 31, 2023 as defined and detailed in the Second Report (the "Statement of Receipts and Disbursements");~~

~~5. Approving the Proposed Distribution, as detailed and defined in the Second Report of the remaining proceeds available in the estate of the Debtor; [and]~~

~~3-6. Unsealing the Confidential Appendix "1" to the First Report;~~

~~4-7. Discharging [RECEIVER'S NAME]msi Spergel inc. as Receiver of the undertaking, property and assets of the Debtor on the filing of the Certificate of Completion, as provided for in the Second Report; and~~

~~5-8. releasing [RECEIVER'S NAME]msi Spergel inc. from any and all liability, as set out in paragraph 85 of this Order<sup>1</sup>,~~

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was heard this day by way of judicial teleconference via Zoom at the Court House, 330 University Avenue, Toronto, Ontario.

ON READING the Receiver's Notice of Motion dated November 7~~3~~, 2023, the Second Report, the affidavits of the Receiver and its counsel as to the Professional Fees (the "Fee Affidavits"), and on hearing the submissions of counsel for the Receiver, no one else appearing although served as evidenced by the Affidavit of [NAME]Service of Isabelle Stacey sworn November 7, 2023[DATE], filed<sup>2</sup>;

1. THIS COURT ORDERS 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 hereby dispensing with further service and confirmation hereof.

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<sup>1</sup> If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.

<sup>2</sup> This model order assumes that the time for service does not need to be abridged.

~~6-2.~~ THIS COURT ORDERS that the activities of the Receiver, as set out in the Second Report, are hereby approved and 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 the approval of the Second Report, as detailed herein.

~~3.~~ THIS COURT ORDERS that the Professional Fees and the Fee Accrual disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, and payment thereof, be and are hereby approved.

~~4.~~ THIS COURT ORDERS that the Statement of Receipts and Disbursements be and is hereby approved.

~~7-5.~~ THIS COURT ORDERS that the Confidential Appendix "1" to the First Report is unsealed.

~~6.~~ THIS COURT ORDERS that, after payment of the Professional Fees and disbursements herein approved, and subject to the Fee Accrual, the Receiver be and is authorized and directed to make the Proposed Distribution, as detailed and described in the Second Report, as follows; shall pay the monies remaining in its hands to [NAME OF PARTY]<sup>3</sup>.

(a) To Royal Bank of Canada for the repayment of the Receiver's Borrowing Charge (as detailed and defined in the Second Report) in the amount of \$40,000 plus interest thereon;

(b) To Canada Revenue Agency in the amount of \$8,085.60 with respect to the Payroll Deemed Trust Claim (as detailed and defined in the Second Report);

(c) To Canada Revenue Agency in the amount of \$7,154.80 with respect to the HST Deemed Trust Claim (as detailed and defined in the Second Report); and,

~~8-(d)~~ The balance of all funds available in the Receiver's account less the Fee Accrual to Royal Bank of Canada on account of the Debtor's secured indebtedness to the Bank for principal, interests and costs up to the amount of the Debtor's indebtedness to the Bank.

~~9-7.~~ THIS COURT ORDERS that upon payment of the amounts set out in paragraphs ~~3 and 6~~ hereof ~~and upon the Receiver filing The Certificate of Completion as provided for in the Second~~

<sup>3</sup>This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.

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Report certifying that it has completed the other activities described in the Report<sup>4</sup>, the Receiver shall be discharged as Receiver of the undertaking, property and assets of the Debtor, provided however that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of [RECEIVER'S NAME]msi Spergel inc. in its capacity as Receiver.

~~10.8. THIS COURT ORDERS AND DECLARES that [RECEIVER'S NAME]msi Spergel inc.~~ is hereby released and discharged from any and all liability that [RECEIVER'S NAME]msi Spergel inc. now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of [RECEIVER'S NAME]msi Spergel inc. while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, [RECEIVER'S NAME]msi Spergel inc. is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.<sup>4</sup>

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Justice, Ontario Superior Court of Justice (Commercial List)

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<sup>4</sup>The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.

ROYAL BANK OF CANADA

v.

H.M POLYTHENE PRODUCTS LIMITED

Applicant

Respondent

Court File No. CV-23-00697106-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO, ONTARIO

---

**ORDER**

---

**HARRISON PENZA** <sup>LLP</sup>  
Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, Ontario N6A 5R2

**Melinda Vine (LSO #53612R)**

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

Lawyers for the Receiver,  
msi Spergel inc.



ROYAL BANK OF CANADA

v.

H.M POLYTHENE PRODUCTS LIMITED

Applicant

Respondent

Court File No. CV-23-00697106-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO, ONTARIO

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**NOTICE OF MOTION**

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**HARRISON PENZA** <sup>LLP</sup>  
Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, Ontario N6A 5R2

**Melinda Vine (LSO #53612R)**

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

Lawyers for the Receiver,  
msi Spergel inc.

# Tab 2

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

**B E T W E E N:**

**ROYAL BANK OF CANADA**

**Applicant**

**and**

**H.M POLYTHENE PRODUCTS LIMITED**

**Respondent**

**SECOND REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF  
H.M POLYTHENE PRODUCTS LIMITED**

**NOVEMBER 6, 2023**

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## APPENDICES

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## I. APPOINTMENT AND BACKGROUND

1. This report (this “**Second Report**”) is filed by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of H.M Polythene Products Limited (“**HM**” or the “**Company**”).
2. HM is a Canadian owned, private corporation incorporated pursuant to the laws of the Province of Ontario. The Company was in the business of manufacturing and supplying plastic bags. The Company operated from a leased premises located at 7650 Kimbel Street, Unit 18 & 19, Mississauga, Ontario (the “**Leased Premises**”). Desjardins Financial Security Life Assurance Company is the landlord of the Leased Premises (the “**Landlord**”).
3. Spergel was appointed as the Receiver of all the assets, undertakings and properties of the Company (collectively, the “**Property**”) by Order of the Honourable Madam Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made May 26, 2023 (the “**Receivership Order**”). The Receivership Order was made upon the application of the Company’s general secured creditor, Royal Bank of Canada (“**RBC**” or the “**Bank**”). Attached as **Appendix “1”** to this Second Report is a copy of the Receivership Order.
4. The Receivership Order was obtained on consent of the Company and was held in escrow by Devry Smith Frank LLP (“**RBC’s Counsel**”) based on the following terms:

- a) HM would make a \$50,000 payment by June 2, 2023 at noon, by bank draft or certified cheque to RBC's Counsel;
- b) HM would, by June 23, 2023 at noon, provide RBC's Counsel with a signed commitment letter from a known lender, acceptable to RBC, which confirms that the lender will advance funds to HM, in excess of the amount owing to RBC, such that RBC will be paid in full by July 25, 2023 at noon;
- c) HM would pay RBC the balance owing to it, inclusive of costs and interest by July 25, 2023 at noon (the "**Payout Date**");
- d) The Company and the guarantors shall indemnify RBC for any and all fees (including, but not limited to, legal fees), bank account charges, obligations under this arrangement, service charges, account overdrafts, and chargebacks for any cheques, drafts and other payment items dishonoured or otherwise returned to the Bank with respect to the administration and closing of the Company's credit facilities and accounts arising after the Payout Date (all such fees, overdrafts, services charges and chargebacks being hereinafter referred to, collectively as the "**Chargebacks**") and promises to pay to the Bank the amount of any Chargebacks incurred as soon as possible after the Bank notifies the Company of the same;
- e) The Company and the guarantors agree that they shall pay, on a joint and several basis, all outstanding Chargebacks in full, on demand, including but not limited to:

- i. any Chargebacks; and
  - ii. any other amounts, if any, owing by the Company and the guarantors to the Bank following the Payout Date, including without limitation, any Priority Payables (as defined below).
- f) Upon receipt by the Bank of payment in full, instructions shall be given by the Bank immediately to cancel all credit facilities;
- g) HM shall provide written proof that its *Harmonized Sales Tax* (“**HST**”) liability and payroll source deductions liability are paid to nil as of July 25, 2023 (collectively, the “**Priority Payables**”) by providing a printout of the relevant webpages from the CRA website (the “**Priority Payables Condition**”);
- h) Upon receipt by the Bank of payment in full and upon satisfaction of the Priority Payables Condition, then (and only then):
- i. the Bank will release, discharge and terminate all security interests, guarantees, assignments and any rights relating to the security interests, guarantees; and
  - ii. the Bank will agree to, at the Company’s and the guarantors expense, register discharges of all the security granted to the Bank by HM under the *Personal Property Security Act (Ontario)*.
- i) In the event that HM defaults on any of the above noted terms, RBC may immediately enforce the Receivership Order without further notice.

Attached as **Appendix “2”** to this Second Report is a copy of the email received from RBC’s counsel providing the above terms.

5. On June 2, 2023, the Company was unable to make the \$50,000 payment to RBC and RBC released the Receivership Order from escrow on the same day.
6. The Receiver retained Harrison Pensa LLP (the “**Receiver’s Counsel**”) as its independent legal counsel.
7. On June 15, 2023, the Receiver moved before the Court by way of motion for an Order approving, amongst other things, the auction services agreement dated June 15, 2023 entered into between the Receiver and Platinum Asset Services Inc. (the “**Auctioneer**”) with respect to certain Property of the Company (the “**Auction Agreement**”) and authorizing the Auctioneer to conduct a public auction (and, if applicable, re-auction) as referenced in, and in accordance with the terms of the Auction Agreement (the “**Auction**”).
8. Pursuant to the Order of the Honourable Justice Centa dated June 15, 2023 (the “**Approval and Vesting Order**”), the Court approved the relief sought by the Receiver with respect to the Auction, including, vesting in each purchaser at the Auction, the Company’s right, title and interest in and to the Property purchased by such respective purchaser at the Auction free and clear of all liens, charges and security interest and other encumbrances. Attached as **Appendix “3”** to this Second Report is a copy of the Approval and Vesting Order.



9. Pursuant to the Order of Honourable Justice Centa dated June 15, 2023 (the “**Ancillary Order**”), the Court approved the ancillary relief sought by the Receiver, including approval of the First Report of the Receiver dated June 12, 2023 (the “**First Report**”) and the activities and conduct of the Receiver as detailed therein. Attached as **Appendix “4”** to this Second Report is a copy of the Ancillary Order.
10. The Auction was completed with a full accounting and payment of proceeds provided to the Receiver.

## **II. PURPOSE OF THIS SECOND REPORT AND DISCLAIMER**

11. The purpose of this Second Report is to advise the Court as to the steps taken by the Receiver in these proceedings since its First Report and to seek Orders from this Court, including
  - a) approving this Second Report and the actions and activities of the Receiver described herein;
  - b) unsealing the Confidential Appendix “1” to the First Report;
  - c) approving the fees and disbursements of the Receiver for the period to and including October 31, 2023;
  - d) approving the fees and disbursements of the Receiver’s Counsel for the period to and including November 3, 2023;
  - e) approving the Fee Accrual;

- f) approving the Receiver's interim receipts and disbursements as at November 3, 2023;
- g) authorizing and directing the Receiver to make the distributions proposed in this Second Report; and
- h) effective upon filing of a certificate by the Receiver certifying that all outstanding matters to be attended to in connection with the receivership of the Company has been completed to the satisfaction of the Receiver, discharging Spergel as the Receiver and granting certain ancillary relief in relation thereto.

*Disclaimer*

- 12. 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.
- 13. 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.

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

### **III. ACTIONS OF THE RECEIVER SINCE THE FIRST REPORT**

15. Following the issuance of the Approval and Vesting Order, the Receiver completed the closing of the Auction Agreement. The Receiver assisted the Auctioneer in completing the auction of the Assets (as defined in the Auction Agreement) to the extent required by the Auction Agreement.

#### ***Accounts Receivable***

16. The Receiver extracted an accounts receivable listing from the Company's accounting server and took steps to realize on the Company's outstanding accounts receivable. The accounts receivable listing as at the date of the Receivership Order indicated a balance of \$172,431.18 with respect to outstanding accounts receivable. A review of the accounts receivable listing and the available supporting documents indicated that substantially all of the outstanding accounts receivable were aged well over 90 days. Demand letters were sent to all customers listed on the accounts receivable listing and various customers contacted the Receiver and advised that no amounts were outstanding to the Company. Given the comments from the customers, unavailability of any tangible supporting documents and aging of the receivables, there was no realization from receivables.

### ***The Leased Premises***

17. The Receiver entered into an occupation license agreement with the Landlord dated June 14, 2023 (the “**Occupation Agreement**”) to occupy the Leased Premises for the purposes of completing the Auction. Attached as **Appendix “5”** is a copy of the Occupation Agreement.

#### **IV. FEES AND DISBURSEMENTS OF THE RECEIVER**

18. Attached hereto as **Appendix “6”** is the Affidavit of Mukul Manchanda, sworn November 6, 2023, which incorporates by reference a copy of the Receiver’s time dockets pertaining to the Company for the period to and including October 31, 2023 in the amount of \$41,973.48 (inclusive of disbursements and HST). This represents a total of 95.60 hours at an average rate of \$388.14 per hour for the Company.

#### **V. FEES AND DISBURSEMENTS OF THE RECEIVER’S COUNSEL**

19. Attached hereto as **Appendix “7”** is the Affidavit of Jason DiFruscia sworn November 6, 2023, which incorporates by reference a copy of the accounts rendered by the Receiver’s Counsel for the period to and including November 3, 2023 in the amount of \$16,067.72 (inclusive of disbursements and HST).
20. The Receiver has reviewed the accounts of Receiver’s Counsel and given the Receiver’s involvement in this matter, the Receiver is of the view that all the work set out in the accounts of the Receiver’s Counsel was carried out and was necessary. The hourly rates of the lawyers who worked on this matter were

reasonable in light of the services required, and the services were carried out by lawyers with the appropriate level of experience.

**VI. RECEIVER'S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

21. Attached hereto as **Appendix "8"** is a copy of the Receiver's Interim Statement of Receipts and Disbursements as at November 3, 2023.

**VII. FEE ACCRUAL**

22. Provided there is no opposition to the relief sought in this Second Report and that such relief is granted, the Receiver estimates that the additional fees and disbursements for itself and the Receiver's Counsel necessary to complete the proceedings will be \$20,000 not including disbursements and HST (collectively, the "**Fee Accrual**").

**VIII. PROPOSED DISTRIBUTION**

***Receiver's Certificate***

23. Pursuant to paragraph 21 of the Receivership Order, the Receiver borrowed monies from RBC in the principal amount of \$40,000 (the "**Borrowings**") to fund its activities in these proceedings.
24. Pursuant to paragraphs 21 and 23 of the Receivership Order, the issuance of the Receiver's Certificate has the effect of creating a charge on the Property, 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 statutory interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (as defined in the Receivership Order), but subordinated to the Receiver's Charge, and the charges set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

### ***Canada Revenue Agency***

25. Canada Revenue Agency ("**CRA**") conducted a trust exam of the Company's payroll account and the Harmonized Sales Tax ("**HST**") account and filed deemed trust claims in the amounts of \$8,085.60 (the "**Payroll Deemed Trust Claim**") and \$7,154.80 (the "**HST Deemed Trust Claim**"), respectively. Attached as **Appendix "9"** to this Second Report are copies of the Payroll Deemed Trust Claim and the HST Deemed Trust Claim.

### ***RBC***

26. RBC holds certain security over the Company, including, amongst others, general security agreement dated March 19, 2020 ("**RBC's Security**").
27. The Receiver's Counsel has reviewed RBC's Security, and, subject to the usual assumptions and qualifications of an opinion of such nature, has opined that RBC's Security is validly perfected and enforceable in accordance with its terms (the "**Security Opinion**").
28. On November 6, 2023 RBC provided details of the amounts due by the Company to RBC, including legal expenses, which together total \$839,209.43 (plus further amounts for the continued accrual of interest and recovery expenses).

29. Accordingly, the Receiver is proposing to make a distribution (after payment of the fees and disbursements of the Receiver and the Receiver's Counsel, including the holdback of the Fee Accrual, as outlined in this Second Report) as follows:
- a) to RBC for repayment of the Receiver's Borrowing Charge;
  - b) to Canada Revenue Agency in the amount of \$8,085.60 with respect to the Payroll Deemed Trust Claim;
  - c) to Canada Revenue Agency in the amount of \$7,154.80 with respect to the HST Deemed Trust Claim; and
  - d) balance of all funds available in the Receiver's account to RBC on account of the Company's secured indebtedness to RBC for principal, interest and costs up to the amount of the Company's indebtedness to RBC.

**IX. DISCHARGE OF THE RECEIVER**

30. Subsequent to the date of this Second Report, and prior to the Receiver's discharge, the Receiver proposes to attend to the following:
- a) the payment of distributions as identified above;
  - b) other residual and/or administrative matters in connection with Spergel's appointment as Receiver; and
  - c) filing of the final Receiver's certificate of discharge.

**X. RECOMMENDATIONS**

31. The Receiver respectfully requests that this Honourable Court grant the relief sought in this Second Report.

All of which is respectfully submitted.

Dated at Toronto, this 6<sup>th</sup> day of November 2023

**msi Spergel inc.,**  
solely in its capacity as Court-appointed  
Receiver of H.M Polythene Products Limited  
and not in any corporate or personal capacities

Per:



---

Mukul Manchanda, CPA, CIRP, LIT



## APPENDIX 1

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

THE HONOURABLE Mme. ) FRIDAY, THE 26th  
 )  
JUSTICE STEELE ) DAY OF MAY, 2023  
 )

**ROYAL BANK OF CANADA**

Applicant

- and -

**H.M POLYTHENE PRODUCTS LIMITED**

Respondent

**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 [and manager] (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of H.M Polythene Products Limited (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 Michael Foster sworn April 11, 2023 and the Exhibits thereto and on being advised of the consent of the parties,

## 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 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,

without the approval of this Court in respect of any transaction not exceeding \$25,000.00, provided that the aggregate consideration for all such transactions does not exceed \$100,000.00; and

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;
- (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, 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 \$100,000.00 (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.



Digitally signed by  
Jana Steele  
Date: 2023.05.26  
12:20:32 -04'00'

---

**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 H.M Polythene Products Limited 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 \_\_\_-CL-\_\_\_\_\_, 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.

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:



## APPENDIX 2

## Mukul Manchanda

---

**From:** James Satin <James.Satin@devrylaw.ca>  
**Sent:** June 2, 2023 2:09 PM  
**To:** Mukul Manchanda  
**Cc:** Melinda Vine (mvine@harrisonpensa.com)  
**Subject:** RE: HM Polythene

Here are the terms on which we settled. See #2 and #11:

1. Polythene will consent to the Receivership. You will attend on-line tomorrow (as will I) to confirm this to the Judge. The Order will be signed tomorrow, and I will hold it in escrow pending any default on the terms below;
2. Polythene will make a \$50,000 payment **by June 2, 2023 at noon**, by bank draft or certified cheque, payable to Devry Smith Frank LLP, in trust. That is to be delivered to me;
3. This term has been deleted.
4. Polythene will, **by June 23, 2023 at noon**, provide me with a signed commitment letter from a known lender, acceptable to RBC, which confirms that the lender will advance funds to Polythene, in excess of the amount owing to RBC, such that RBC will be paid in full **by July 25, 2023 at noon**;
5. Polythene will pay RBC the balance owing to it, inclusive of costs and interest **by July 25, 2023 at noon**;
6. Each of the defendants shall indemnify RBC for any and all fees (including, but not limited to, legal fees), bank account charges, obligations under this letter, service charges, account overdrafts, and chargebacks for any cheques, drafts and other payment items dishonoured or otherwise returned to the Bank with respect to the administration and closing of the Debtors' credit facilities and accounts arising after the Payout Date (all such fees, overdrafts, service charges and chargebacks being hereinafter referred to, collectively, as "**Chargebacks**") and promises to pay to the Bank the amount of any Chargebacks incurred as soon as possible after the Bank notifies any of the Debtors of the same.
7. Each of the Debtors agrees that it shall pay, on a joint and several basis, all outstanding Chargebacks in full, on demand, including but not limited to:

any Chargebacks; and

any other amounts, if any, owing by the Debtors to the Bank following the Payout Date, including, without limitation, any Priority Payables (as defined below).

8. Upon receipt by the Bank of payment in full, instructions shall be given by the Bank immediately to cancel all the credit facilities;
9. Polythene shall provide written proof that HST and payroll deductions are paid to \$0.00 as of July 25, 2023 by providing a printout of the relevant webpages from the CRA website ("the Priority Payables Condition");
10. Upon receipt by the Bank of payment in full and upon satisfaction of the Priority Payables Condition, then (and only then):

The Bank releases, discharges, and terminates all security interests, guarantees, assignments and any rights relating to the security interests, guarantees; and

- (b) The Bank agrees to, at the defendants' cost, register discharges of all the Security granted to it by Polythene under the *Personal Property Security Act* (Ontario)

11. In the event that Polythene defaults on any of the above noted terms, RBC may immediately enforce the Receivership Order without further notice;

Regards,

**James Satin**

Partner

Phone/Fax: 416-446-5820

100-95 Barber Greene Road, Toronto, Ontario, M3C 3E9

E-mail: [james.satin@devrylaw.ca](mailto:james.satin@devrylaw.ca)

[Vcard](#) | [LinkedIn](#) | [Bio](#)

**Devry Smith Frank LLP**

Lawyers & Mediators

[Toronto](#) | [Barrie](#) | [Whitby](#)

[Independent Member of GGI](#)

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---

**From:** Mukul Manchanda <[mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)>

**Sent:** Friday, June 2, 2023 2:05 PM

**To:** James Satin <[James.Satin@devrylaw.ca](mailto:James.Satin@devrylaw.ca)>

**Cc:** Melinda Vine ([mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)) <[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)>

**Subject:** RE: HM Polythene

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Thanks James,

Where is the arrangement documented that upon default of payment the Order will be taken out of escrow?

**Mukul Manchanda, CPA, CIRP, LIT | Managing Partner**

**Corporate Restructuring & Insolvency**

msi Spergel inc. | Licensed Insolvency Trustees

200 Yorkland Blvd., Suite 1100, Toronto, ON., M2J 5C1

T: 416-498-4314 | F: 416-498-4314

[mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca) | [www.spergelcorporate.ca](http://www.spergelcorporate.ca)

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**From:** James Satin <[James.Satin@devrylaw.ca](mailto:James.Satin@devrylaw.ca)>  
**Sent:** Friday, June 2, 2023 2:03 PM  
**To:** Mukul Manchanda <[mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)>  
**Cc:** Melinda Vine ([mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)) <[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)>  
**Subject:** RE: HM Polythene

Attached.

Regards,

**James Satin**

Partner  
Phone/Fax: 416-446-5820  
100-95 Barber Greene Road, Toronto, Ontario, M3C 3E9  
E-mail: [james.satin@devrylaw.ca](mailto:james.satin@devrylaw.ca)  
[Vcard](#) | [LinkedIn](#) | [Bio](#)

**Devry Smith Frank LLP**  
Lawyers & Mediators  
[Toronto](#) | [Barrie](#) | [Whitby](#)

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**From:** Mukul Manchanda <[mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)>  
**Sent:** Friday, June 2, 2023 2:01 PM  
**To:** James Satin <[James.Satin@devrylaw.ca](mailto:James.Satin@devrylaw.ca)>  
**Cc:** Melinda Vine ([mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)) <[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)>  
**Subject:** RE: HM Polythene

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---

Hi James,

Was there an endorsement issued by Justice Steele? Can you send us a copy?

**Mukul Manchanda, CPA, CIRP, LIT | Managing Partner**  
**Corporate Restructuring & Insolvency**  
msi Spergel inc. | Licensed Insolvency Trustees  
200 Yorkland Blvd., Suite 1100, Toronto, ON., M2J 5C1  
T: 416-498-4314 | F: 416-498-4314  
[mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca) | [www.spergelcorporate.ca](http://www.spergelcorporate.ca)  
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**From:** James Satin <[James.Satin@devrylaw.ca](mailto:James.Satin@devrylaw.ca)>  
**Sent:** Friday, June 2, 2023 1:58 PM  
**To:** Shahzad Siddiqui <[shahzad@broadwaterllp.ca](mailto:shahzad@broadwaterllp.ca)>  
**Cc:** Mukul Manchanda <[mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)>; Melinda Vine ([mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)) <[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)>  
**Subject:** HM Polythene

Hi Shahzad,

Your client failed to make the first payment required under the terms of settlement. As such, the receiver (copied) here and his counsel (also copied here) will be in touch to arrange next steps.

Regards,

**James Satin**

Partner  
Phone/Fax: 416-446-5820  
100-95 Barber Greene Road, Toronto, Ontario, M3C 3E9  
E-mail: [james.satin@devrylaw.ca](mailto:james.satin@devrylaw.ca)  
[Vcard](#) | [LinkedIn](#) | [Bio](#)

**Devry Smith Frank LLP**  
Lawyers & Mediators  
[Toronto](#) | [Barrie](#) | [Whitby](#)

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## APPENDIX 3

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

THE HONOURABLE	)	THURSDAY, THE 15TH
	)	
JUSTICE ROBERT CENTA	)	DAY OF JUNE, 2023

B E T W E E N:

**ROYAL BANK OF CANADA**

Applicant

- and -

**H.M POLYTHENE PRODUCTS LIMITED**

Respondent

**APPROVAL AND VESTING 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 H.M Polythene Products Limited (the "Debtor") for an order approving the sale by auction (the "Auction") contemplated by an Auction Agreement (the "Auction Agreement") between the Receiver and Platinum Asset Services Inc. (the "Auctioneer") to be executed and appended to the First Report of the Receiver dated June 12, 2023 (the "First Report"), and vesting in the purchasers at the Auction (the "Purchasers") the Debtor's right, title and interest in and to the assets described in the Auction Agreement (the "Auction Assets"), was heard this day by judicial teleconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion dated June 12, 2023, the First Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lindsay Ferguson sworn June 12, 2023 filed:

1. THIS COURT ORDERS AND DECLARES that the Auction is hereby approved, and the execution of the Auction Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and

execute such additional documents as may be necessary or desirable for the completion of the Auction and for the conveyance of the Auction Assets to the respective Purchasers.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a receipt for payment in full by the Auctioneer to each of the respective Purchasers, all of the Debtor's right, title and interest in and to each of the Auction Assets so purchased shall vest absolutely in the respective Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Steele dated May 26, 2023; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "Encumbrances") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Auction Assets are hereby expunged and discharged as against the Auction Assets.

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Auction Assets shall stand in the place and stead of the Auction Assets, and that following the completion of the Auction, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Auction Assets with the same priority as they had with respect to the Auction Assets immediately prior to the sale, as if the Auction Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Auction Assets in the respective Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act*



(Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

5. 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.

**Robert  
Centa**

Digitally signed by  
Robert Centa  
Date: 2023.06.15 10:50:25  
-04'00'

---

## APPENDIX 4

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) THURSDAY, THE 15TH  
 )  
JUSTICE ROBERT CENTA ) DAY OF JUNE, 2023  
 )

B E T W E E N:

**ROYAL BANK OF CANADA**

Applicant

- and -

**H.M POLYTHENE PRODUCTS LIMITED**

Respondent

**ANCILLARY 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 H.M. Polythene Products Limited, appointed pursuant to the Order of the Honourable Justice Steele dated May 26, 2023, 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 12, 2023 (the “First Report”) and the activities and conduct of the Receiver as detailed therein;
3. Sealing the Confidential Appendix to the First Report (the “Confidential Appendix”) until the completion of the Auction (as defined in the First Report), or until further Order of this Court;
4. 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 12, 2023, the First Report, and on hearing the submissions of counsel for the Receiver and all other counsel and parties present, no one else appearing for any other person on the service list, although 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 Confidential Appendix be and is sealed until the completion of the Auction, the completion of the sale of the Assets, or until further Order of this Court.

**Robert  
Centa**

Digitally signed by  
Robert Centa  
Date: 2023.06.15  
10:51:40 -04'00'

Justice, Ontario Superior Court of Justice  
(Commercial List)

## APPENDIX 5

THIS OCCUPATION LICENSE AGREEMENT made as of the \_\_\_<sup>th</sup> day of June, 2023.

**BETWEEN:**

**msi Spergel Inc. solely in its capacity as court appointed receiver of H.M. Polythene Products Limited. (“H.M.”) and not in any other capacity**

**Attn: Mukul Manchanda  
E-Mail: mmanchanda@spergel.ca  
Telephone: 416-498-4314**

**(hereinafter called “Spergel” or the “Receiver”)**

**OF THE FIRST PART**

**- and -**

**Desjardins Financial Security Life Assurance Company**

**Attn: David Court  
E-Mail: dcourt@ahern.ca  
Telephone: 416-618-5439**

**(hereinafter called the "Landlord")**

**OF THE SECOND PART**

WHEREAS on or about May 26, 2023, the Royal Bank of Canada obtained an Order of the Honorable Justice Steele appointing Spergel as court appointed receiver of all of the assets, undertakings and properties of H.M (the “**Appointment Order**”). The Appointment Order was held in escrow pursuant to the terms of an endorsement of Honorable Justice Steel. The Appointment Order ultimately became effective on June 2, 2023;

AND WHEREAS the Landlord is the owner of real property municipally known as 7650 Kimbel St. Mississauga, ON (the “**Property**”) of which units 18 and 19 are leased by H,M (the “**Premises**”);

AND WHEREAS the Landlord and H.M are parties to a Lease Revival, Amending and Surrender Agreement dated February 27, 2023<sup>1</sup> (collectively the “**Lease**”), for a lease term, as extended, which expired on and including April 30, 2023 (the “**Expiry Date**”);

---

<sup>1</sup> Which references and incorporates the Original Lease dated December 11, 2013, Lease Amending Agreement dated July 27, 2010 and Second Amending Agreement dated November 11, 2020

AND WHEREAS, the Landlord and H.M verbally agreed that H.M would be permitted to remain in occupancy upon the same terms and conditions to and including June 19, 2023;

AND WHEREAS, the Receiver, intends to have an onsite auction from the Premises (the “**Auction**”) to sell the assets of H.M (the “**Assets**”), but for clarity, the parties acknowledge and agree that the Assets specifically exclude the Leasehold Improvements (as defined in the Lease) which became the Landlord’s property upon installation;

AND WHEREAS the Landlord and the Receiver have agreed to permit the completion of the Auction at the Premise subject to the terms of this Agreement;

AND WHEREAS the Landlord and Receiver have agreed to the following terms:

ARTICLE 1 – ACCESS BY RECEIVER – TERM AND COSTS

Term

- 1.1. The Landlord hereby grants a non-exclusive license to the Receiver and their agents (the Receiver when referred to hereinafter shall include the Receiver’s agents) to access the Premises only through rear entrance, commencing upon the later of: (i) full execution of this Agreement and (ii) delivery by the Receiver of the insurance certificate contemplated herein and expiring no later than June 30, 2023 (the “**Term**”), solely for the purpose of conducting the Auction and removal of the Assets from the Premises, and not for any other purpose. For clarity, no access shall be granted through the front entrance. This is a license only and nothing in this Agreement shall be construed as creating a "landlord" and "tenant" relationship. In conducting any such sale or removal, the Receiver and their agents shall not disrupt or interfere with the business operations of other tenants in the Property or its or their customers or invitees. The Receiver can terminate this license of the Premises and vacate same on five (5) Business Days<sup>2</sup> written notice to Landlord. The Receiver and its agents shall comply with all applicable laws in accessing and using the Premises.
- 1.2. The Receiver will deliver vacant possession of the Premises and return occupancy to the Landlord as soon as practically possible following the Auction, but in any event not later than June 30, 2023. For clarity, the Receiver acknowledges and agrees that the Landlord has entered into a separate agreement with a third party of occupancy of the Premises following the expiry of the Term, and there will be no extension of the occupancy period following June 30, 2023.
- 1.3. The Landlord hereby agrees to provide to the Receiver serviced, heated and unfettered access (subject to the Landlords access as detailed below) as is required for the Receiver to conduct and complete a sale of the Assets, and

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<sup>2</sup>“**Business Day**” means any day except Saturday, Sunday or a statutory holiday in the Province of Ontario.

further to permit the Receiver or any purchasers of the Assets to remove the Assets from the Premises prior to the expiration of the Term, provided that in no event shall the Receiver be entitled to occupy the Premises after the expiry of the Term, unless the Landlord shall have agreed in writing to an extended period of occupancy by the Receiver. The Receiver shall be provided a key to the Premises which will be returned on expiration of the Term.

- 1.4. In the event that any utility provider refuses to provide service to the Landlord, the Receiver will contact the utilities provider directly to assert it's right to continuation of service pursuant to section 84.2(3) of the BIA.
- 1.5. The Receiver is not obliged to remove pre-existing toxic or hazardous materials at the Premises.
- 1.6. The Receiver covenants with the Landlord that it will not allow any refuse, garbage or any loose, objectionable material to accumulate in or about the Premises or any portion of the Property.
- 1.7. The Receiver or its agents will not make any changes or alterations to the Premises without the prior written consent of the Landlord, which consent may be unreasonably or arbitrarily withheld.
- 1.8. Following expiry of the Term the Receiver will leave the Premises in a broom-swept, workman-like condition; however, shall not have any further obligation to conduct any other repairs or do any other work with respect to the Premises and will not be responsible for any repairs or clean up resulting from the Landlord Access as defined below. The Receiver will to shear off any protruding bolts remaining after removal of equipment and to repair any damage caused to the Premises due to the removal of any Assets and to properly cap all gas and electrical connections, if any.
- 1.9. Any assets remaining on the Premises following the Term will be considered abandoned by the Receiver.

#### Landlord Access

- 1.10. Following June 19, 2023, the Receiver will allow reasonable access to the Landlord or their agents for the limited purpose of performing demolition to the mezzanine and office.
- 1.11. The Landlord will provide evidence that all contractors performing work at the Premises have adequate insurance coverage.
- 1.12. The Receiver will not be responsible for anything related to the Landlord's demolition at the Premises including clean up.



- 1.13. The Landlord or its agents or contractors will not remove any assets located at the Premises and ensure proper security measures are taken to ensure the Premises is secure upon departure.
- 1.14. The Landlord will ensure that their access does not reasonable interfere Auction.

### Cost

- 1.15. The Receiver and the Landlord agree that the daily occupation cost payable for the period of occupation shall be based on a daily sum of \$275.84 plus HST and inclusive of all other costs, levies, taxes and charges (including common area charges), and exclusive of only utilities for the Premises (collectively the “**Costs**”). The Costs shall be payable by the Receiver to the Landlord on the last day of the Term.

## ARTICLE 2 — SALE OF ASSETS

- 2.1. The Landlord consents to:

- 2.1.1. the Receiver conducting a sale or sales of the Assets from the Premises, and providing access to the Premises to the auctioneer (the “**Auctioneer**”) conducting such sale, to all prospective purchasers and their agents at any time, provided that such access is supervised by the Auctioneer, the Receiver or an agent of the Receiver; and,
- 2.1.2. the Receiver or the Auctioneer removing or permitting purchasers of any Assets to remove from the Premises all or any of the Assets, subject to the terms and conditions of this Agreement.

## ARTICLE 3 — NOTICE

- 3.1. All notices required by this agreement shall be considered given if delivered or if sent by email to the e-mails listed on the first page of this Agreement and shall be deemed to have been given upon the day it was delivered or sent by email.

## ARTICLE 4 — GENERAL

- 4.1. The Licensee will not make any changes or alterations to the Licensed Area without the prior written consent of the Licensor, which consent may be unreasonably or arbitrarily withheld. ;
- 4.2. Spergel is signing this Agreement in its capacity as Court Appointed Receiver of H.M., and the Landlord acknowledges and agrees that Spergel and its solicitors, agents, directors, officers and employees, shall have no personal or corporate liability under, as a result of, or in connection with any obligations (and anyone for whom it is in law responsible) under this Agreement;
- 4.3. The Landlord, through the term of this Agreement, shall take out and keep in full force all insurance, and in such amounts, and subject to such terms and conditions, which a prudent owner of similar Property in the same geographic vicinity would reasonable take out and maintain;
- 4.4. The Receiver, through the term of this Agreement, shall take out and keep in full force all insurance, and in such amounts, and subject to such terms and conditions, typically taken out by a Receiver in these circumstances, but shall not be less than the insurance required pursuant to Section 9.02 of the Lease. Evidence of same shall be provided to the Landlord;
- 4.5. The Receiver agrees that the Landlord and each corporation, partnership and trust controlled by any of them, as the case may be, any company or other entity retained from time to time by the Landlord to provide management services for the Property, and the mortgagee of the Property (collectively, the **"Released Persons"**) shall not be liable or responsible in any way for any injury, death, loss or damage to any person or property owned by or being the responsibility of the Receiver in the Premises no matter how same shall be caused; however, not including anything caused by the Landlord's negligence. . The Released Persons shall not be liable or responsible in any way for any loss or damage, injury or death to any person or property caused by any other licensee or tenant or occupant of the Property or by the public or by the construction of any public, quasi public or private work or utilities. All property for which the Receiver is legally responsible, kept or stored in or about the Premises shall be at the sole risk of the Receiver. Without in any way limiting or affecting the generality or interpretation of the foregoing provision, it is agreed that the Released Persons shall in no event be liable for any indirect or consequential damage suffered by the Receiver or its agents.
- 4.6. The Receiver will not paint, place, affix, inscribe or display anywhere on the Premises or the Property any sign, picture, direction, lettering advertisement or notice, without the prior written consent of the Landlord.

- 4.7. The Landlord acknowledges that the Receiver is acting solely in its capacity as Court Appointed Receiver of H.M. and will have no personal or corporate liability with respect to this Agreement;
- 4.8. This Agreement shall be binding upon and endure to the benefit of each of the Landlord and the Receiver, and its solicitors, agents, directors, officers and employees, shall have no personal or corporate liability under, as a result of, or in connection with any obligations (and anyone for whom it is in law responsible) under this Agreement;
- 4.9. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties hereby irrevocably attorn to the courts of the Province of Ontario with respect to any matter ensuing hereunder;
- 4.10. Time is of the essence in this agreement;
- 4.11. Each of the parties hereto shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other party hereto may reasonably require from time to time for the purpose of giving effect to this agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to the full extent the provisions of this agreement;
- 4.12. The Receiver and the Landlord agree that it is not their intention to create a commercial tenancy by execution of this Agreement, but merely to confer a right on the Receiver to temporarily occupy the Premises for such time as the Receiver requires it upon the terms herein;
- 4.13. . This License shall not be assigned or transferred in any manner whatsoever voluntarily or involuntarily or by operation of law without the prior written consent of the Landlord in each case, which approval may be unreasonably or arbitrarily withheld
- 4.14. This Agreement may be executed in counterparts and/or by facsimile and may be delivered by e-mail in PDF format or electronic transmission.

IN WITNESS WHEREOF the parties have duly executed this agreement.

Dated at Toronto, Ontario this 14th day of June, 2023.

msi Spergel Inc.,  
Solely in its capacity as Receiver of the  
estate of H.M. and not in any other  
capacity

Per: Mukul

I have authority to bind the Receiver

Name: Mukul Manchanda

Position:

Dated at Toronto, Ontario this 14th day of June, 2023.

Desjardins Financial Security Life  
Assurance Company

Per: Emiliano Omeri

I have authority to bind the Company

Name: Emiliano Omeri

Position: Asset Manager

53348578.1

## APPENDIX 6

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**H.M POLYTHENE PRODUCTS LIMITED**

Respondent

**AFFIDAVIT OF MUKUL MANCHANDA**

(Sworn November 6, 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 H.M Polythene Products Limited (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 Madam Justice Steele dated May 26, 2023.

3. In connection with the receivership for the period to and including October 31, 2023 fees of \$41,860.48 inclusive of HST and disbursements was charged by Spergel as detailed in the billing

summary and time docket attached hereto as **Exhibit "1"** to this, my Affidavit. This represents 95.40 hours at an effective rate of \$387.90 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 6<sup>th</sup> day of November 2023.  
  


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Mukul Manchanda

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Commissioner for Taking Affidavits  
  
Barbara Eileen Sturge,  
a Commissioner, etc. for **msi 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 6<sup>th</sup> day of November 2023**



**A Commissioner, Etc.**

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





November 06, 2023

Invoice #: 12618

H. M POLYTHENE PRODUCTS LIMITED

Billing Period: Oct 31, 2023

## Invoice

RE: H. M POLYTHENE PRODUCTS LIMITED

	Hours	Hourly Rate	Total
Gillian Goldblatt, CPA, CA, CIRP, LIT	1.60	\$400.00	\$640.00
Mukul Manchanda, CPA, CIRP, LIT	55.20	500.00	27,600.00
Susan Downey	31.20	215.00	6,708.00
Paula Amaral	4.60	325.00	1,495.00
Nazhat Sarabi	0.30	110.00	33.00
Others	2.50	212.00	530.00
<b>Total Professional fees</b>	<b>95.40</b>	<b>\$387.90</b>	<b>\$37,006.00</b>
HST			4,810.78
Reimbursable Expenses			
Courier			\$31.59
PPSA Search			\$8.00
<b>Total Reimbursable expenses</b>			<b>\$39.59</b>
HST on expenses			\$4.11
<b>Total</b>			<b>\$41,860.48</b>

HST Registration #R103478103

(AAPOLY-R)

Filters Used:

- Time Entry Date: 1/1/1970 to 10/31/2023
- File ID: AAPOLY-R: to AAPOLY-R:

**File Name (ID): H. M POLYTHENE PRODUCTS LIMITED (AAPOLY-R:)**

Day	Date	Memo	B-Hrs	B-Rate	Amount
<b>Frieda Kanaris (FKA)</b>					
Thur	06/15/2023	Attend office to complete mail redirection.	1.00	\$250.00	\$250.00
			<b>1.00</b>		<b>\$250.00</b>
<b>Gillian Goldblatt (GGO)</b>					
Wed	06/07/2023	discussion and instructions to S. Downey regarding removal of equipment, appraisal status and next steps, status of insurance, and A/R demand letters.	0.70	\$400.00	\$280.00
Thur	06/22/2023	review and approve disbursements.	0.30	\$400.00	\$120.00
Thur	07/06/2023	Receipt and review of bank reconciliation.	0.10	\$400.00	\$40.00
Fri	07/21/2023	review and approve disbursements.	0.30	\$400.00	\$120.00
Fri	08/04/2023	Receipt and review of the bank statement.	0.10	\$400.00	\$40.00
Wed	10/11/2023	Receipt and review of bank reconciliation.	0.10	\$400.00	\$40.00
			<b>1.60</b>		<b>\$640.00</b>
<b>Haran Sivanathan (HSI)</b>					
Tues	07/04/2023	General	0.30	\$220.00	\$66.00
Mon	08/28/2023	General	0.20	\$220.00	\$44.00
			<b>0.50</b>		<b>\$110.00</b>
<b>Inga Friptuleac (IFR)</b>					
Mon	06/19/2023	Issue chqs, Deposit	0.50	\$170.00	\$85.00
Fri	07/28/2023	Issue chqs, Deposits.	0.50	\$170.00	\$85.00
			<b>1.00</b>		<b>\$170.00</b>
<b>Mukul Manchanda (MMA)</b>					
Thur	05/04/2023	Time spent previously but not recorded with respect to reviewing of court materials and multiple discussions and email exchanges with M. Foster.	2.60	\$500.00	\$1,300.00
Fri	06/02/2023	Time spent previously but not recorded regarding multiple calls and email exchanges with M. Foster, review of motion materials etc. Receipt and review of court order shared by M.vine. Faxed and emailed the letter of even date to BMO and Email communication with J.Satin informing of the accounts getting freeze. Provided instructions to the staff regarding taking possession of the premises. Multiple calls with S. Downey and R. Tuzi regarding communications with the debtor and landlord. Review, edit and approve multiple documents required for taking possession. Prepared case website and uploaded relevant documents on the website. Multiple calls with M. Vine regarding the file.	5.20	\$500.00	\$2,600.00
Sat	06/03/2023	Receipt and review of an email from J. Satin containing the Supplementary affidavit of M. Foster. Uploaded same to the case website.	0.50	\$500.00	\$250.00
Sun	06/04/2023	Receipt and review of email with regards to the conflict check.	0.10	\$500.00	\$50.00
Mon	06/05/2023	Instructions to S. Downey regarding preparation of Notice of Receiver and other matters . Receipt, review and approval of notice shared by S.Downey. Email communication with Shahzad regarding the error in notice and statement of receiver. Telephone Call with M. Foster. Receipt, review and approval of the A/R letter shared by S.Downey. Discussion with the landlord regarding lease of the premises. Lengthy calls with A. Moskowitz regarding sale and removal of assets. Review of the draft email to the accountant for accounting records.	2.80	\$500.00	\$1,400.00

Filters Used:

- Time Entry Date: 1/1/1970 to 10/31/2023
- File ID: AAPOLY-R: to AAPOLY-R:

**File Name (ID): H. M POLYTHENE PRODUCTS LIMITED (AAPOLY-R:)**

Day	Date	Memo	B-Hrs	B-Rate	Amount
<b>Mukul Manchanda (MMA)</b>					
Tues	06/06/2023	Receipt and review of email from the landlord of the office premises with regards to the notice pasted on the door. Travel to the premises and attended meeting with the landlord. Inspect assets at the premises and discussion regarding same with A. Moskowitz. Multiple calls with M.Vine regarding the lease surrender issue and the right of the receiver to occupy. Review of email exchanges with Hamid regarding accounting information.	2.80	\$500.00	\$1,400.00
Wed	06/07/2023	Receipt and review of email from S.Downey to A. Mokowitz updating him on the assets of the company. Receipt and review of email communication from S. Downey and A. Coluccio regarding the insurance. Review of the matter regarding right of the Receiver to occupy the premises. Multiple calls with M. Vine regarding same. Email exchanges with landlord regarding same. Lengthy calls with A. Moskowitz regarding sale of assets etc. Email exchanges with BMO regarding funds in the account and transfer of same to the Receiver.	2.50	\$500.00	\$1,250.00
Thur	06/08/2023	Telephone call with A. Moskowitz regarding sale of assets. Telephone Call with M. Vine regarding the removal of assets. Telephone call with D. Court regarding occupation. Receipt and review of email from S.Downey and A. Coluccio regarding the insurance. Receipt and review of email communication from S.Downey to A. Moskowitz regarding the status of the assets. Email communication with David with regards to the auction. Multiple calls with M. Vine regarding drafting an occupation agreement.	2.80	\$500.00	\$1,400.00
Fri	06/09/2023	Email exchange with S.Downey with Asset list. Receipt and review of multiple email from S. Downey and A. Moskowitz regarding worth of assets for insurance purpose. Lengthy calls with the landlord regarding finalizing a deal to occupy premises. Multiple calls with M. Vine regarding attending to court for approval of auction agreement. Receipt and review of bank statements from BMO.	2.10	\$500.00	\$1,050.00
Sat	06/10/2023	Prepared the First report of receiver. Multiple email exchanges with M. Vine. Receipt and review of email from S. Downey to F. Kanaris regarding the mail re direction. Receipt and review of email from S.Downey with regards to CRA Authorization forms.	4.00	\$500.00	\$2,000.00
Mon	06/12/2023	Lengthy call with A. Moskowitz regarding setting up for auction and contacting the owner to setup the machines. Discussion with S. Downey regarding the invoice. Email exchange with M. Vine containing the Appraisal. Receipt and review of email communication between S. Downey and A. Moskowitz. Telephone call with M. Foster regarding the upcoming court hearing and the relief being sought at same. Discussion regarding the auction. Receipt and review of comments on the report to court from M. Vine. Incorporated same to the report and prepared a final executed copy along with appendices. Emailed same to M. Vine. Receipt and review of the notice of motion and draft order. Uploaded same to the case website. Receipt and review of the draft occupation agreement and auction agreement. Receipt and review of the motion record of the Receiver. Receipt and review of the appraisal report. Receipt and review of comments regarding the occupancy agreement from F. Gafic. Email exchanges and telephone calls with M. Vine regarding the same.	3.80	\$500.00	\$1,900.00

## Filters Used:

- Time Entry Date: 1/1/1970 to 10/31/2023  
 - File ID: AAPOLY-R: to AAPOLY-R:

**File Name (ID): H. M POLYTHENE PRODUCTS LIMITED (AAPOLY-R:)**

Day	Date	Memo	B-Hrs	B-Rate	Amount
<b>Mukul Manchanda (MMA)</b>					
Tues	06/13/2023	Receipt and review of email communication from S.Downey and A.Coluccio regarding the insurance. Multiple calls with the landlord regarding the occupation agreement. Receipt and review of revised occupation agreement from P. Faruk. Discussion with M. Vine regarding the indemnity requested by the landlord. Instructed M. Vine that the Receiver will not provide any indemnity. Provided changes and comments regarding the occupation agreement. Lengthy call with A. Moskowitz regarding the liquidation. Multiple calls with potential purchasers. Receipt and review of the certificate of receivership from the OSB. Email exchanges with A. Moskowitz regarding sale of the transformers. Receipt and review of the Factum of the Receiver and the Book of Authorities. Send an email to M. Vine approving issuance of same.	3.70	\$500.00	\$1,850.00
Wed	06/14/2023	Receipt and review of multiple email from A. Moskowitz regarding the interested parties. Calls with the landlord, counsel and M. Vine regarding occupation. Discussion regarding upcoming court hearing. Review of court materials. Receipt, review and approve the draft ancillary order and approval and vesting order. Receipt and review of the signed occupancy agreement from the landlord. Prepared a fully executed copy and emailed same to F. Gafic. Review of email exchanges with debtor's counsel regarding upcoming hearing.	2.10	\$500.00	\$1,050.00
Thur	06/15/2023	Discussion with M. Vine regarding the outcome of the court hearing. Review of the issued order. Calls with A. Moskowitz regarding the auction. Attended at the premises of the company and met with A. Moskowitz regarding preparations for the auction.	3.00	\$500.00	\$1,500.00
Fri	06/16/2023	Email exchanges and telephone discussion with D. Court regarding occupation of premises and access to landlord for demolition. Participated in a conference call regarding same and instructed S. Downey to provide the required access. Attended at the premises to meet with parties. Receipt, review and approve the authorization form shared by S.Downey. Receipt, review and approval of Cheque requisitions shared by S.Downey.	2.70	\$500.00	\$1,350.00
Sun	06/18/2023	Email communication with S.Downey regarding giving a key to the landlord. Receipt, review and approval of authorization form shared by S.Downey.	0.30	\$500.00	\$150.00
Mon	06/19/2023	Email exchanges and calls with A. Moskowitz regarding the executed auction agreement. Discussion regarding removal of assets in case of no sale. Call with the landlord regarding access to the demolition company. Meeting with the landlord and representative of the construction company regarding access and protocol regarding same.	2.20	\$500.00	\$1,100.00
Tues	06/20/2023	Receipt and review of multiple email from S. Downey and A. Moskowitz regarding brand labeled boxes. Email exchanges and telephone discussions with interested parties.	1.00	\$500.00	\$500.00
Wed	06/21/2023	Email exchange with A.Moskowitz containing the auction agreement for execution.	0.10	\$500.00	\$50.00
Thur	06/22/2023	Email communication with M.Foster regarding A.Request.	0.10	\$500.00	\$50.00
Tues	06/27/2023	Receipt, review and approval of Cheque requisition shared by S.Downey. Discussion with A. Moskowitz regarding the auction.	0.80	\$500.00	\$400.00
Wed	06/28/2023	Email exchanges with M. Vine regarding the auction results. Telephone call with A. Moskowitz.	0.30	\$500.00	\$150.00
Fri	06/30/2023	Receipt and review of email from S.Downey regarding insurance cancellation.	0.10	\$500.00	\$50.00

Filters Used:

- Time Entry Date: 1/1/1970 to 10/31/2023
- File ID: AAPOLY-R: to AAPOLY-R:

**File Name (ID): H. M POLYTHENE PRODUCTS LIMITED (AAPOLY-R:)**

Day	Date	Memo	B-Hrs	B-Rate	Amount
<b>Mukul Manchanda (MMA)</b>					
Tues	07/04/2023	Travel to the premises of the company. Attended meeting with the landlord regarding occupancy related matters. Travel back. Multiple calls with the auctioneer regarding the outcome and net proceeds from the auction.	3.50	\$500.00	\$1,750.00
Thur	07/06/2023	Lengthy call with A. Moskowitz regarding auction results and availability of proceeds. Provided wire info to A. Moskowitz for transfer of funds.	1.00	\$500.00	\$500.00
Fri	07/07/2023	Receipt, review and approve payables.	0.20	\$500.00	\$100.00
Mon	07/10/2023	Email exchange with D. Court regarding Receiver's invoice. Email exchange with S. Downey with regards to summary report. Lengthy telephone discussion with D. Court. Attended at the premises for meeting with the landlord. Travel back.	2.10	\$500.00	\$1,050.00
Tues	07/11/2023	Email exchange with S. Downey containing the summary report. Email exchange with E. Yaromina regarding the invoice. Receipt, review and approve payables.	0.30	\$500.00	\$150.00
Wed	07/12/2023	Receipt, review and approval of Cheque requisition shared by S. Downey.	0.10	\$500.00	\$50.00
Tues	07/25/2023	Email exchanges with landlord.	0.20	\$500.00	\$100.00
Thur	08/17/2023	Receipt, review and approval of cheque requisition shared by P. Amaral.	0.10	\$500.00	\$50.00
Fri	08/18/2023	Lengthy call with CRA regarding outstanding amounts. Review of books and records regarding collection of receivables.	0.80	\$500.00	\$400.00
Mon	09/11/2023	Telephone call with K. Leung regarding the file. Provided him with an update on the receivership.	0.50	\$500.00	\$250.00
Tues	09/26/2023	Lengthy call with CRA regarding the file.	0.50	\$500.00	\$250.00
Thur	09/28/2023	Receipt, review and approve payables.	0.30	\$500.00	\$150.00
<b>Mukul Manchanda (MMA)</b>			<b>55.20</b>		<b>\$27,600.00</b>
<b>Nazhat Sarabi (NSA)</b>					
Mon	09/25/2023	Receipt and review of the invoice, prepared the cheque requisition and other documents as instructed.	0.30	\$110.00	\$33.00
<b>Nazhat Sarabi (NSA)</b>			<b>0.30</b>		<b>\$33.00</b>
<b>Paula Amaral (PAM)</b>					
Wed	08/23/2023	Prepare and file HST return.	0.20	\$325.00	\$65.00
Fri	08/25/2023	Receive call from previous owner regarding the requirements to file pre receivership HST and corporate returns.	0.10	\$325.00	\$32.50
Thur	08/31/2023	Visit site for final walkthrough. Prepare cancellation form for insurance. Contact alarm company to cancel alarm and request final billing.	4.30	\$325.00	\$1,397.50
Fri	09/01/2023	Prepare cancellation form for insurance. Contact alarm company to cancel alarm and request final billing.	0.00	\$325.00	\$0.00
<b>Paula Amaral (PAM)</b>			<b>4.60</b>		<b>\$1,495.00</b>
<b>Susan Downey (SDW)</b>					
Fri	06/02/2023	Prepare and attend site to take possession. Obtain reports from Quickbooks. Meet with former owner and locksmith.	6.50	\$215.00	\$1,397.50
Mon	06/05/2023	Prepared Notice and Statement of Receiver and Demand Letters. Sent out and filled with O/R. Call from interested party in assets. Telephone discussion with Mr. Hamid (accountant). Draft e-mail to account re: request for information. Call to Zubair re; landlord. PPSA search.	5.50	\$215.00	\$1,182.50

Filters Used:

- Time Entry Date: 1/1/1970 to 10/31/2023
- File ID: AAPOLY-R: to AAPOLY-R:

**File Name (ID): H. M POLYTHENE PRODUCTS LIMITED (AAPOLY-R:)**

Day	Date	Memo	B-Hrs	B-Rate	Amount
<b>Susan Downey (SDW)</b>					
Tues	06/06/2023	E-mail to accountant regarding request for information. Call to Adam of Platinum Assets regarding viewing machinery tomorrow. Receipt of e-mail from landlord and forward to Melinda. Met with Rocco to give keys to property for twice weekly inspections. Draft insurance coverage form.	1.00	\$215.00	\$215.00
Wed	06/07/2023	Met Adam on site re: machinery appraisal. Calls to former owner re: questions on machines. Call to interested buyer. Discussions with Adam on realization options. Send insurance form to FCA.	2.50	\$215.00	\$537.50
Thur	06/08/2023	Calls with Adam and former owner re: machinery and arrange meeting on-site next week to operate machinery in anticipation of auction.	0.20	\$215.00	\$43.00
Fri	06/09/2023	E-mail to update insurance coverage. E-mails/discussions with Adam/former owner/Mukul regarding Insurance/ordering supplies for Wednesday - to operate machinery. Courier keys to premises to Platinum Assets.	0.60	\$215.00	\$129.00
Sat	06/10/2023	Complete HST RT0002 and CRA authorization form. Receipt, review and action e-mails and admin on file.	1.00	\$215.00	\$215.00
Mon	06/12/2023	Receipt, review and action e-mails, voice messages and mail forwarded re: A/R and other matters.	1.00	\$215.00	\$215.00
Tues	06/13/2023	Discussions with Zubar regarding files matters including box of pellet delivery. Discussion with Adam re: assets and interested party.	0.50	\$215.00	\$107.50
Wed	06/14/2023	Attend site to meet with Neil from Platinum Assets and Zubair. Collected Bell modems. Telephone discussion with interested party. Update interested party list and shared with Adam of Platinum. Process receipt of funds - balance in bank account. Communication with provider of poly pellets regarding invoice. Admin on file. Receipt, review and action e-mails and telephone messages regarding A/R. Sent Notice and Statement of Receiver to newly known creditors. Sent communication to Bell and Alectra Utilities regarding Receivership and accounts.	4.00	\$215.00	\$860.00
Thur	06/15/2023	Process disbursements. Discussion with Adam re: auction/offers on assets. Receipt, review and action e-mails/telephone calls re: AR.	1.00	\$215.00	\$215.00
Fri	06/16/2023	Prepare cheque requisitions. Communication with Landlord regarding access	0.70	\$215.00	\$150.50
Sun	06/18/2023	Process disbursement re: mail redirection	0.20	\$215.00	\$43.00
Mon	06/19/2023	Attend site to give landlord key.	1.00	\$215.00	\$215.00
Tues	06/20/2023	Receipt, review and action e-mails regarding branded boxes on-site and waste-bin	0.40	\$215.00	\$86.00
Wed	06/21/2023	Receipt, review and action e-mails, voice messages and mail redirected.	0.50	\$215.00	\$107.50
Fri	06/23/2023	Deliver payment for poly beads to ECO-POLY	0.50	\$215.00	\$107.50
Tues	06/27/2023	Arrange for waste bin on site to be removed	0.50	\$215.00	\$107.50
Wed	06/28/2023	Processed receipt	0.20	\$215.00	\$43.00
Fri	06/30/2023	Attend site to relinquish keys to landlord and meet with Neil. Cancelled insurance.	1.50	\$215.00	\$322.50
Thur	07/06/2023	Process disbursements	0.40	\$215.00	\$86.00
Sun	07/09/2023	Receipt, review and action e-mails. Admin on file.	0.50	\$215.00	\$107.50
Tues	07/11/2023	Process receipt of funds and	0.50	\$215.00	\$107.50
Wed	07/12/2023	Prepared cheque requisitions. Receipt, review and action e-mails.	0.50	\$215.00	\$107.50
<b>Susan Downey (SDW)</b>			<b>31.20</b>		<b>\$6,708.00</b>

Filters Used:

- Time Entry Date: 1/1/1970 to 10/31/2023
- File ID: AAPOLY-R: to AAPOLY-R:

**File Name (ID): H. M POLYTHENE PRODUCTS LIMITED (AAPOLY-R:)**

Day	Date	Memo	B-Hrs	B-Rate	Amount
			<b>Total for File ID AAPOLY-R:</b>	95.40	\$37,006.00
			<b>Grand Total:</b>	95.40	\$37,006.00

## APPENDIX 7



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

H.M POLYTHENE PRODUCTS LIMITED

Respondent

**AFFIDAVIT OF JASON DIFRUSCIA  
(Sworn November 6, 2023)**

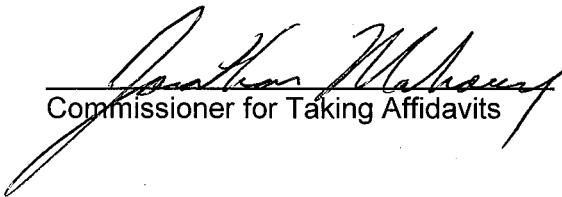
I, **JASON DIFRUSCIA**, of the City of London, in the Province of Ontario, **MAKE OATH AND SAY:**

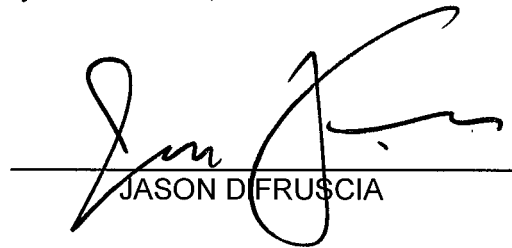
1. I am a solicitor qualified to practice law in the Province of Ontario and I am a lawyer with Harrison Pensa <sup>LLP</sup>, who acts as counsel for msi Spergel inc., in its capacity as Court-Appointed Receiver of the Respondent, H.M Polythene Products Limited in the within proceeding, and as such 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 <sup>LLP</sup> in connection with this matter for the period of April 10, 2023 to October 6, 2023 and an account statement detailing the services provided dated October 16, 2023.
3. Attached hereto and marked as Exhibit "B" are particulars of time spent by professionals at Harrison Pensa <sup>LLP</sup> in connection with this matter for the period of October 17, 2023 to November 3, 2023 and an account statement detailing the services provided dated November 3, 2023.

4. The hourly billing rates set out in the Exhibits are comparable to the hourly rates charged by Harrison Pensa <sup>LLP</sup> for services rendered in relation to similar proceedings.
5. The fees and disbursements of Harrison Pensa <sup>LLP</sup> in this matter to August 3, 2023 are as follows:
  - a. Total Billed Fees and Disbursements from April 10, 2023 to October 6, 2023 - \$13,798.11;
  - b. Total Billed Fees and Disbursements from October 17, 2023 to November 3, 2023 - \$2,269.61;
  - c. Total - \$16,067.72.
6. The weighted average hourly rate charged by professionals at Harrison Pensa <sup>LLP</sup> is \$340.25.
7. I estimate that the legal fees incurred by professionals at Harrison Pensa <sup>LLP</sup> from October 31, 2023 to close this matter will total an additional \$4,000.00.
8. 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 November 6, 2023.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
JASON DIFRUSCIA

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

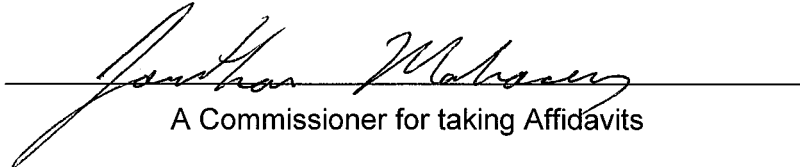
- and -

H.M POLYTHENE PRODUCTS LIMITED

Respondent

EXHIBITS

TABS "A" AND "B" ARE THE  
EXHIBITS TO THE AFFIDAVIT OF  
JASON DIFRUSCIA  
SWORN THIS 6TH DAY OF NOVEMBER, 2023

  
A Commissioner for taking Affidavits

## EXHIBIT A

(From April 10, 2023 to October 6, 2023)

	<b>NAME</b>	<b>YEAR OF CALL</b>	<b>ACTUAL HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
<b>Partners</b>	Melinda Vine	2007	26.90	\$350.00	\$9,415.00
<b>Associates</b>	Jason DiFruscia	2021	4.30	\$215.00	\$924.50
<b>Clerks</b>	Isabelle Stacey		0.80	\$145.00	\$116.00
	Lindsay Ferguson		7.30	\$180.00	\$1,314.00
	Olivia Rajsp		0.10	\$200.00	\$20.00
<b>TOTAL FEES</b>					<b>\$11,789.50</b>
<b>HST ON FEES</b>					<b>\$1,532.64</b>
<b>TOTAL TAXABLE DISBURSEMENTS</b>					<b>\$114.13</b>
<b>TOTAL NON TAXABLE DISBURSEMENTS</b>					<b>\$347.00</b>
<b>HST DISBURSEMENTS</b>					<b>\$14.84</b>
<b>TOTAL FEES, DISBURSEMENTS AND HST</b>					<b>\$13,798.11</b>

# 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 Spergel Inc.  
200-505 Consumers Road  
Toronto, ON  
M2J 4V8

October 16, 2023  
Invoice #: 2224512  
Account #: 2224512-196190

File #: 196190/Melinda Vine  
RE: H.M. Polythene Products Limited

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

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
10-Apr-23	To correspondence from client;	.20	\$70.00	MVI
17-Apr-23	To report from counsel;	.20	\$70.00	MVI
17-Apr-23	To review application record;	.50	\$175.00	MVI
18-Apr-23	To conference client;	.20	\$70.00	MVI
19-Apr-23	To correspondence from counsel for the Bank;	.20	\$70.00	MVI
20-Apr-23	To correspondence from client;	.20	\$70.00	MVI
21-Apr-23	To update from counsel for Bank;	.20	\$70.00	MVI
3-May-23	To review responding record; to correspondence from Satin and Spergel;	.50	\$175.00	MVI
3-May-23	To conference client;	.20	\$70.00	MVI
2-Jun-23	To various correspondence re: Receivership Order;	.50	\$175.00	MVI
2-Jun-23	To correspondence with counsel for borrower;	.20	\$70.00	MVI
2-Jun-23	To telephone conference with client;	.20	\$70.00	MVI
2-Jun-23	To conference client;	.20	\$70.00	MVI
2-Jun-23	To various correspondence with counsel for the debtor; to various correspondence with client; to various correspondence with counsel for RBC;	1.00	\$350.00	MVI
2-Jun-23	To calls with counsel for debtor; to email to client;	.30	\$105.00	MVI
3-Jun-23	To review supplementary affidavit;	.20	\$70.00	MVI

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
6-Jun-23	To correspondence re: amount owing to RBC;	.20	\$70.00	MVI
6-Jun-23	To various correspondence from receiver;	.40	\$140.00	MVI
6-Jun-23	To correspondence with landlord and counsel for landlord;	.30	\$105.00	MVI
7-Jun-23	To various correspondence re: assets;	.30	\$105.00	MVI
8-Jun-23	To follow with client;	.20	\$70.00	MVI
8-Jun-23	To review appraisal;	.20	\$70.00	MVI
8-Jun-23	To conference client;	.20	\$70.00	MVI
8-Jun-23	To call to counsel for landlord;	.20	\$70.00	MVI
8-Jun-23	To Auction Agreement;	1.00	\$350.00	MVI
8-Jun-23	To Occupancy Agreement;	1.00	\$350.00	MVI
8-Jun-23	To various correspondence with client;	.30	\$105.00	MVI
8-Jun-23	To correspondence with landlord and client;	.20	\$70.00	MVI
8-Jun-23	To various correspondence with client;	.40	\$140.00	MVI
8-Jun-23	To conference client;	.20	\$70.00	MVI
8-Jun-23	To draft proposal;	.20	\$70.00	MVI
8-Jun-23	To correspondence with landlord;	.20	\$70.00	MVI
8-Jun-23	To various correspondence re: occupancy;	.70	\$245.00	MVI
9-Jun-23	To instructions re: NOM;	.20	\$70.00	MVI
9-Jun-23	To various correspondence re: scheduling court date;	.30	\$105.00	MVI
9-Jun-23	To various correspondence re: scheduling;	.20	\$70.00	MVI
9-Jun-23	To draft Commercial List Request Form; To e-mail correspondence with Court;	.60	\$108.00	LFE
9-Jun-23	To draft approval and vesting order and ancillary order	.70	\$150.50	JDI
9-Jun-23	To telephone call with client;	.20	\$70.00	MVI
10-Jun-23	To review report; to review auction agreement changes;	1.00	\$350.00	MVI
12-Jun-23	To finalize report; to occupancy agreement; to motion record; to service list; to various communications with client;	2.00	\$700.00	MVI
12-Jun-23	To draft factum; to revise notice of motion; to revise draft orders; to emails with client re motion materials and report	3.30	\$709.50	JDI
12-Jun-23	To draft Service List; To draft Motion Record; To draft Confidential Appendix; To PPSA search; To e-mail correspondence with service list; To draft covering letter; To draft Affidavit of Service; To file Motion Record with Court;	3.60	\$648.00	LFE

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
12-Jun-23	To obtain PPSA search;	.10	\$20.00	ORA
13-Jun-23	To edit Factum; To draft Book of Authorities; To e-mail correspondence with service list; To draft cover letter to service list; To file Factum and BOA with Court; To upload materials to CaseLines; To phone call with counsel;	2.50	\$450.00	LFE
13-Jun-23	To revise draft orders	.30	\$64.50	JDI
13-Jun-23	To occupancy agreement; to correspondence with client;	.50	\$175.00	MVI
13-Jun-23	To correspondence with Satin;	.20	\$70.00	MVI
13-Jun-23	To factum; to Orders;	1.00	\$350.00	MVI
13-Jun-23	To various correspondence re: Occupancy Agreement;	1.00	\$350.00	MVI
13-Jun-23	To correspondence with client re: factum;	.20	\$70.00	MVI
13-Jun-23	To correspondence re: service;	.20	\$70.00	MVI
13-Jun-23	To amend Occupancy Agreement;	.50	\$175.00	MVI
13-Jun-23	To various correspondence with counsel for the landlord;	.30	\$105.00	MVI
13-Jun-23	To various amendments and communications re: Occupancy Agreement;	.50	\$175.00	MVI
13-Jun-23	To correspondence with counsel for the borrower;	.20	\$70.00	MVI
14-Jun-23	To finalize Order; To correspondence with client;	.50	\$175.00	MVI
14-Jun-23	To correspondence with counsel for the borrower;	.20	\$70.00	MVI
14-Jun-23	To various correspondence with PPSA registrant;	.30	\$105.00	MVI
14-Jun-23	To correspondence from client;	.20	\$70.00	MVI
14-Jun-23	To correspondence to counsel for borrower;	.20	\$70.00	MVI
14-Jun-23	To various correspondence re: Occupancy Agreement;	.30	\$105.00	MVI
14-Jun-23	To review and correspondence re: appraisal;	.30	\$105.00	MVI
14-Jun-23	To call to Blay;	.20	\$70.00	MVI
14-Jun-23	To e-mail correspondence with service list;	.10	\$18.00	LFE
15-Jun-23	To update CaseLines;	.30	\$54.00	LFE
15-Jun-23	To prepare for an attend at Court;	1.00	\$350.00	MVI
15-Jun-23	To correspondence with client;	.20	\$70.00	MVI
15-Jun-23	To orders;	.30	\$105.00	MVI
15-Jun-23	To conference with creditor;	.20	\$70.00	MVI
16-Jun-23	To correspondence from landlord;	.20	\$70.00	MVI
16-Jun-23	To service of Order;	.20	\$70.00	MVI



DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
16-Jun-23	To update file re Order and Endorsement; To e-mail correspondence with service list;	.20	\$36.00	LFE
20-Jun-23	To correspondence from Contractor;	.20	\$70.00	MVI
21-Jun-23	To various correspondence re: contractor access;	.20	\$70.00	MVI
28-Jun-23	To various correspondence with Receiver re: auction;	.30	\$105.00	MVI
5-Jul-23	To correspondence with client;	.20	\$70.00	MVI
11-Jul-23	To correspondence from landlord re: rent;	.20	\$70.00	MVI
19-Jul-23	To call from creditor;	.20	\$70.00	MVI
27-Jul-23	To conference client;	.20	\$70.00	MVI
2-Oct-23	To conference with client;	.20	\$70.00	MVI
3-Oct-23	To instructions re: commercial list;	.20	\$70.00	MVI
3-Oct-23	To commercial request form;	.20	\$70.00	MVI
3-Oct-23	To request court date;	.10	\$14.50	IST
3-Oct-23	To draft request form;	.40	\$58.00	IST
4-Oct-23	To email correspondence;	.10	\$14.50	IST
4-Oct-23	To request court date;	.20	\$29.00	IST
4-Oct-23	To correspondence with court;	.20	\$70.00	MVI
4-Oct-23	To correspondence with commercial list;	.20	\$70.00	MVI
5-Oct-23	To correspondence with client;	.20	\$70.00	MVI
6-Oct-23	To correspondence with Satin;	.20	\$70.00	MVI
	Total Fees:		\$ 11,789.50	
	Plus GST:		0.00	
	Plus HST:		1,532.64	
	<b>Total Fees (INCL TAX)</b>			<b>\$ 13,322.14</b>

**FEE SUMMARY:**

LAWYER	HOURS	RATE	AMOUNT
Melinda Vine	26.90	\$350.00	\$9,415.00
Jason DiFruscia	4.30	\$215.00	\$924.50
Lindsay Ferguson	7.30	\$180.00	\$1,314.00
Olivia Rajsp	.10	\$200.00	\$20.00
Isabelle Stacey	.80	\$145.00	\$116.00

**NON-TAXABLE DISBURSEMENTS**

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


**TAXABLE DISBURSEMENTS**

PPSA		29.05	
Courier		85.08	
Total Taxable Disbursements:	\$	114.13	
Plus GST:		0.00	
Plus HST:		<u>14.84</u>	
<b>Total Disbursements (INCL TAX)</b>			<b>\$ <u>475.97</u></b>

**TOTAL DUE & OWING** **\$ 13,798.11**

**THIS IS OUR ACCOUNT HEREIN**

***HARRISON PENSA LLP***

Per:   
\_\_\_\_\_

Melinda Vine

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 Ave., Suite 1101, P.O. Box 3237, London ON N6A 4K3

EXHIBIT B

(From October 17, 2023 to November 3, 2023)

	<b>NAME</b>	<b>YEAR OF CALL</b>	<b>ACTUAL HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
<b>Partners</b>	Melinda Vine	2007	3.90	\$350.00	\$1,365.00
<b>Associates</b>	Jason DiFruscia	2021	2.90	\$215.00	\$623.00
<b>Clerks</b>	Olivia Rajsp		0.10	\$200.00	\$20.00
<b>TOTAL FEES</b>					<b>\$2,008.50</b>
<b>HST ON FEES</b>					<b>\$261.11</b>
<b>TOTAL TAXABLE DISBURSEMENTS</b>					<b>\$0.00</b>
<b>TOTAL NON TAXABLE DISBURSEMENTS</b>					<b>\$0.00</b>
<b>HST DISBURSEMENTS</b>					<b>\$0.00</b>
<b>TOTAL FEES, DISBURSEMENTS AND HST</b>					<b>\$2,269.61</b>

# 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 Spergel Inc.  
200-505 Consumers Road  
Toronto, ON  
M2J 4V8

November 3, 2023  
Invoice #: 2225405  
Account #: 2225405-196190

File #: 196190/Melinda Vine  
RE: H.M. Polythene Products Limited

---

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

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
17-Oct-23	To correspondence with client;	.20	\$70.00	MVI
1-Nov-23	To various correspondence with client;	.30	\$105.00	MVI
1-Nov-23	To draft security report	.80	\$172.00	JDI
2-Nov-23	To security report;	1.00	\$350.00	MVI
2-Nov-23	To receipt and review of Second Report;	1.00	\$350.00	MVI
2-Nov-23	To correspondence with client;	.20	\$70.00	MVI
2-Nov-23	To finalize report;	.20	\$70.00	MVI
2-Nov-23	To revise security report; to draft notice of motion; to draft fee affidavit	2.10	\$451.50	JDI
2-Nov-23	To obtain PPSA search;	.10	\$20.00	ORA
3-Nov-23	To Notice of Motion and Order;	1.00	\$350.00	MVI
	Total Fees:		\$ 2,008.50	
	Plus GST:		0.00	
	Plus HST:		261.11	
	<b>Total Fees (INCL TAX)</b>			<b>\$ 2,269.61</b>

**FEE SUMMARY:**


LAWYER	HOURS	RATE	AMOUNT
Melinda Vine	3.90	\$350.00	\$1,365.00
Jason DiFruscia	2.90	\$215.00	\$623.50
Olivia Rajsp	.10	\$200.00	\$20.00

**TOTAL DUE & OWING**

**\$ 2,269.61**

**THIS IS OUR ACCOUNT HEREIN**

*HARRISON PENSA LLP*

Per:   
\_\_\_\_\_

Melinda Vine

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 Ave., Suite 1101, P.O. Box 3237, London ON N6A 4K3

ROYAL BANK OF CANADA

v.

H.M. POLYTHENE PRODUCTS LIMITED

Applicant

Respondent

**Court File No. CV-23-00697106-00CL**

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**ONTARIO**  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

Proceeding commenced at TORONTO

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**AFFIDAVIT OF JASON DIFRUSCIA**

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Harrison Pensa<sup>LLP</sup>  
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](mailto:thogan@harrisonpensa.com)  
[mvine@harrisonpensa.com](mailto:mvine@harrisonpensa.com)

Lawyers for the Receiver, msi Spergel inc.

## APPENDIX 8



District of  
 Division No. 07-Hamilton  
 Court No. 32-159347  
 Estate No. 32-159347

**In the matter of the Receivership of  
 H.M. Polythene Products Limited  
 of the City of Mississauga, in the Province of Ontario**

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

**RECEIPTS**

1	Miscellaneous				
	Cash in Bank		\$	7,396.36	
	Advance from Secured Creditor			40,000.00	
	Interest Allocation			2,434.46	
	Sale of Assets			230,000.00	
	<b>TOTAL RECEIPTS</b>				<b><u>279,830.82</u></b>

**DISBURSEMENTS**

2.	Federal and Provincial taxes				
	HST paid on disbursements exclusive of fees			1,516.71	
	HST on Ascend License Fee			42.25	<u>1,558.96</u>
3.	Miscellaneous				
	Auctioneer Expense			20,350.00	
	Auctioneer Commission			46,000.00	
	Ascend License Fee			325.00	
	Change of Locks			985.00	
	Filing Fees Paid to Official Receiver			75.30	
	Insurance			898.56	
	Occupation Rent			6,775.01	
	Other Disbursements - Product			860.00	
	Appraisal Fees			2,500.00	
	Redirection of Mail			182.00	
	Security			340.00	
	Repairs & Maintenance			25.00	
	Travel			280.89	<u>79,596.76</u>
	<b>TOTAL DISBURSEMENTS</b>				<b><u>81,155.72</u></b>

Net Receipts over Disbursements	<b><u><u>198,675.10</u></u></b>
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Dated at the City of Toronto in the Province of Ontario, this 3rd day of November 2023.  
 msi Spergel inc. - Licensed Insolvency Trustee

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1100-200 Yorkland Blvd.  
 Toronto ON M2J 5C1  
 Phone: (416) 497-1660 Fax: (416) 494-7199

## APPENDIX 9



JUN 26 2023

Tax Centre  
Kitchener ON N2H 0A9

June 20, 2023

ATTENTION: SUSAN DOWNEY  
MSI SPERGEL INC  
200 YORKLAND BLVD, SUITE 1100  
TORONTO ON M2J 5C1

Account Number  
81899 5847 RP0001

Dear Ms. Downey:

Subject: H.M POLYTHENE PRODUCTS LIMITED  
Account number: 81899 5847 RP0001

We were told that you have been appointed as receiver for the above-named. There is a debt owed to the Canada Revenue Agency for source deductions amounting to \$17,982.83 for income tax and Canada Pension Plan (CPP) contributions, as well as employment insurance (EI) premiums.

Details of the debt are as follows:

Tax deductions:	\$11,427.40
CPP:	\$ 3,348.50
EI:	\$     0.00
Penalties and interest:	\$ 3,206.93
Total:	\$17,982.83

Further to the Income Tax Act, the Canada Pension Plan, and the Employment Insurance Act, the following amounts, which are included in the above totals, are trust funds and form no part of the property, business, or estate of H.M POLYTHENE PRODUCTS LIMITED in receivership.

Federal income tax:	\$4,303.59
Provincial income tax:	\$1,463.21
CPP employee part:	\$2,318.80
EI employee part:	\$     0.00
Total:	\$8,085.60

Payment for the total amount of this trust, namely \$8,085.60, must be made to the Receiver General for Canada out of the realization of any property that is subject to these statutory trusts in priority to all other creditors.

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Please let us know when payment of this trust amount and the remaining balance of \$9,897.23 will be made.

This letter also serves as notice that should payment be made for any amount described in subsection 153(1) of the Income Tax Act for periods before or after your appointment, you must withhold tax deductions and remit payments in accordance with that subsection and sections 101 and 108 of the Income Tax Regulations.

Also, see section 5 of the Employment Insurance Act and section 8 of the Canada Pension Plan Regulations.

For more information or clarification, please call me at 905-516-2715.

Yours truly,



Wendy Rueger (1220)  
Resource/Complex Case Officer



Tax Centre  
Kitchener ON N2H 0A9

June 20, 2023

ATTENTION: SUSAN DOWNEY  
MSI SPERGEL INC  
200 YORKLAND BLVD, SUITE 1100  
TORONTO ON M2J 5C1

Account Number  
81899 5847 RT0001

Dear Ms. Downey:

Subject: H.M POLYTHENE PRODUCTS LIMITED

We understand that you have been appointed receiver or receiver-manager (receiver) for the above GST/HST registrant. Currently, the registrant owes goods and services tax / harmonized sales tax (GST/HST) of \$10,198.81.

Period outstanding	GST/HST payable	Penalty & interest	Total
2015-09-30	\$ 59.25	\$ 79.38	\$ 138.63
2016-03-31	\$ 229.57	\$ 117.47	\$ 347.04
2016-06-30	\$ 176.03	\$ 84.82	\$ 260.85
2016-09-30	\$ 277.59	\$ 125.67	\$ 403.26
2016-12-31	\$ 400.80	\$ 167.07	\$ 567.87
2017-03-31	\$1,328.44	\$ 605.31	\$1,933.75
2017-06-30	\$1,273.86	\$ 557.26	\$1,831.12
2017-12-31	\$2,721.17	\$1,094.12	\$3,815.29
2018-12-31	\$ 688.09	\$ 212.91	\$ 901.00

Under the Excise Tax Act, \$7,154.80 of the above totals represents property of the Crown held in trust and does not form part of H.M POLYTHENE PRODUCTS LIMITED's property, business, or estate. This is the case whether or not those funds are kept separate and apart from the registrant's own money or from the estate's assets.

You must pay the Receiver General for Canada \$7,154.80 out of the realization of any property subject to the trust created by subsection 222(3) of the Act before paying any other creditor. Please send us your payment right away. If this is not possible, please tell us when you will make the payment. Also, please tell

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us when you will pay the remaining balance of \$3,044.01.

As a receiver, you must collect and remit the registrant's GST/HST for the period you are acting as a receiver. You also must file the registrant's returns for any periods ending while you were acting as receiver. This includes any returns the registrant did not file for a period ending in or immediately before the fiscal year you became receiver.

For more information or clarification, please call us at 905-516-2715.

Yours truly,



Wendy Rueger (1220)  
Resource/Complex Case Officer

ROYAL BANK OF CANADA

v.

H.M POLYTHENE PRODUCTS LIMITED

Applicant

Respondent

Court File No. CV-23-00697106-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO, ONTARIO

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**SECOND REPORT OF THE RECEIVER**

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**HARRISON PENZA** <sup>LLP</sup>  
Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, Ontario N6A 5R2

**Melinda Vine (LSO #53612R)**

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

Lawyers for the Receiver,  
msi Spergel inc.

ROYAL BANK OF CANADA

v.

H.M POLYTHENE PRODUCTS LIMITED

Applicant

Respondent

Court File No. CV-23-00697106-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO, ONTARIO

**MOTION RECORD OF THE RECEIVER**

**HARRISON PENZA <sup>LLP</sup>**

Barristers & Solicitors  
130 Dufferin Avenue, Suite 1101  
London, Ontario N6A 5R2

**Melinda Vine (LSO #53612R)**

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

Lawyers for the Receiver,  
msi Spergel inc.