

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

TORONTO COSMETIC CLINIC INC.

Respondent

**MOTION RECORD OF THE RECEIVER,
MSI SPERGEL INC.**
(Returnable May 2, 2024)

April 23, 2024

FOGLER, RUBINOFF LLP

Lawyers
77 King Street West
Suite 3000, P.O. Box 95
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Toronto, ON M5K 1G8

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inc.

SERVICE LIST

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AND TO:	DEWART GLEASON LLP Lawyers 102-336 Adelaide Street West Toronto, ON M5V 1R9 Sean Dewart (LSO #26708B) sdewart@dglp.ca Adrienne Lei (LSO #58975R) alei@dglp.ca Tel: 416-971-8000 Lawyers for Sina Kashani	BY EMAIL TO: sdewart@dglp.ca alei@dglp.ca
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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	BY EMAIL TO: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca
AND TO:	HIS MAJESTY THE KING 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	BY EMAIL TO: insolvency.unit@ontario.ca
AND TO:	EQUIREX, A DIVISION OF BENNINGTON FINANCIAL CORP. 101-1465 North Service Road East Oakville, ON L6H 1A7 Attention: Michelle Carleton Tel: 905-618-1375 Email: michellec@benningtonfinancial.ca	BY EMAIL TO: michellec@benningtonfinancial.ca

AND TO:	RCAP LEASING INC. 5575 North Service Road, Suite 300 Burlington, ON L7L 6M1	BY REGULAR MAIL
AND TO:	SOMERVILLE NATIONAL LEASING & RENTALS LTD. 75 Arrow Road Toronto, ON M9M 2L4	BY REGULAR MAIL
AND TO:	SPRUCEWOOD LEASING LIMITED 236 Wellington St. E. Unit 101 Aurora, ON L4G 1J5	BY REGULAR MAIL
AND TO:	VAULT CAPITAL CORPORATION 41 Scarsdale Road, Suite 5 Toronto, ON M3B 2R2	BY REGULAR MAIL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

THE TORONTO-DOMINION BANK

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Respondent

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TAB 1

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

TORONTO COSMETIC CLINIC INC.

Respondent

NOTICE OF MOTION

MSI SPERGEL INC., in its capacity as the Court-appointed receiver (the "**Receiver**") of the assets, undertakings and properties of Toronto Cosmetic Clinic Inc. (the "**Debtor**"), will make a motion to the Court on Thursday, May 2, 2024 at 10:00 a.m., or as soon after that time as the motion can be heard.

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

In writing under subrule 37.12.1(1) because it is
[insert on consent, unopposed or made without notice];

In writing as an opposed motion under subrule 37.12.1(4);

In person;

By telephone conference;

By video conference.

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at the following location:

Zoom video conference details to be provided by the Court.

THE MOTION IS FOR:

1. An Order, substantially in the form attached hereto as Schedule "A":
 - a) If necessary, abridging the time for service of this motion, or, alternatively, dispensing with service;
 - b) Approving the First Report of the Receiver dated April 23, 2024 (the "**Report**") and the actions and activities of the Receiver described therein;
 - c) Approving the Receiver's interim statement of receipts and disbursements as at April 22, 2024;
 - d) Approving the fees and disbursements of the Receiver to and including March 31, 2024; and approving the fees and disbursements of the Receiver's counsel to and including April 17, 2024;
 - e) Approving the Fee Accrual (as defined in the Report); and
 - f) Discharging msi Spergel inc. as the Receiver of the Debtor, and releasing msi Spergel inc. from any and all liability from any claims which have been raised or which could have been raised in these proceedings against the Receiver.
2. Such further and other relief as counsel may advise and this Honourable Court may deem just.

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THE GROUNDS FOR THE MOTION ARE:

1. Pursuant to the Order of the Honourable Justice Steele dated November 1, 2023 (the "**Receivership Order**"), msi Spergel inc. was appointed as Receiver, without security, of all of the assets, undertakings and properties of the Debtor.
2. The Receivership Order was made upon the application of the Debtor's secured creditor, The Toronto-Dominion Bank ("**TD**").
3. Since the effective date of its appointment, the Receiver attended to, among other things:
 - i. meeting the principals of the Debtor and inspecting the operations of the business carried on by the Debtor;
 - ii. prepared a cost-benefit analysis, including cash flow forecast, with respect to continuing the operations of the business carried on by the Debtor;
 - iii. discussions with stakeholders with respect to options concerning the sale of assets of the Debtor;
 - iv. discussions with creditors and interested parties; and
 - v. communications with Canada Revenue Agency with respect to the Debtor.
4. The Receiver, in consultation with TD, concluded that it was not commercially reasonable for the Receiver to take possession of the assets and the business and attempt to sell the business as a going concern.
5. TD has agreed to pay the fees and disbursements of the Receiver and the Receiver's counsel incurred to date including the Fee Accrual.

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6. The principals, in their individual capacities, have come to a settlement with TD with respect to the amounts outstanding to TD. The Receiver has been advised by the principals that they intend to carry on the business of the Debtor and pay any amounts outstanding to creditors in the ordinary course of business.
7. The fees of the Receiver and its counsel are fair and reasonable.
8. The facts and recommendations described in the Report.
9. Rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*.
10. Such further and other grounds as the lawyers may advise.

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

- (a) The Report of the Receiver dated April 23, 2024 and the appendices thereto; and
- (b) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

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April 23, 2024

FOGLER, RUBINOFF LLP

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inc.

TO: **THE SERVICE LIST**

SCHEDULE "A"

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	THURSDAY, THE 2 ND
)	
JUSTICE STEELE)	DAY OF MAY, 2024

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

TORONTO COSMETIC CLINIC INC.

Respondent

DISCHARGE ORDER

THIS MOTION, made by msi Spergel inc., in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertakings, properties and assets of Toronto Cosmetic Clinic (the "**Debtor**"), for an Order:

1. if necessary, abridging the time for service of this motion, or alternatively, dispensing with service.
2. approving the activities of the Receiver as set out in the First Report of the Receiver dated April 23, 2024 (the "**Report**");
3. approving the fees and disbursements of the Receiver and its counsel, including the Fee Accrual (as defined in the Report);

4. approving the Receiver's interim statement of receipts and disbursements as at April 22, 2024;
5. discharging msi Spergel inc. as Receiver of the undertakings, properties and assets of the Debtor; and
6. releasing msi Spergel inc. from any and all liability, as set out in paragraph 6 of this Order,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report, the affidavits of the Receiver and its counsel as to 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 sworn April ____, 2024, filed;

1. **THIS COURT ORDERS** that the time for service of this motion is hereby abridged, service of this motion is validated, and further service of this motion is hereby dispensed with.
2. **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Report, are hereby approved.
3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, including the Fee Accrual, as set out in the Report and the Fee Affidavits, are hereby approved.

4. **THIS COURT ORDERS** that the Interim Statement of Receipts and Disbursements as at April 22, 2024, included in the Report, are hereby approved.

5. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 3 hereof and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report, the Receiver shall be discharged as Receiver of the undertakings, properties 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.

6. **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.

THE TORONTO-DOMINION BANK
Applicant

-and- **TORONTO COSMETIC CLINIC INC.**
Respondent

Court File No. CV-23-0075871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

DISCHARGE ORDER

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THE TORONTO-DOMINION BANK
Applicant

-and- **TORONTO COSMETIC CLINIC INC.**
Respondent

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

FOGLER, RUBINOFF LLP

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TAB 2

Court File No. CV-23-0075871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

TORONTO COSMETIC CLINIC INC.

Respondent

**FIRST REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS THE RECEIVER OF
TORONTO COSMETIC CLINIC INC.**

April 23, 2024

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- A. Receivership Order of The Honourable Justice Steele dated November 1, 2023
- B. Endorsement of the Honourable Justice Steele dated November 1, 2023
- C. Fee Affidavit of Mukul Manchanda sworn April 22, 2024
- D. Fee Affidavit of Catherine Francis sworn April 23, 2024
- E. Receiver's Statement of Receipts and Disbursements at April 22, 2024

I. APPOINTMENT AND BACKGROUND

1. This first report (this “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of Toronto Cosmetic Clinic Inc. (“**TCCI**” or the “**Company**”).
2. TCCI is a private corporation incorporated pursuant to the laws of the Province of Ontario. TCCI operates as a physician-directed surgery clinic offering a range of plastic surgery procedures and non-surgical cosmetic procedures from leased premises located at 5400 Yonge Street, Toronto, ON (the “**Business Premises**”).
3. The principals of the Company are Behnaz Yazdanfar and Sina Kashani (collectively, the “**Principals**”).
4. Spergel was appointed as the Receiver of all of the assets, undertakings and property of TCCI, (collectively, the “**Property**”) by Order of the Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated November 1, 2023 (the “**Receivership Order**”).
5. The Receivership Order was made upon the application of TCCI’s secured creditor, The Toronto-Dominion Bank (“**TD**”). Attached as **Appendices “A” and “B”** are copies of the Receivership Order and The Honourable Justice Steele’s endorsement dated November 1, 2023.
6. The Receiver initially retained Minden Gross LLP (“**Minden**”) as its independent counsel. In January 2024, the Receiver retained Fogler, Rubinoff LLP (“**Fogler**” together with Minden, the “**Receiver’s Counsel**”) as the counsel in charge of the file at Minden moved her practice to Fogler.

II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER

7. The purpose of this First Report is to report to the Court regarding the Receiver’s activities and conduct since the Receiver’s appointment dated November 1, 2023, and to seek Orders from this Court:
 - a) approving this First Report and the actions and activities of the Receiver described therein;

- b) approving the Receiver's interim statement of receipts and disbursements as at April 22, 2024 (the "**Interim R&D**");
 - c) approving the fees and disbursements of the Receiver (the "**Receiver's Fees**") for the period to and including March 31, 2024;
 - d) approving the fees and disbursements of the Receiver's Counsel to and including April 17, 2024;
 - e) approving the Fee Accrual (as defined herein);
 - f) effective upon filing of a certificate by the Receiver certifying that all outstanding matters to be attended to in connection with the receivership of TCCI has been completed to the satisfaction of the Receiver, discharging Spergel as the Receiver and granting certain ancillary relief in relation thereto; and
 - g) such further and other relief as Receiver's Counsel may advise and the Court may permit.
8. The Receiver will not assume responsibility or liability for losses incurred by the reader due to the circulation, publication, reproduction or use of this First Report for any other purpose.
9. In preparing this First Report, the Receiver has relied upon certain information provided to it by the Company and/or the Principals. 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 form of assurance with respect to such information.
10. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

III. ACTIONS OF THE RECEIVER

11. A copy of the Receivership Order was provided to the Company and the Company's counsel. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with subsections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act (Canada)* ("**BIA**") and mailed same to all creditors known to the Receiver.
12. Since the effective date of its appointment, the Receiver attended to the following:
 - i. attended the Business Premises for the purpose of meeting the Principals and inspecting the operations of the business carried on by TCCI;
 - ii. discussions and correspondence with the Principals and their counsel with respect to the operations of the business and the location of the Company's books and records;
 - iii. preparation of a cost-benefit analysis, including a cash flow forecast, with respect to continuing the operations of the business carried on by TCCI;
 - iv. discussions with stakeholders with respect to options concerning the sale of assets of TCCI;
 - v. discussions with creditors and interested parties;
 - vi. opened a dedicated trust account for the receivership entity and dealt with existing accounts;
 - vii. placed a freeze upon all bank accounts operated by TCCI;
 - viii. notified the landlord of the Business Premises of the appointment of the Receiver; and
 - ix. communicated with Canada Revenue Agency ("CRA") with respect to TCCI.
13. As part of preparing a cost-benefit analysis, the Receiver reviewed the following:
 - a) number of procedures scheduled and the cost of completing the procedures;
 - b) cost and avenues required to generate new business; and

- c) the lease agreement with respect to the Business Premises and the requirement to move out of the Business Premises by no later than April 30, 2024. This would have required the Receiver to find new premises and spend significant monies on leasehold improvements at the new premises and be bound by a new lease with no guarantee of an eventual sale of the business as a going concern.
14. Given the above, the Receiver, in consultation with TD, concluded that it was not commercially reasonable for the Receiver to take possession of the assets and the business and attempt to sell the business as a going concern.
15. In addition to the above, TD, taking into account; a) the cost associated with taking possession and selling the business as a going concern; b) the potential cost associated with finding and renovating new business premises; c) the potential deemed trust claims of CRA with respect to source deductions and HST; and d) there being no guarantee of an eventual sale of the business as a going concern, advised that it is not willing to fund the Receiver's activities with respect to taking possession and selling the assets and business of TCCI as a going concern. However, TD has agreed to pay the fees and disbursements of the Receiver and the Receiver's Counsel incurred to date including the Fee Accrual (as defined herein).
16. The Receiver understands that the Principals, in their individual capacities, have come to a settlement with TD with respect to the amounts outstanding to TD. The Receiver has been advised by the Principals that they intend to carry on the business of TCCI and pay any amounts outstanding to creditors in the ordinary course of business.

IV. FEES AND DISBURSEMENTS OF THE RECEIVER AND ITS COUNSEL

17. Attached to this First Report as **Appendix "C"** is the Affidavit of Mukul Manchanda, sworn April 22, 2024 (the "**Manchanda Affidavit**") which incorporates, by reference a copy of the time dockets pertaining to the receivership of TCCI for the period to and including March 31, 2024. The total fees and disbursements of the Receiver of \$24,535.22 (inclusive of HST and

disbursements) for the estate were charged by Spergel as detailed in the Manchanda Affidavit. This represents a total of 59.90 hours at an effective rate of \$362.36 per hour.

18. The Receiver's Counsel's fees to and including April 17, 2024 are in the total amount of \$2,092.20, inclusive of disbursements and HST. Attached to this First Report as **Appendix "D"** is the Affidavit of Catherine Francis sworn April 23, 2024. The Receiver has reviewed the Receiver's Counsel's accounts and given the Receiver's involvement in this matter, the Receiver is of the view that all the work set out in Receiver's Counsel's accounts 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.

V. FEE ACCRUAL

19. Provided there is no opposition to the relief sought in this First Report and that such relief is granted, the Receiver estimates that the additional fees for itself and the Receiver's Counsel necessary to complete the proceedings will be \$15,000 and \$10,000 (not including HST and disbursements), respectively (collectively the "Fee Accrual").

VI. RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS

20. Attached to this First Report as **Appendix "E"** is a copy of the Receiver's Statement of Receipts and Disbursements as of February 8, 2024.

VII. DISCHARGE OF THE RECEIVER

21. Subsequent to the date of this First Report, and prior to the Receiver's discharge, the Receiver proposes to attend to the following:
- a) other residual and/or administrative matters in connection with Spergel's appointment as the Receiver, including the preparation of a final report to the Office of the Superintendent of Bankruptcy; and
 - b) filing of the final Receiver's certificate of discharge.

VIII. RECOMMENDATION

22. For the reasons outlined in this First Report, the Receiver respectfully requests that the Court grant the relief specified at Paragraph 7 of this First Report.

All of which is respectfully submitted.

Dated at Toronto this 23rd day of April, 2024.

msi Spergel Inc.

solely in its capacity as the Court-appointed Receiver of TCCI and not in its personal or corporate capacities.

Per:



Mukul Manchanda, CPA, CIRP, LIT

Appendix "A"

Court File No. CV-23-0075871-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)	THURSDAY, THE 1st
)	
JUSTICE STEELE)	DAY OF NOVEMBER, 2023

THE TORONTO-DOMINION BANK

Applicant

- and -

TORONTO COSMETIC CLINIC INC.

Respondent

ORDER

(appointing Receiver)

THIS APPLICATION 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 Toronto Cosmetic Clinic Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Matthew Searle sworn September 11, 2023 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and the Respondent, as duly served as appears from the affidavits of service of Jason DiFruscia and Aimee Newman both sworn September 13, 2023 and on reading the consent of msi Spergel inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application is hereby abridged and validated so that this Application 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 (collectively, the "Property").

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- i. without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$150,000; and
 - ii. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
 - iii. 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.
- (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

8. 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

9. 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

10. 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

11. 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

12. 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

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

Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

14. 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.

15. 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.

16. 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

17. 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 (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.

18. 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.

19. 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.

20. 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

21. 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/'.

22. 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

23. 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.

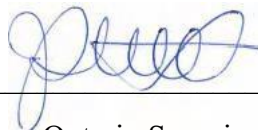
THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

24. 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.

25. 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.

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

27. 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.



Justice, Ontario Superior Court of Justice

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

THIS IS TO CERTIFY that msi Spergel inc., the receiver (the "Receiver") of the assets, undertakings and properties The Toronto-Dominion Bank 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.

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.

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.

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

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.

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.

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:

THE TORONTO-DOMINION BANK

-and-

TORONTO COSMETIC CLINIC INC.

Applicant

Respondent

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

ORDER

HARRISON PENZA^{LLP}

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

Timothy C. Hogan (LSO #36553S)
Robert Danter (LSO #69806O)

Tel: (519) 661-6743

Fax: (519) 667-3362

Email: thogan@harrisonpensa.com
rdanter@harrisonpensa.com

Solicitors for the Applicant,
The Toronto-Dominion Bank

Appendix "B"



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00705871-00CL

DATE: WEDNESDAY, NOVEMBER 1, 2023

NO. ON LIST: 5

TITLE OF PROCEEDING: THE TORONTO-DOMINION BANK v. TORONTO COSMETIC CLINIC INC.

BEFORE: JUSTICE STEELE

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Melinda Vine	Counsel for Toronto-Dominion Bank	mvine@harrisonpensa.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Fred Tayar	Counsel for Toronto Cosmetic Clinic Inc.	fred@fredtayar.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
N / A		

ENDORSEMENT OF JUSTICE STEELE:

[1] The Applicant, The Toronto-Dominion Bank, seeks an Order to appoint msi Spergel inc. as Receiver, without security, over all of the assets, undertakings, and properties of the Respondent, Toronto Cosmetic Clinic Inc. (the "Appointing Order")

[2] The Application is granted, with the Appointing Order being signed today. The Appointing Order shall not be effective until November 17, 2023 to allow the Applicant and Respondents to enter into a Settlement Agreement.

[3] In the event that a Settlement Agreement is not reached by November 17, 2023, the Appointing Order shall be thereafter immediately effective without further notice or attendance at this Court.

[4] In the event that a settlement is reached by November 17, 2023, the order made today shall be of no force and effect and the within application will be dismissed, without prejudice to the Applicant commencing a new application if so required.

A handwritten signature in blue ink, appearing to be "J. Lee", is centered on the page.

Appendix "C"

Court File No. CV-23-0075871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicants

- and -

TORONTO COSMETIC CLINIC INC.

Respondents


AFFIDAVIT OF MUKUL MANCHANDA
(sworn April 22, 2024)

I, **MUKUL MANCHADA**, 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 Toronto Cosmetic Clinic Inc. ("**TORO**") 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 TORO by Order of the Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List), on November 1, 2023.
3. In connection with the receivership of TORO for the period from November 1, 2023 to and including March 31, 2024 fees of \$24,535.22 (inclusive of HST, disbursements) were charged by Spergel as detailed in the billing summary and

time dockets attached hereto as **Exhibit "1"** to this my Affidavit. This represents 59.90 hours at an effective rate of \$362.36 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. This Affidavit is made in support of a motion to, *inter alia*, approve the receipts and disbursements of the Receiver and its accounts.
- 6. I make this Affidavit for no improper purpose.

SWORN BEFORE ME at the City)
of Toronto, in the Province of)
Ontario, this 22nd day of April, 2024)
)
_____)
A Commissioner, etc.)



MUKUL MANCHANDA

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 22nd day of April, 2024**



A Commissioner, Etc

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



April 22, 2024

Invoice #: 12710

Toronto Cosmetic Clinic Inc.

INVOICE

RE: Toronto Cosmetic Clinic Inc.

FOR PROFESSIONAL SERVICES RENDERED as Court-Appointed Receiver for the period to March 31, 2024.

Professional Services	Hours	Hourly Rate	Total
Mukul Manchanda, CPA, CIRP, LIT	31.10	\$451.74	\$14,049.00
Gillian Goldblatt, CPA, CA, CIRP, LIT	0.10	\$375.00	\$37.50
Paula Amaral	21.90	\$290.00	\$6,351.00
Azeem Shah	6.20	\$190.00	\$1,178.00
Others	0.60	\$150.00	\$90.00
Total Professional Services	59.90	\$362.36	\$21,705.50
HST			\$2,821.72
Reimbursable Expenses			Total
PPSA Search			\$8.00
Total Reimbursable Expenses			\$8.00
Total			\$24,535.22

HST Registration #R103478103
(AATORO-R)



April 22, 2024

Invoice #: 12710

Toronto Cosmetic Clinic Inc.

INVOICE

INVOICE RECONCILIATION PAGE

Date	Staff	Memo	Hours	B-Rate	Amount
Professional Services					
2023-04-04	PAM	Search history of properties to determine registered owners.	0.10	\$290.00	\$29.00
2023-08-02	MMA	Meeting with K. Furfaro regarding the file via Microsoft Teams.	0.50	\$450.00	\$225.00
2023-11-01	MMA	Email exchanges and discussions with T. Hogan, M. Vine and K. Furfaro regarding the receivership application and the potential settlement.	0.40	\$450.00	\$180.00
2023-11-02	MMA	Receipt and review of endorsement and the order of Justice Steele.	0.30	\$450.00	\$135.00
2023-11-15	MMA	Telephone call with M. Vine regarding settlement. Review of emails regarding same.	0.30	\$450.00	\$135.00
2023-11-16	MMA	Receipt and review of an email from M. Vine advising that he minutes of settlement will not be signed and the appointment order will become effective.	0.30	\$450.00	\$135.00
2023-11-20	MMA	Participated in a conference call with K. Furfaro, M. Searle, M. Vine, T. Hogan, R. Moses regarding the file. Created case website and uploaded documents to same. Multiple calls to debtors regarding scheduling a visit. INstructions to staff regarding the mandate.	1.80	\$450.00	\$810.00
2023-11-20	PAM	Send request to banking to set up a trust account. Request Ascend licence and PPSA.	0.20	\$290.00	\$58.00
2023-11-21	PAM	Attend premises to discuss receivership, review sales reporting system and review status of expenses and payables,	5.00	\$290.00	\$1,450.00
2023-11-21	MMA	Traveled to and back from the site with P. Amaral. Receipt and review of multiple email regarding updates on sites. Receipt and review of email from P. Amaral requesting for a list of documentation.	2.30	\$450.00	\$1,035.00
2023-11-22	MMA	Email exchange with M. Searle regarding the update on file. Receipt and review of multiple email communication from P. Amaral to Behnaz regarding the bank transactions. Lengthy calls with Behnaz and Sina regarding continuing operation of the clinic. Lengthy calls with Dr. LEvine regarding operation of the clinic.	2.30	\$450.00	\$1,035.00
2023-11-23	PAM	Call with bank to discuss status of operations and next steps. Discussion with doctors on staff regarding status of business and next steps.	0.90	\$290.00	\$261.00



April 22, 2024

Invoice #: 12710

Toronto Cosmetic Clinic Inc.

INVOICE

2023-11-23	MMA	<i>Participated in a Microsoft Teams meeting with M. Searle regarding the file.</i>	0.50	\$450.00	\$225.00
2023-11-24	PAM	<i>Review Notice and Statement of Receiver prepared by A. Shah. Discussion with doctors on staff regarding status of business and next steps. Financial analysis using sales reports from internal system and compare to monthly bank statements,</i>	1.60	\$290.00	\$464.00
2023-11-27	PAM	<i>Receive and review email from management with list of upcoming surgeries and summary of amounts outstanding to suppliers of services and products. Prepare cash flow using transactions on bank statement and discussions with management regarding transaction details for the month of September. Email accountant for accounts payable list and supplier list to complete the Notice and Statement of Receiver.</i>	3.60	\$290.00	\$1,044.00
2023-11-27	MMA	<i>Receipt, review and approval of Notice and Statement of Receiver shared by A. Shah. Receipt and review of email communication from P. Amaral to Behnaz the information request. Lengthy calls with Behnaz and Sina.</i>	1.40	\$450.00	\$630.00
2023-11-28	ASA	<i>C</i>	2.50	\$190.00	\$475.00
2023-11-28	PAM	<i>Prepare cash flow using transactions on bank statement and discussions with management regarding transaction details for the month of September.</i>	2.00	\$290.00	\$580.00
2023-11-28	MMA	<i>Calls with Dr. Levine, Behnaz and Sina.</i>	0.60	\$450.00	\$270.00
2023-11-29	ASA	<i>Mail merged the letters and sent out</i>	3.50	\$190.00	\$665.00
2023-11-29	PAM	<i>Prepare cash flow using transactions on bank statement and discussions with management regarding transaction details for the month of October.</i>	1.70	\$290.00	\$493.00
2023-11-30	MMA	<i>Telephone call with Sina and Behnaz. Telephone call with M. Searle, K. Furfaro and M. Vine regarding the file. Receipt and review of email from P. Amaral containing the draft cash flow.</i>	1.10	\$450.00	\$495.00
2023-11-30	PAM	<i>Prepare cash flow using transactions on bank statement and discussions with management regarding transaction details for the month of November. Project cash flow forward to March 2024 and integrate confirmed sales provided by company.</i>	5.50	\$290.00	\$1,595.00



April 22, 2024

Invoice #: 12710

Toronto Cosmetic Clinic Inc.

INVOICE

2023-12-01	MMA	<i>Email exchange with M. Searle regarding the clinic rent issue. Receipt and review of email from P. Amaral containing the revised cash flow. Multiple calls with Sina and Behnaz. Email exchanges with Behnaz regarding outstanding rent and other operational issues. Advised Behnaz that the Receiver is not in possession of the clinic and is assessing the cash flow viability of the business. Receipt and review of the cash flow forecast. Discussion regarding same with Sina and Behnaz.</i>	1.40	\$450.00	\$630.00
2023-12-01	PAM	<i>Discussion with management regarding cash flow results. Make changes to cash flow as per discussion with management and resubmit for approval. Submit cash flow to M. Manchada for review.</i>	0.50	\$290.00	\$145.00
2023-12-04	MMA	<i>Attended a conference call with S. Kashani and B. Yazdanfar. Telephone call with R. Moses regarding the operating agreement. Attended a microsoft Teams call with M. Searle, M. Vine and R. Moses regarding the file. Multiple further calls with S. ashani and b. Yazdanfar.</i>	2.30	\$450.00	\$1,035.00
2023-12-05	MMA	<i>Calls with B. Yazdanfar.</i>	0.30	\$450.00	\$135.00
2023-12-06	MMA	<i>Receipt and review of email communication from the landlord regarding the rent.</i>	0.10	\$450.00	\$45.00
2023-12-07	MMA	<i>Telephone call with S. Kashani and B. Yazdanfar.</i>	0.50	\$450.00	\$225.00
2023-12-14	PAM	<i>Receive and respond to emails from creditors regarding outstanding debt.</i>	0.20	\$290.00	\$58.00
2023-12-22	PAM	<i>Receive call from management informing of status of website and details regarding access.</i>	0.20	\$290.00	\$58.00
2024-01-08	MMA	<i>Email exchanges with M. Vine and H. Manis regarding the settlement. Telephone discussion with K. Furfaro regarding same.</i>	0.50	\$450.00	\$225.00
2024-01-17	MMA	<i>Receipt, review and approval of HST/GST rebate forms shared by A. Shah.</i>	0.60	\$450.00	\$270.00
2024-01-18	MMA	<i>Lengthy call with B. Yazdanfar.</i>	0.60	\$495.00	\$297.00
2024-01-19	MMA	<i>Microsoft Teams meeting with M. Searle, K. Furfaro, M. Vine and R. Moses regarding offer from Behnaz and go forward strategy.</i>	0.50	\$450.00	\$225.00
2024-01-22	MMA	<i>Lengthy call with B. Yazdanfar regarding the proposed settlement. Telephone call with M. Vine regarding settlement.</i>	0.70	\$450.00	\$315.00



April 22, 2024

Invoice #: 12710

Toronto Cosmetic Clinic Inc.

INVOICE

2024-01-23	MMA	Email exchanges and telephone discussion with M. Vine regarding the proposed settlement. Telephone call with B. Yazdanfar regarding same.	0.60	\$495.00	\$297.00
2024-01-29	MMA	Email exchange with M. Searle regarding the sale of clinic. Email exchanges with M. Vine. Telephone call with B. Yazdanfar.	0.60	\$450.00	\$270.00
2024-01-30	MMA	Participated in a Microsoft Teams call with M. Vine, K. Furfaro, M. Searle, R. Moses and P. Amaral.	0.50	\$450.00	\$225.00
2024-01-30	ASA	HST Authorization forms prepared	0.20	\$190.00	\$38.00
2024-01-31	PAM	Receive email from creditor advising of correct amount outstanding and requesting an update.	0.10	\$290.00	\$29.00
2024-02-02	PAM	Review request for RT0002 account with A. Shah and discuss forms required to obtain CRA access and RT0002 account.	0.10	\$290.00	\$29.00
2024-02-06	MMA	Email exchange with B. Yazdanfar regarding the sale process and requiring financial information. Receipt and review of email B. Yazdanfar and M. Searle regarding her signed agreement with Sina.	0.30	\$450.00	\$135.00
2024-02-07	MMA	Email exchanges and telephone discussions with R. Klaczowski regarding the receivership. Receipt and review of an email from B. Yazdanfar containing a final agreement of settlement between B. Yazdanfar and S. Kashani. Lengthy call with B. Yazdanfar regarding settlement with the bank and the terms of same. Participated in a conference call with K. Furfaro and M. Searle regarding the settlement. Receipt and review of the payout figures from M. Searle.	2.70	\$450.00	\$1,215.00
2024-02-08	MMA	Receipt and review of the draft minutes of settlement from M. Vine. Provided comments regarding same. Telephone discussion with M. Vine regarding same.	0.80	\$450.00	\$360.00
2024-02-12	MMA	Receipt and review of the revised minutes of settlement from M. Vine. Provided comments regarding same. Receipt and review of comments from T> Hogan regarding the minutes. Telephone call with M. Vine. Telephone call with B. Yazdanfar and S. Kasani regarding finalizing the terms of the agreement.	1.40	\$450.00	\$630.00
2024-02-13	HSI	account opening Wire/EFT and Deposits and Cheque requests review the file processing.	0.60	\$150.00	\$90.00
2024-02-13	MMA	Telephone call with B. Yazdanfar. Call with K. Furfaro regarding update on the terms of settlement. Email exchanges with M. Vine regarding the application of \$10K as forbearance fees.	0.80	\$450.00	\$360.00
2024-02-14	PAM	Review file and mail for CRA claim.	0.20	\$290.00	\$58.00



April 22, 2024

Invoice #: 12710

Toronto Cosmetic Clinic Inc.

INVOICE

2024-02-15	MMA	<i>Email exchanges with M. Vine regarding the status of the settlement.</i>	0.20	\$450.00	\$90.00
2024-02-20	MMA	<i>Receive and review minutes of settlement from M.Vine</i>	0.30	\$450.00	\$135.00
2024-03-01	MMA	<i>Lengthy call with B. Yazdanfar and S. Kashani. Call with K. Furfaro regarding the file. Attended and responded to various calls from stakeholders and interested parties.</i>	1.30	\$450.00	\$585.00
2024-03-04	MMA	<i>Email exchange with M. Vine regarding the settlement.</i>	0.30	\$450.00	\$135.00
2024-03-05	MMA	<i>Telephone call with M. Vine regarding status of settlement negotiations.</i>	0.40	\$450.00	\$180.00
2024-03-06	GGO	<i>Receive and review bank reconciliation</i>	0.10	\$375.00	\$37.50
2024-03-19	MMA	<i>Various emails regarding approval of the minutes of settlement</i>	0.60	\$450.00	\$270.00
2024-03-22	MMA	<i>Received and reviewed minutes of settlement</i>	1.00	\$450.00	\$450.00
Professional Services Total:			59.90		\$21,705.50

Reimbursable Expenses

2024-02-07	NTA				\$8.00
Reimbursable Expenses Total:			1.00		\$8.00

Appendix "D"

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

TORONTO COSMETIC CLINIC INC.

Respondent

AFFIDAVIT OF CATHERINE FRANCIS
(sworn April 23, 2024)

I, **CATHERINE FRANCIS**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

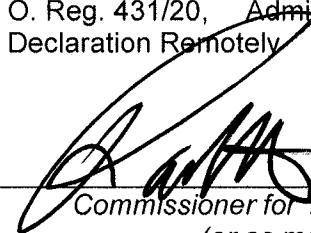
1. I am a partner with the law firm of Fogler, Rubinoff LLP ("**Foglers**").
2. Prior to January 3, 2024, I was a partner at Minden Gross LLP ("**Minden Gross**") who acted for msi Spergel inc., in its capacity as receiver and manager, without security, of all the assets, undertakings and properties of Toronto Cosmetic Clinic Inc. (the "**Receiver**").
3. The Receiver was appointed pursuant to the Order made by the Honourable Justice Steele of the Ontario Superior Court of Justice on November 1, 2023.
4. The Receiver was formerly represented by Rachel Moses of Minden Gross. Attached hereto as **Exhibit "A"** is a true copy of Minden Gross' account dated December 31, 2023 with respect to the fees and disbursements incurred by Minden Gross in relation to this receivership estate for the period of November 20, 2023 to

December 31, 2023. The account also includes a chart which sets out the time spent and the applicable hourly billing rates of Minden Gross in respect of the invoice rendered by Minden Gross to the Receiver. The total of the fees, disbursements and applicable taxes from November 20, 2023 to December 31, 2023 is the sum of \$621.50.

5. The Receiver is now represented by Rachel Moses of Foglers. Attached hereto and marked as **Exhibit "B"** is a true copy of Foglers' account dated April 22, 2024 with respect to the fees and disbursements incurred by Foglers in relation to this receivership estate for the period of January 18, 2024 to April 17, 2024. The account also includes a chart which sets out the time spent and the applicable hourly billing rates of Foglers in respect of the invoice rendered by Foglers to the Receiver. The total of the fees, disbursements and applicable taxes from January 18, 2024 to April 17, 2024 is \$1,470.70.

6. I make this Affidavit in support of a motion by the Receiver for, *inter alia*, approval of the fees and disbursements of its former counsel, Minden Gross, and approval of the fees and disbursements of its present counsel, Foglers.

SWORN by Catherine Francis of the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 23, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



Commissioner for Taking Affidavits
(or as may be)

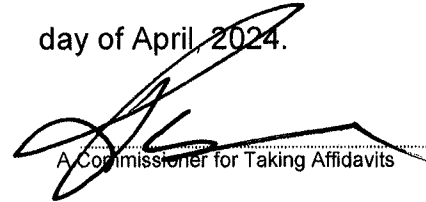
~~Carol Liu (LSO# 84938G)~~
RACHEL MOSES
(LSO # 42081V)



CATHERINE FRANCIS

This is **Exhibit "A"** referred to
in the Affidavit of Catherine Francis

Sworn this 23rd
day of April, 2024.



A Commissioner for Taking Affidavits



MINDEN GROSS LLP
 BARRISTERS & SOLICITORS
 145 KING STREET WEST, SUITE 2200
 TORONTO, ON, CANADA M5H 4G2
 TEL 416.362.3711 FAX 416.864.9223
 WWW.MINDENGROSS.COM

IN ACCOUNT WITH

DATE 31-Dec-2023
 INVOICE NUMBER 3030419
 GST/HST REG. # 11943 7556 RT
 FILE NUMBER 4134942

PERSONAL AND CONFIDENTIAL

msi Spergel Inc.
 200 Yorkland Boulevard
 Suite 1100
 Toronto, ON M2J 5C1
 Attention: Mukul Manchanda

RE: Toronto Cosmetic Clinic Inc.

For professional services:

	Currency: CAD
Our Fees	550.00
GST/HST:	71.50
Total Fees and GST/HST:	<u>621.50</u>
Total Amount Due	<u><u>\$621.50</u></u>



Invoice Date: 31-Dec-2023
 Invoice Number: 3030419
 Matter Number: 4134942

Time Detail

<u>Date</u>	<u>Name</u>	<u>Description</u>
11/20/2023	Moses, Rachel	Telephone call and exchange correspondence with M. Manchanda re receivership and review various correspondence exchange re premises
11/22/2023	Moses, Rachel	Exchange correspondence with M. Manchanda et al re site visit
11/23/2023	Moses, Rachel	Teams call on Receivership site visit
12/01/2023	Moses, Rachel	Review correspondence from M. Manchanda re TD's offer
12/04/2023	Moses, Rachel	Telephone call and exchange correspondence with M. Manchanda et al re potential sale and operating agreement
12/07/2023	Moses, Rachel	Review correspondence exchange between M. Searle and M. Vine

Timekeeper Summary

<u>Name</u>	<u>Timekeeper Title</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Moses, Rachel	Partner	1.00	550.00	550.00
Total		1.00		\$550.00



MINDEN GROSS LLP
 BARRISTERS & SOLICITORS
 145 KING STREET WEST, SUITE 2200
 TORONTO, ON, CANADA M5H 4G2
 TEL 416.362.3711 FAX 416.864.9223
 WWW.MINDENGROSS.COM

msi Spergel Inc.
 200 Yorkland Boulevard
 Suite 1100
 Toronto, ON M2J 5C1
 Attention: Mukul Manchanda

IN ACCOUNT WITH
 DATE 31-Dec-2023
 INVOICE NUMBER 3030419
 GST/HST REG. # 11943 7556 RT
 FILE NUMBER 4134942

REMITTANCE COPY

Toronto Cosmetic Clinic Inc.

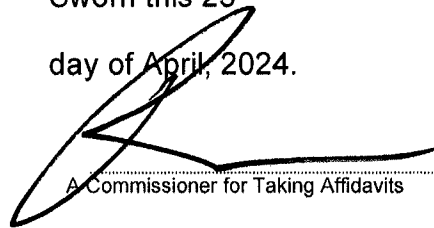
<u>Invoice Date</u>	<u>Invoice Number</u>	<u>Balance Due</u>
<u>Current Invoice</u>		
12/31/2023	3030419	\$621.50
Balance Due		\$621.50

REMITTANCE ADVICE

<u>Canadian Dollar Wire Payments:</u>	<u>Canadian Dollar EFT Payments:</u>	<u>Cheque Payments:</u>
Royal Bank of Canada 200 Bay Street Toronto, Ontario, M5J 2J2 Bank No: 003 Transit No: 06012 Account No: 060121022276 SWIFT Code: ROYCCAT2 Beneficiary: Minden Gross LLP	Royal Bank of Canada 200 Bay Street Toronto, Ontario, M5J 2J2 Bank No: 003 Transit No: 06012 Account No: 1022276 Beneficiary: Minden Gross LLP	Minden Gross LLP Barristers & Solicitors ACCOUNTS RECEIVABLE 145 King Street West, Suite 2200 Toronto, ON, Canada, M5H 4G2 <i>Please return remittance advice(s) with cheque</i>
<i>Please email Wire/EFT payment details to payments@mindengross.com referencing invoice number(s) being paid</i>		
<u>Interac E-transfer Payments:</u> Using Online Banking App or Website		
Payee Name: Minden Gross LLP Email: payments@mindengross.com <i>Please include the invoice number(s) in the e-transfer notes</i>		
<i>For inquiries or copy of invoices, please contact: Payments (416) 369-4328 / E-mail: payments@mindengross.com</i>		

This is **Exhibit "B"** referred to
in the Affidavit of Catherine Francis

Sworn this 23rd
day of April, 2024.



A Commissioner for Taking Affidavits

Invoice Num: 22406214

April 22, 2024

msi Spergel Inc.
200 Yorkland Boulevard, Suite 1100
Toronto ON
M2J 5C1
Attention: Mukul Manchanda

IN ACCOUNT WITH
Fogler, Rubinoff LLP
77 King Street West, Suite 3000
TD Centre North Tower
P.O. Box 95
Toronto, ON
M5K 1G8
Telephone: 416-864-9700
Fax: 416-941-8852
www.foglers.com

fogler
rubinoff

Our File: M5294 / 236307
Toronto Cosmetic Clinic Inc.

FOR PROFESSIONAL SERVICES RENDERED in connection with the above-noted matter to April 22, 2024.

Our Fees for Professional Services	\$1,301.50
Total Disbursements	\$0.00
Total Fees and Disbursements	\$1,301.50
HST @ 13% on Fees and Taxable Disbursements	\$169.20
Total Fees, Disbursements and Taxes this Bill	\$1,470.70
Balance Due:	\$1,470.70

THIS IS OUR ACCOUNT HEREIN
FOGLER, RUBINOFF LLP

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 5.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

E. & O.E. R119420859 GST/HST No :

Please return a copy of this account with your payment. Thank you.

Rachel Moses



Invoice Num: 22406214

April 22, 2024

msi Spergel Inc.
200 Yorkland Boulevard, Suite 1100
Toronto ON
M2J 5C1
Attention: Mukul Manchanda

IN ACCOUNT WITH
Fogler, Rubinoff LLP
77 King Street West, Suite 3000
TD Centre North Tower
P.O. Box 95
Toronto, ON
M5K 1G8
Telephone: 416-864-9700
Fax: 416-941-8852
www.foglers.com



Our File: M5294 / 236307
Toronto Cosmetic Clinic Inc.

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Jan-18-24	RM	Communications with M. Manchanda et al re offer to purchase assets.	0.10	68.50
Jan-19-24	RM	Teams call with M. Manchanda, K. Furfaro et al re offer to purchase business from Receiver.	0.50	342.50
Jan-29-24	RM	Communications with M. Manchanda re receivership and operating the clinic.	0.10	68.50
Jan-30-24	RM	Communications with M. Manchanda, K. Furfaro, et al re sales process for clinic after failed attempt to sell to principal.	0.20	137.00
Feb-06-24	RM	Communications between M. Manchanda and M. Searle re sales process.	0.10	68.50
Mar-03-24	RM	Communications with M. Manchanda and M. Vine re motion to court.	0.10	68.50
Apr-03-24	RM	Communications with M. Manchanda re discharge hearing.	0.10	68.50
Apr-10-24	RM	Communications with Commercial List re motion availability hearing dates.	0.20	137.00
Apr-11-24	RM	Confirmation from Commercial List re Motion date before Justice Steele.	0.10	68.50
Apr-12-24	RM	Communications to M. Manchanda and M. Vine re return date for sale approval motion and service list.	0.20	137.00
Apr-17-24	RM	Communications with M. Manchanda and H. Manis re Receiver's motion for discharge and First Report.	0.20	137.00
TOTAL FEES:				\$1,301.50



OUR FEE HEREIN:

\$1,301.50

Summary of Fees

<u>Position</u>	<u>Initials</u>	<u>Total Time</u>	<u>Hourly Rate</u>	<u>Value</u>
Partner	RM	1.90	685.00	1,301.50

Disbursements

Total Disbursements	\$0.00
Total Fees and Disbursements	\$1,301.50
HST @ 13% on Fees and Taxable Disbursements	\$169.20
Total Fees, Disbursements and Taxes this Bill	\$1,470.70

Balance Due: \$1,470.70

**THIS IS OUR ACCOUNT HEREIN
FOGLER, RUBINOFF LLP**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 5.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

E. & O.E.

GST/HST No : R119420859

Please return a copy of this account with your payment. Thank you.

Rachel Moses

For your convenience, we have the following payment options:

- Online banking using the Bill Payment Service at most Canadian chartered banks. Please reference your file or account number in the notes box.
- Direct Deposits at a TD Branch (please provide your Fogler, Rubinoff lawyer with a copy of the cheque and deposit receipt).
- Wire transfer (please reference your file or account number).
- Electronic Funds Transfer (EFT).
- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail accountsreceivable@foglers.com.

BETWEEN:

THE TORONTO-DOMINION BANK
Applicant

-and-

TORONTO COSMETIC CLINIC INC.
Respondent

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF CATHERINE FRANCIS
SWORN APRIL 23, 2024**

FOGLER, RUBINOFF LLP

Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8

Rachel Moses (LSO# 42081V)
rmoses@foglers.com
Tel: 416-864-7627

Lawyers for the Receiver, msi Spergel inc.

Appendix "E"

District of
 Division No.
 Court File No. CV-23-0075871-00CL

**In the Matter of the Receivership of
 Toronto Cosmetic Clinic Inc.
 of the City of Toronto, in the Province of Ontario**

Receiver's Interim Statement of Receipts and Disbursements
 As at April 22, 2024

RECEIPTS

1	Miscellaneous Advance from Trustee	442.55	
TOTAL RECEIPTS			<u>442.55</u>

DISBURSEMENTS

2.	Federal and Provincial taxes HST paid on Ascend License Fee	42.25	
			<u>42.25</u>
3.	Miscellaneous Ascend License Fee Filing Fees Paid to O/R	325.00 75.30	
TOTAL DISBURSEMENTS			<u>442.55</u>
Net Receipts over Disbursements			<u>0.00</u> E&OE

TAB 3

Court File No. ~~_____~~ CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

<u>THE HONOURABLE</u>)	<u>THURSDAY, THE 2ND</u>
)	
THE HONOURABLE)	WEEKDAY, THE #
)	
JUSTICE _____ <u>STEELE</u>)	DAY OF MONTH <u>MAY</u> , 20YR <u>2024</u>

BETWEEN:
PLAINTIFF

THE TORONTO-DOMINION BANK

Applicant
Plaintiff

- and -

DEFENDANT

TORONTO COSMETIC CLINIC INC.

Respondent
Defendant

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~~ undertakings, properties and assets of ~~{DEBTOR}~~ Toronto Cosmetic Clinic (the "Debtor"), for an ~~order~~ Order:

1. if necessary, abridging the time for service of this motion, or alternatively, dispensing with service.

2. 1. approving the activities of the Receiver as set out in the ~~report~~ First Report of the Receiver dated ~~{DATE}~~ April 23, 2024 (the "Report");

3. ~~2.~~ approving the fees and disbursements of the Receiver and its counsel, including the Fee Accrual (as defined in the Report);

4. ~~3.~~ approving the ~~distribution of the remaining proceeds available in the estate of the Debtor; [and]~~ Receiver's interim statement of receipts and disbursements as at April 22, 2024;

5. ~~4.~~ discharging ~~[RECEIVER'S NAME]~~ msi Spergel inc. as Receiver of the ~~undertaking, property~~ undertakings, properties and assets of the Debtor~~;~~; and

6. ~~5.~~ releasing ~~[RECEIVER'S NAME]~~ msi Spergel inc. from any and all liability, as set out in paragraph ~~56~~ of this Order¹,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report, the affidavits of the Receiver and its counsel as to 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 sworn ~~[DATE]~~ April _____, 2024, filed²;

1. **THIS COURT ORDERS** that the time for service of this motion is hereby abridged, service of this motion is validated, and further service of this motion is hereby dispensed with.

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

² ~~This model order assumes that the time for service does not need to be abridged.~~

2. ~~1.~~ **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Report, are hereby approved.

3. ~~2.~~ **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, [including the Fee Accrual](#), as set out in the Report and the Fee Affidavits, are hereby approved.

4. ~~3.~~ **THIS COURT ORDERS** that, ~~after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands to [NAME OF PARTY]³;~~ [the Interim Statement of Receipts and Disbursements as at April 22, 2024, included in the Report, are hereby approved.](#)

5. ~~4.~~ **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 3 hereof ~~{and upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report}~~, the Receiver shall be discharged as Receiver of the ~~undertaking, property~~[undertakings, properties](#) 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.

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

6. ~~5.~~ **[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]~~ **is**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.]⁴

⁴The 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.

THE TORONTO-DOMINION BANK
Applicant

-and- TORONTO COSMETIC CLINIC INC.
Respondent

Court File No. CV-23-0075871-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

DISCHARGE ORDER

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Table moves from	0
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Embedded Excel	0
Format changes	0
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THE TORONTO-DOMINION BANK
Applicant

-and- **TORONTO COSMETIC CLINIC INC.**
Respondent

Court File No. CV-23-00705871-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**MOTION RECORD OF THE RECEIVER,
MSI SPERGEL INC.**
(Returnable May 2, 2024)

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