

Court File No. CV-21-00657729-00CL

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

B E T W E E N:

ROYAL BANK OF CANADA

Applicant

- and -

ALUMINART PRODUCTS LIMITED, ARCOR WINDOWS &
DOORS INC., and N.A.P. WINDOWS & DOORS LTD.

Respondents

RESPONDING RECORD

SHENTON SAKINOFSKY LLP

Lawyers • Advocats • Адвокаты

2200 - 4950 Yonge Street

Toronto, ON M2N 6K1

Paul Shenton

LSUC No. 38016K

Tel: 647-725-2530

Fax: 647-725-2531

Lawyers for the Respondents,
Aluminart Products Limited, Arcor
Windows & Doors Inc., and
N.A.P. Windows & Doors Ltd.

TO: SERVICE LIST

SERVICE LIST

NO.	NAME	METHOD OF SERVICE
1.	COSIMO CACCAMO 22 Rainbows End Kleinberg, ON L0J 1C0	BY E-MAIL TO: cosimopolitan@hotmail.com
2.	LINTON PYNN 2000 Islington Avenue, Suite 1812 Toronto, ON M9P 3S7 Director of Aluminart Products Limited	BY E-MAIL TO: lpynn1812@gmail.com
3.	MSI SPERGEL INC. 505 Consumers Road, Suite 200, Toronto ON M2J 4V8 Mukul Manchanda Tel: (416) 498-4314 E-mail: mmanchanda@spergel.ca Receiver	BY E-MAIL TO: mmanchanda@spergel.ca
4.	HARRISON PENZA LLP Barristers & Solicitors 450 Talbot Street London ON N6A 5J6 Timothy C. Hogan (LSO #36553S) Melinda Vine (LSO #53612R) Tel: (519) 661-6743 Fax: (519) 667-3362 E-Mail: thogan@harrisonpensa.com mvine@harrisonpensa.com Lawyers for msi Spergel inc.	BY E-MAIL TO: thogan@harrisonpensa.com mvine@harrisonpensa.com

NO.	NAME	METHOD OF SERVICE
5.	<p>LIPMAN ZENER WAXMAN 100 Sheppard Avenue East, Suite 850 Toronto ON M2N 6N5</p> <p>Allan Lipman E-Mail: alipman@lzwlaw.com</p> <p>Ian Klaiman E-Mail: iklaiman@lzwlaw.com</p> <p>Lawyers for Business Development Bank of Canada</p>	<p>BY E-MAIL TO: alipman@lzwlaw.com iklaiman@lzwlaw.com</p>
6.	<p>DENTONS CANADA LLP Toronto-Dominion Centre 77 King Street West, Suite 400 Toronto ON M5K 0A1</p> <p>Mark A. Freake Tel: 416-863-4456 E-Mail: mark.freake@dentons.com</p> <p>Lawyers for Mercedes-Benz Financial and Mercedes-Benz Financial Services Canada Corporation</p>	<p>BY E-MAIL TO: Mark.freake@dentons.com</p>

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| 1. | Affidavit of Joseph Caccamo, sworn April 5, 2021 |
| A. | Exhibit "A" – Photographs of the Summerlea Premises, taken April 3, 2021 |
| B. | Exhibit "B" – Notice of Termination from Menkes Summerlea Holdings Inc., dated April 5, 2021 |

TAB "1"

Court File No. CV-21-00657729-00CL

ONTARIO COURT
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BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

ALUMINART PRODUCTS LIMITED, ARCOR WINDOWS &
DOORS INC., AND N.A.P. WINDOWS & DOORS LTD.

Respondents

AFFIDAVIT

I, JOSEPH CACCAMO, of the Village of Kleinberg, in the Province of Ontario, MAKE
OATH AND SAY AS FOLLOWS:

1. I am the President of the three Respondent corporations in the within
Application, and as such, I have knowledge of the matters to which I hereinafter depose.
2. I adopt the terminology used in the Affidavit of Mukul Manchanda, dated April
1, 2021.

SUMMERLEA PREMISES.

3. In contrast to the photos attached to the Affidavit of Mukul Manchanda, I have
attached photos that I took on April 3, 2021, two days after Mukul Manchanda's Affidavit

was sworn, showing the actual condition of the Summerlea Premises. There remains quite a bit of machinery and inventory. Attached hereto as Exhibit "A", collectively, are photos of the Summerlea Premises, taken April 3, 2021.

4. The Landlord's representative from Sterling Bailiffs Inc. did correctly inform Mukul Manchanda that the Companies had been moving BDC's assets since March 25, 2021. BDC's assets had to be moved as the Landlord of the Summerlea Premises had already advised me that he intended to terminate the lease and wanted us out.

5. In view of the necessity to vacate the Summerlea Premises, and to the benefit of all parties involved, I tried to informally broker a sale of BDC's assets to 12794799 Canada Inc. The intent was for the assets to pass outside of the Companies. However, I did not properly informally broker it to clearly appear that way.

6. Ultimately, the Landlord of the Summerlea Premises served the Companies with a Notice of Termination. Attached hereto as Exhibit "B" is a copy of the Notice of Termination from Menkes Summerlea Holdings Inc., dated April 5, 2021.

7. The paper records and some computer equipment remain at the Summerlea Premises. The main servers were hit by a ransomware attack in September of 2019 and all files were encrypted. We were not able to retrieve any electronic data as we did not have funds to pay the ransom. There was a second ransomware or viral attack in January of 2021. This attack bricked a lot of our hardware and was therefore disposed of.

PROPOSED SALE TO BUSINESS DEVELOPMENT BANK OF CANADA

8. I understand that 12794799 Canada Inc. has contacted BDC and wants to complete the transaction. 12794799 Canada Inc. has the funds on hand to immediately pay BDC the full amount of the indebtedness of the Companies. However, this is not part of the matter with Royal Bank of Canada.

9. Other than the assets of BDC, there is less equipment remaining at the Summerlea Premises than the Royal Bank of Canada would have preferred. Although this may be highly disappointing to the Royal Bank of Canada, this is the unfortunate fact. There was no improper removal of any assets covered by the Order appointing Receiver, dated March 29, 2021. The assets of BDC were specifically carved out of the Order appointing Receiver.

BRITISH COLUMBIA PREMISES

10. All of the equipment and assets at the British Columbia Premises, located at 8775 Jim Bailey Crescent, Unit B1, Kelowna, BC V4V 2L7, where N.A.P. Windows & Doors Inc is located, including the assets of BDC, remain at the British Columbia Premises. The Companies have not been forced to vacate the British Columbia Premises as we have been forced to vacate the Summerlea Premises.

ACCIDENTAL OVERREPORTING

11. As the Companies were no longer able to operate and there were fewer to no employees to assist, I had to rely on myself more and more for tasks that I was not trained to do. As a result, I clearly overestimated and accidentally overreported the amount of inventory and receivables. The same applies to operating costs. All in all,


the Companies were in a worse financial state that I had believed.

COMPLIANCE

12. I personally, and all three Companies, are doing our best to comply despite any superficial efforts to make it appear otherwise. The Receiver has full access to the Summerlea Presmises and British Columbia Premises. The Receiver already has the details of the Royal Bank of Canada Account.

SWORN BEFORE ME by video conference)
from the City of Toronto, in the Municipality)
of Metropolitan Toronto, in the Province of)
Ontario, on this 5th day of April, 2021;)
)
) JOSEPH CACCAMO
)
)
A Commissioner for taking affidavits)
Virtually commissioned by Paul Shenton,
LSO #38016K, as per LSO statement re COVID-19

EXHIBIT "A"

This is Exhibit "A" referred to in the
affidavit of JOSEPH CACCAMO
sworn before me, this 5
day of APRIL 2021

A COMMISSIONER FOR TAKING AFFIDAVITS

L. PAUL SHENTON
BARRISTER & SOLICITOR





















































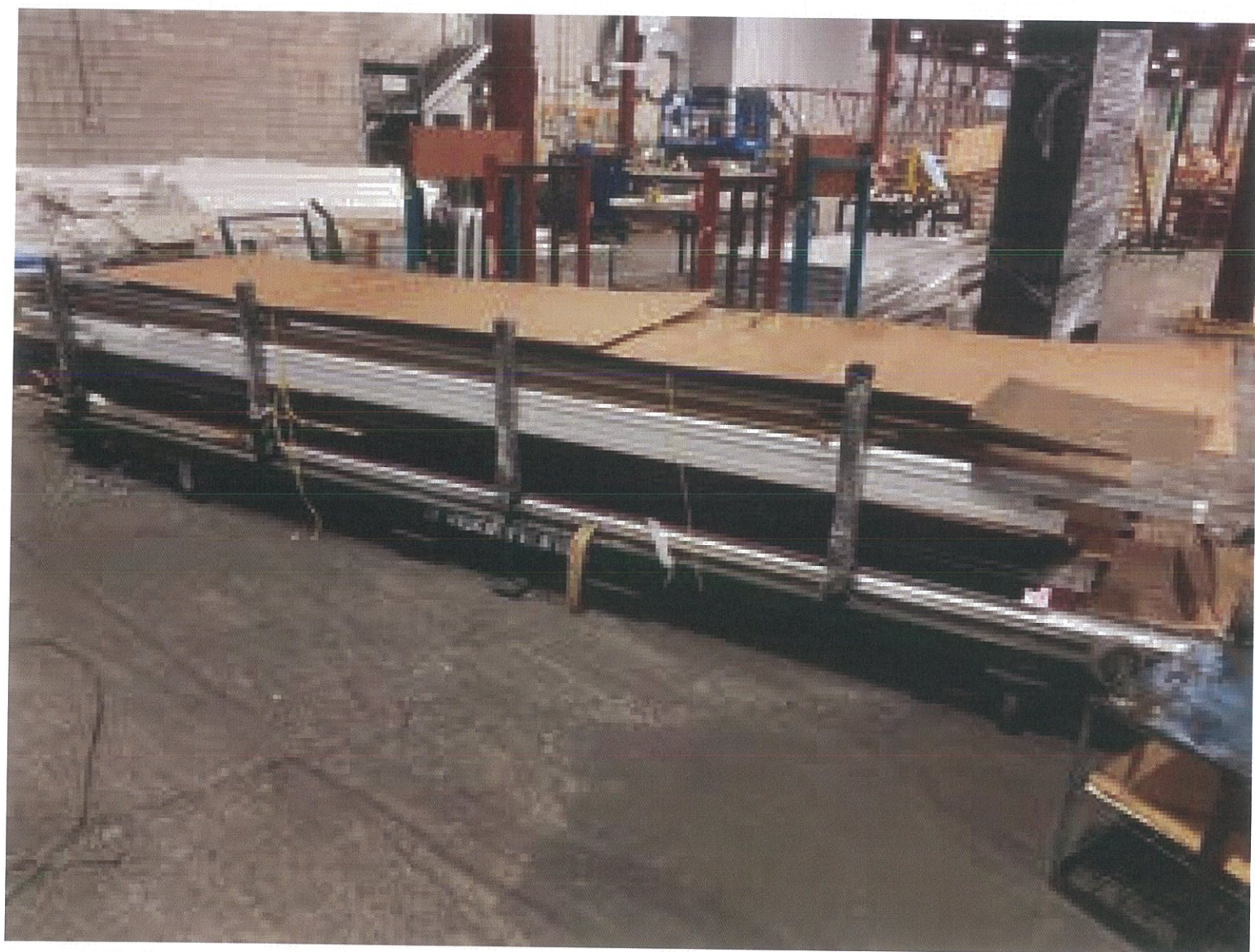
















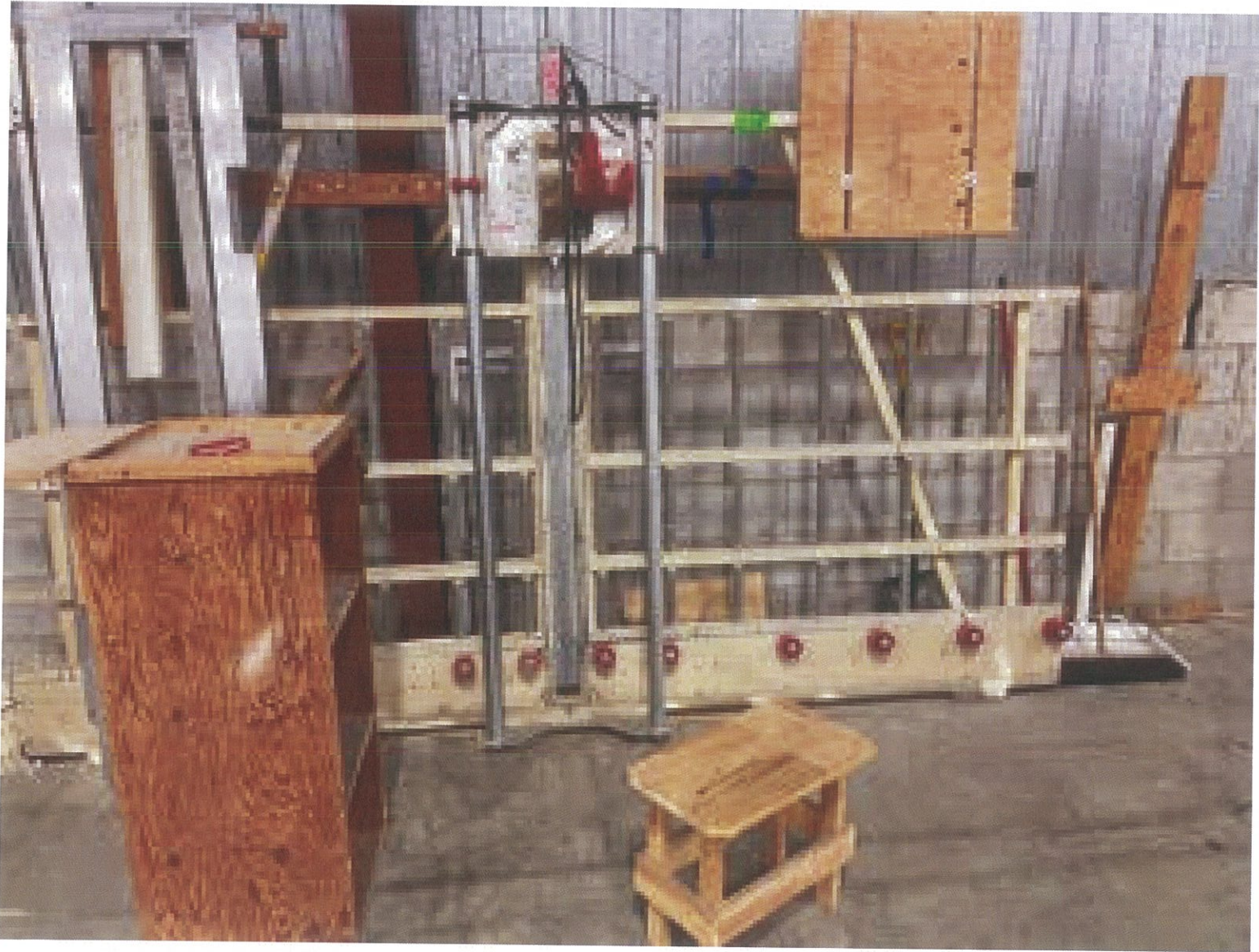














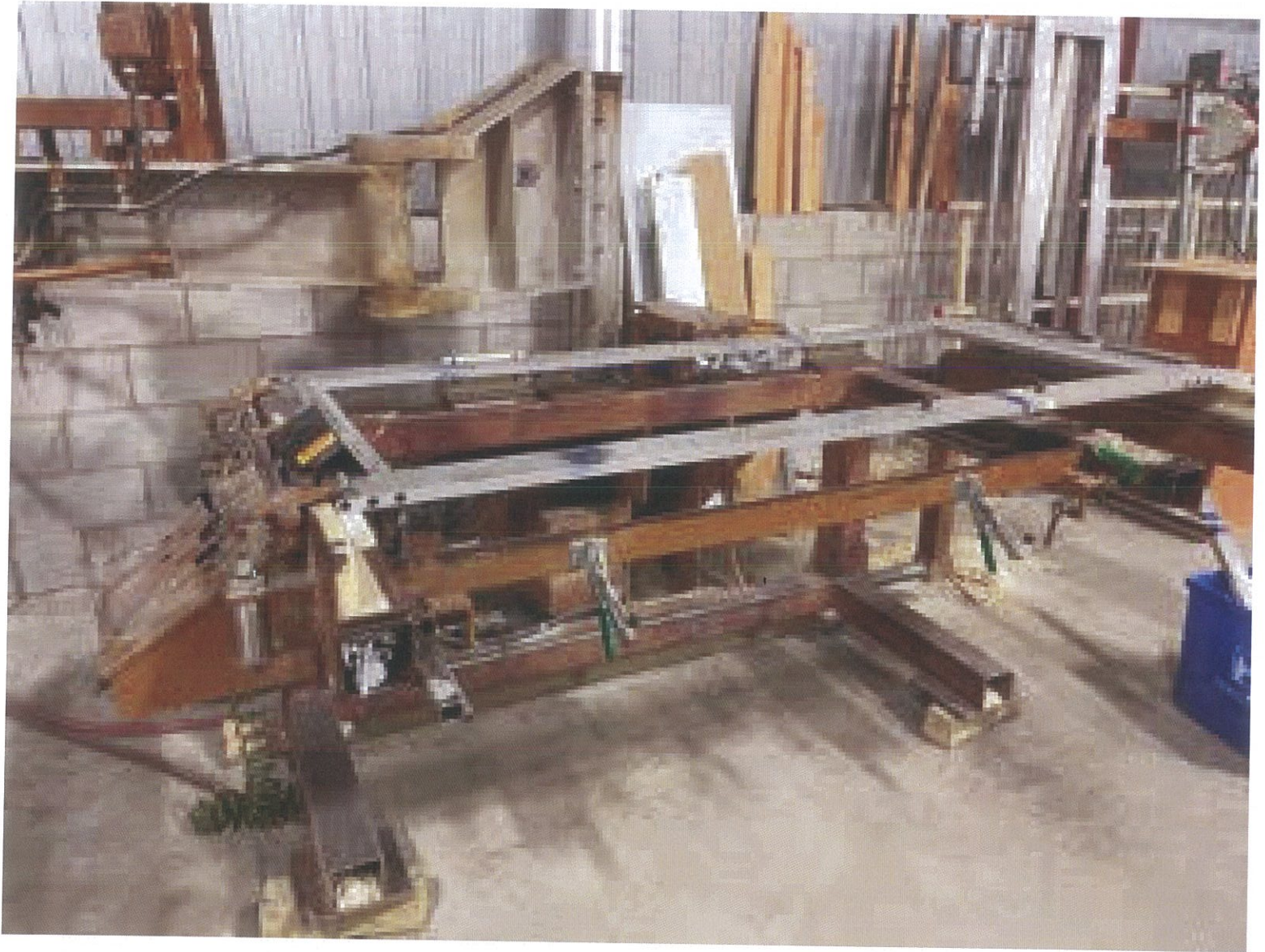


















EXHIBIT "B"

This is Exhibit "B" referred to in the
affidavit of JOSEPH CACCATO
sworn before me, this 5
day of APRIL 2021


A COMMISSIONER FOR TAKING AFFIDAVITS

L. PAUL SHENTON
BARRISTER & SOLICITOR

NOTICE OF TERMINATION

To: **Aluminart Products Limited**

Re: **Lease ("Lease") between Menkes Summerlea Holdings Inc. ("Landlord") and Aluminart Products Limited ("Tenant") in respect of those certain premises ("Premises") located in the building municipally known as 1 Summerlea Road, Brampton, ON**

Landlord of the above-noted Premises hereby gives you notice that, notwithstanding numerous previous demands, as a result of: (i) your abandonment of the Premises; (ii) your default in payment of rent owing to Landlord pursuant to the Lease in the amount of \$246,075.78 (current arrears to March 31, 2021 inclusive of HST), plus the rent payable pursuant to the Lease for the month of April, 2021 in the amount of \$82,025.26 (inclusive of HST); and (iii) your failure to provide the Landlord with full information requested in respect of the participation in the Canada Emergency Rent Subsidy ("CERS") program and the failure of you to pay any amount received under the CERS program to the Landlord as required under the CERS program, the Lease is hereby terminated effective immediately and we are hereby taking possession of the Premises.

Please be advised that any stay of proceedings pursuant to the Court Order dated March 29, 2021 (the "Order") relating to Court File No CV-21-006577 29 in respect of the Receivership of Aluminart Products Limited, et al has been lifted by the Receiver as it relates to the Lease and the Premises.

This termination of the Lease is without prejudice to any and all of our rights as Landlord under the Lease and at law including, without limitation, the right to obtain from you the following:

1. all arrears of rent and other charges owing in respect of the Lease and the Premises up to the date hereof;
2. all costs incurred by us as a result of any and all breaches of the Lease including, without limitation, legal and other expenses incurred in respect of the termination of the Lease;
3. all costs incurred by us in re-letting the Premises including, without limitation, all costs incurred in respect of the Premises and in making them fit for re-letting; and
4. all losses and deficiencies sustained by us as a result of your defaults under the Lease and the resulting termination thereof including, without limitation, the difference between the aggregate amounts that would have been payable pursuant to the Lease over what would have been the unexpired term, less only net amounts, after expenses, actually received by us in respect of the Premises for the period which would have been the unexpired term but for its termination hereby.

Landlord does not, as a result of any of our actions, or the aforesaid contents of this Notice, acknowledge or accept any obligation in respect of the re-letting of the Premises.

Arrangements to retrieve any personal property belonging to you and remaining on the Premises must be done during business hours Monday to Friday and should be made by contacting Landlord. Any person or persons attempting to re-enter into the Premises without the consent or permission of the Landlord will be charged according to Law. You are hereby notified that, unless all such property is removed from the Premises within five (5) days from the date hereof, Landlord shall have the right, but not the obligation, to dispose of such property in such manner and for such or no consideration as Landlord desires, or to remove such property or any part thereof from the Premises to a place of storage, at the expense of Tenant, but without assuming any responsibility whatsoever for the safekeeping of such property.

DATED at Toronto, Ontario this 5th day of April, 2021.

Menkes Summerlea Holdings Inc., by its solicitors, Borden
Ladner Gervais, LLP (Attn: Adam Perzow 416-993-0879)

Per: 

A copy of this Notice has been posted at the Premises and delivered by e-mail to: c_caccamo@aluminart.com and j_caccamo@aluminart.com

ROYAL BANK OF CANADA

-and-

ALUMINART PRODUCTS LIMITED et al.

Applicant

Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
TORONTO

RESPONDING RECORD

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