

Court File No. CV-21-00658361-00CL

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

THE HONOURABLE MR.)	MONDAY, THE 19 TH
)	
JUSTICE HAINEY)	DAY OF APRIL, 2021

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

ORBIT FREIGHT LTD.

Respondent



**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

ANCILLARY ORDER

THIS MOTION, made by msi Spergel inc. (“**Spergel**”), in its capacity as receiver and manager (in such capacities, the “**Receiver**”), without security, of all the assets, undertakings and property of Orbit Freight Ltd. (the “**Debtor**”), for an Order, *inter alia*: (i) approving the First Report of the Receiver dated March 16, 2021 (the “**First Report**”) and the actions and activities of the Receiver described therein; (ii) approving the Second Report of the Receiver dated April 12, 2021 (the “**Second Report**”) and the actions and activities of the Receiver described therein;

(iii) approving the Receiver's Interim Statement of Receipts and Disbursements as at March 31, 2021 (as set out in the Second Report), (iv) directing Satnam Singh Pandal ("**Mr. Pandal**") to immediately advise the Receiver of the location of the Records (as defined below) and deliver the Records to the Receiver by no later than April 30, 2021; (v) ordering and directing 2551760 Ontario Inc. o/a King Towing ("**King Towing**") to return to the Receiver the Missing Parts (as defined below) it has in its possession forthwith; and (vi) approving the fees and disbursements of the Receiver and its legal counsel, Aird & Berlis LLP ("**A&B**"), was heard this day by judicial videoconference via Zoom due to the COVID-19 emergency.

ON READING the Motion Record of the Receiver, including the Second Report and the appendices thereto, the affidavit of Damian Lu sworn April 9, 2021 and the affidavit of Mukul Manchanda sworn April 9, 2021, and on hearing the submissions of counsel for the Receiver and The Toronto-Dominion Bank, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Damian Lu sworn April 12, 2021, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPROVAL OF THE FIRST REPORT AND SECOND REPORT

2. **THIS COURT ORDERS** that the First Report and the activities of the Receiver described therein be and are hereby approved.

3. **THIS COURT ORDERS** that the Second Report and the activities of the Receiver described therein be and are hereby approved.

APPROVAL OF FEES AND DISBURSEMENTS

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, being fees and disbursements totalling \$27,955.07 (inclusive of HST), as set out in Appendix "10" to the Second Report, are hereby approved.

5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, A&B, totalling \$21,427.78 (inclusive of HST), as set out in Appendix "11" to the Second Report, are hereby approved.

APPROVAL OF INTERIM RECEIPTS AND DISBURSEMENTS

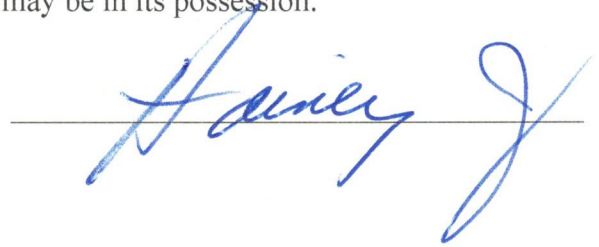
6. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period of March 11, 2021 to March 31, 2021, as set out in Appendix "12" of the Second Report, be and is hereby approved.

DEBTOR'S BOOKS AND RECORDS

7. **THIS COURT ORDERS AND DIRECTS** Mr. Pandal to immediately advise the Receiver of the location 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**") and to deliver such Records to the Receiver by no later than April 30, 2021.

MISSING TRUCK PARTS

8. **THIS COURT ORDERS AND DIRECTS** King Towing to immediately return to the Receiver the SPIF lift axles and the original tires and rims belonging to the 2021 Peterbilt 567 trucks, bearing VIN Numbers 1NPCX4TX8MD736670 and 1NPCX4TX5MD736674, respectively (collectively, the “**Missing Parts**”), as may be in its possession.

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to read "Honey J".

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- and -

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Proceedings commenced at Toronto

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