Court File No. CV-21-00665286-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

BETWEEN:

ROYAL BANK OF CANADA

Applicant

and

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING, SMIT RAMESH JANI, MITALI SMIT JANI and JAYANTKUMAR NAGJIBHAI PANCHASARA

Respondents

RESPONDANTS' APPLICATION RECORD Returnable August 19, 2021, Via Zoom Video Conference

August 16, 2021

MILAD HAGHANI PROFESSIONAL CORPORATION 3018 New Street, Suite 203 Burlington, ON L7N 1M5

MILAD HAGHANI

LSO# 63688E Tel: 905-635-5682 Fax: 905-635-5689 Email: milad@haghanilaw.ca

Lawyers for the Respondents

TO: MINDEN GROSS LLP

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

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

Lawyers for the Applicant

AND TO: **M SI SPERGEL INC.** 505 Consumers Road, Suite 200, Toronto ON M2J 4V8

> Mukul Manchanda Tel: (416) 498-4314 E-mail: <u>mmanchanda@spergel.ca</u>

Proposed Receiver

AND TO: HARRISON PENSA LLP 450 Talbot Street London ON N6A 5J6

> Melinda Vine Tel: (519) 661-6705 E-Mail: mvine@harrisonpensa.com

Lawyers for msi Spergel Inc.

AND TO: HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as represented by Ministry of Finance Legal Services Branch 77 Bay Street, 11th Floor Toronto ON M5G 2C8

> Attention: Anthony R. Golding Senior Counsel, Ministry of Finance Tel: (416) 938-5069 E-Mail: anthony.golding@ontario.ca

AND TO: **C ANADA REVENUE AGENCY** c/o Department of Justice Ontario Regional Office The Exchange Tower, Box 36 130 King Street West, Suite 3400 Toronto ON M5X 1K6 **Attention: Diane Winters** Tel: (416) 952-8563

E-Mail: diane.winters@justice.gc.ca

- AND TO: INSOLVENCY UNIT Province of Ontario E-Mail: insolvency.unit@ontario.ca
- AND TO: V W CREDIT CANADA INC. 4865 Marc-Blain Street, Suite 300 Montreal QC H4R 3B2

Attention: Steven Pramuka E-Mail: steven.pramuka@vw.com

INDEX

TAB/EXHIBIT		DOCUMENT	PAGE Numbers 5-9
		Affidavit of Smit Ramesh Jani, sworn July 28, 2021	
/	A.	Correspondence regarding value of investments	10-12
E	B.	Correspondence requesting information about investments	13-23
(C.	Correspondence between parties	24-32
[D.	Respondent's aged list of accounts receivable and accounts payable along with status of inventory for 2019	33-39
E	E.	Correspondence from counsel for applicant to counsel for respondents, April 22, 2021	40-41
2.		Affidavit of Smit Ramesh Jani, sworn August 16, 2021	43-46
/	A.	Copies of payment receipts	45-46
3.		Factum of the Responding Parties	48-52

TAB "1"

Court File No. CV-21-00665286-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

BETWEEN:

ROYAL BANK OF CANADA

Applicant

and

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING, SMIT RAMESH JANI, MITALI SMIT JANI and JAYANTKUMAR NAGJIBHAI PANCHASARA

Respondents

AFFIDAVIT OF SMIT RAMESH JANI Sworn July 28, 2021

I, SMIT RAMESH JANI, of the City of Mississauga, in the Regional Municipality of Peel, MAKE OATH AND SAY:

- I am a Director and Officer of the corporate respondent RJ Packaging Incorporated ("respondent"), as well as a respondent in personal capacity in this proceeding and as such have personal knowledge of matters to which I depose below. The matters which I depose are based on my personal information, knowledge and belief. To the extent that they are based on information and belief obtained by me from others, I have stated the source of my information, knowledge, and belief and I do believe those matters to be true.
- The applicant seeks an Order pursuant to paragraph 1(b) of Notice of Application, for appointment of a receiver for the corporate respondent. The applicant has also applied for judgment against personal guarantors of respondent's debts, but that portion of the application is to be argued at a later date, on consent of all parties.
- The respondent acknowledges and agrees with paragraph 9 of Mr. McInnes' affidavit of July 9, 2021, in that subject credit facilities consisted of the listed items, namely (a) a revolving credit facility for the principal amount of \$150,000, with interest rate of RBC prime rate plus 1.29%; (b) three Credit Cards with the

aggregate limit of \$50,000, and (c) a Lease Facility whereby RBC advanced total amount of \$350,000 for respondent's lease of certain equipment.

- 4. The respondent has been in the business of contract packaging for small and medium-sized businesses in Canada and United States. Prior to the pandemic, about half of respondent's business was from New York, New Jersey, and Pennsylvania in US and the other half from the Canadian market.
- 5. In December 2018, when the respondent approached the applicant for financing, respondent had entered into potentially lucrative contracts with its clients and was expecting financial growth.
- 6. At the time when the parties entered into the subject financing arrangements and despite the fact that the loans were payable upon demand, the parties intended for the arrangements to continue for a longer period of time, and it was not contemplated by the parties that the debtor would be forced to repay the entirety of the financed amount within such a short period of time.
- 7. Like many other small businesses in this province the respondent suffered a sharp drop in revenues as a result of the economic downturn caused by the pandemic. Specifically, the closure of Canada/US border and termination of business operations by almost all of respondent's clients in US has led to a significant loss of revenues. Some of respondent's clients in the US filed for bankruptcy leaving significant accounts of the respondent realistically uncollectible.
- 8. The borders did open eventually but mainly for essential products, which did not assist the respondent in any way. Even as of this date, our former US clients are yet to begin ordering.
- 9. With the temporary closure of much of Canadian market secondary to the pandemic the respondent lost a significant portion of its revenue from Canadian market as well. Some of our Canadian customers with whom the respondent had valid contracts have simply refused to hold their end of the bargain due to loss of business.
- 10. As a result, like many other small businesses in the world, the respondent's ability to survive financially has been seriously challenged by this pandemic.
- 11. Nonetheless, the respondent continued its operations, did not ask for any relief from the applicant, and continued to meet its financial obligations towards the loan facilities, with the exception of a few missed payments, which the respondent has since remedied.

7

- 12. The respondent does not dispute having made promises to repay the debt in its entirety, as explained by Mr. McInnes in his affidavit. However, at the time that I made those promises on respondent's behalf, I was under the assumption that the respondent was entitled to a significant return on a global trade funds investments.
- 13. In 2019 the respondent was approached by a Ketan Raghani, who introduced himself as an investment broker of BlackRock Investment LLC a major American investment firm and in charge of investing in global trade funds, in association with CitiBank, which trade funds regularly rewarded its investors with enormous returns. The respondent invested a certain amount of funds into the said global trade funds by delivering the funds to Ketan Raghani.
- 14. In mid 2020 Ketan Raghani and others who were presumably associated with Blackrock and Citibank began making representations to respondent about the value of its investments being in tens of millions of dollars. Attached as **Exhibit** "A" are copies of correspondence regarding this investment.
- 15. At that time and based on the said representations about value of respondent's investments, I believed that the respondent would soon be in a position to pay off the entirety of its indebtedness to the applicant and communicated my beliefs to the applicant.
- 16. However, the repeated promises of BlackRock, CitiBank and Ketan Raghani soon turned into silence. The respondent has since commenced investigations into this matter and has instructed its litigation counsel to commence proceedings against responsible parties, related to what seems to have been a fraudulent scheme designed to defraud the respondent. Attached as **Exhibit "B"** are copies of pertinent correspondence.
- 17. Respondent's initial decision of entering into a Forbearance Agreement with the applicant was also based on its reliance upon, and expectation of, returns from the BlackRock investment. Once it became clear to the respondent that it may have been defrauded by Ketan Raghani, BlackRock, and/or CitiBank and that the promised investment returns were not forthcoming, it advised the applicant that it will not be able to pay such a large sum in the short forbearance period suggested by the applicant and sought to restructure the credit facilities while keeping its interest payment obligations on all credit facilities up to date. Attached as **Exhibit "C"** are copies of pertinent correspondence.
- 18. The Respondent states that until this application was brought the applicant made no demands for financial reporting or other documentation with which the

respondent did not comply. The single request by applicant for financial documents was made in or about October 2019, in response to which the respondent forwarded its aged list of accounts receivable, aged list of accounts payable and status of inventory for 2019, as shown in **Exhibit "D**".

- 19. While dealing with the disastrous consequences of a pandemic, imperfect compliance with financial reporting obligations ought not to form the basis of a receivership order.
- 20. The respondent is not in a financial position to repay all of the credit facilities, along with interests and fees at once but it has demonstrated a strong commitment to remain compliant with terms of financing arrangement by making all of the required interest payments and curing any past defaults.
- 21. The applicant, however, refused to accept any restructuring proposals and demands full payment of the entire debt. Attached as **Exhibit "E"** is a copy of correspondence of April 22, 2021, from counsel for applicant insisting on repayment of the "entire amounts". Also, attached as Exhibit "E" is correspondence of May 10, 2021, wherein the respondent has offered to start repaying the debt by starting at \$5,000 per month and increasing it later when the market improves. We have not had a response to that correspondence.
- 22. In the event that applicant's application for receivership is granted, the respondent, and lives of several families financially depending on the respondent, will be destroyed.
- 23. In light of the above I believe that granting applicant's order for receivership would be inequitable, inconvenient, and unjust in all circumstances of this case.
- 24.1 believe that if the respondent is allowed to comply with all terms of the Credit Agreement along with the Lease Agreement, by producing all documentary requirements and making minimum interest payments on all credit facilities, the applicant's interests in its collateral, being respondent's business, would continue to remain available to it.
- 25. Meanwhile, the respondent is prepared to consent to an Order whereby the debt is restructured such that in exchange for applicant's forbearance to enforce its rights under the financing agreements, the respondent will pay a certain sum towards the principal funds borrowed, plus any and all interests accruing on the outstanding principal. In this fashion, the interests of applicant would be fully vindicated without resort to forfeiture.

26. I make this affidavit for no improper purpose.

SWORN AFFIRMED BEFORE ME:

in person 🔀 by video conference

by Smit Ramesh Jani at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on July 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for taking affidavit (or as may be)

Smit Ramesh Jani

This is **Exhibit "A"** referred to in the

Affidavit of SMIT RAMESH JANI

sworn before me this 28th day of July, 2021.

Alle

A commissioner for taking Affidavits for Ontario



153 East 53rd Street 16/ F, Zone 19 New York, NY 10022 / Support 1-800-374-9700

Date: 10/08/2020

To Whom So Ever It may Concern

To,

Smit R.Jani

As per the request from Ketan M . Raghani Black Rock ID 245874/876567 , CITI Commercial Bank New York furnishing the the following valuation.

Face Value : \$ 10000.00

Total Fund : \$ 10,980,000.00

T. Periods : 1 Year 1 day.

Product Code : N.A.





Michael I. Color Michael Corbat

ID 312677

Incorporated in CITI Bank Commercial Bank with limited liability



smit jani <smit@customfoodpackaging.ca>

Documents

18 messages

Ketan R <ketanr710@gmail.com> To: smit@customfoodpackaging.ca Cc: bpr151970@gmail.com Wed, Nov 11, 2020 at 12:30 PM

Bonjour Smit...

Hope you are doing well...

This is in reference to our discussion regarding your documentation for the investment done by you.

In continuation to my last mail, regarding your documents, the expected date was10th November 2020 as per the talks with the transacting bank... but I am sorry to inform you that there is an delay in the matter and now it will be completed by or before 10th December 2020...

The reason for the delay is due to the hospitalization of the Program Manager and as per the report he is expected to join the office only by 1st week of December 2020.

I am sorry for the trouble causing you due to the delay...

Will keep you posted on the matter..

Thanks and Regards...

Ketan Raghani..

UK/USA/HKG/Germany/Singapore Trade Association..

ID NO 245874 / 876567

FOREX LICENSE NO ZULGH8724 (FED APPROVED).

PRIVATE PLACEMENT PROGRAM LICENSE NO PDUCF72F4. (FED APPROVED).

(Meetings Only After Appointment)

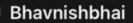
smit jani <smit@customfoodpackaging.ca> To: "Shokeen, Munish" <munish.shokeen@rbc.com> Wed, Nov 11, 2020 at 12:49 PM

FYI

Your team has completed bank to bank informal verification but if you need to do formal verification via swift I am okay to pay fees

Smit [Quoted text hide







10:59 AM 📈

J,

0

പ്ര

٦þ

Nothing?

Aug 2, 2020

Pls push Ketanbhai

It's been a while since I have been waiting. Bhavnishbhai pls request Ketanbhai to give us letter. I tried to call you today you didn't pickup. Pls help me out o can't survive on empty promises

A Forwarded

My name is Sandeep Singh Arora On behalf of transacting bank, Citibank, I am BlackRock Program Manager, notifying you that CITI Bank has irrevocably guarantee for your payment. Due to covid 19 all the delay has happend and already we have started the payouts and have credited 250+ accounts successfully. We are sorry for the dealy and also thanks for your cooperation. We guarantee you single payout is going to be done for your 1year payout.

Require any further assurance on this matter, please revert back to us.

Bhavnishbhai

My name is <mark>Sandeep</mark> Singh Arora On behalf of transacting bank, Citibank , I am BlackRock Program Manager, notifying you that CITI Bank h... This is **Exhibit "B"** referred to in the

Affidavit of SMIT RAMESH JANI

sworn before me this 28th day of July, 2021.

Alle

A commissioner for taking Affidavits for Ontario

Good Morning Mr. Raghani,

I am emailing you on behalf of our client Smit R. Jani.

We require further documentation for the investment with Black Rock ID 245874/876567.

We have tried reaching you via phone. Please contact our office as soon as possible.

Thank you

CHEYENNE LATIMER Administrative Assistant

Haghani Law Office

203 – 3018 New Street Burlington, ON L7N 1M5

Tel: 905-635-5862 Fax: 905-635-5689 Web: <u>www.haghanilaw.ca</u>

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.



Haghani Law

March 16, 2021

Yours truly

HAGHANI LAW

Milad Haghani

Encl.

SENT VIA REGISTERED MAIL

Citibank Commercial Bank 153 East 53rd Street 16/F Zone 19 New York, NY 10022

RE: JANI, Smit Our File No.: 21-2632

Please be advised that we represent Smit Jani. A duly executed authorization and direction addressed to you, is attached herein.

We have been advised that our client holds one or more investment portfolios managed by BlackRock, Inc. ID 245874/876567 that is being held by CITI Commercial Bank, New York. Reference is made to the attached letter of August 10, 2020 issued by your institution. We ask that you confirm whether the foregoing is correct. If so, please provide us with the following:

1. Identity of the person in charge of the client's investment portfolio and/or account, along with their contact information;

2. Up-to-date statement of investment activities, including face value of the portfolio.

We would be pleased to receive a copy of the requested materials electronically. In the event that pre-payment of your copying account is required, please forward an invoice.

MILAD HAGHANI

Milad@Haghanilaw.ca Tel: (905) 635-5862 Fax: (905) 635-5689

203-3018 New Street Burlington, ON L7N 1M5

0

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

Milad Haghani Professional Corporation

cc. Via Facsimile: 1-212-559-7373 **(3 pages enclosed) **



TO: CITI Commercial Bank

RE: JANI, Smit

THE UNDERSIGNED hereby authorizes and directs you to provide to my lawyer, MILAD HAGHANI PROFESSIONAL CORPORATION any and all information that he / she / they may request from you including, but not limited to, investment account statements, investment portfolio summaries, financial statements and any and all other matters that you may have in your custody or under your control regarding me.

AND FOR SO DOING this shall be your good, sufficient, and irrevocable authority.

Dated at Toronto, this 16th day of March, 2021

Witness

SMIT JANI

MILAD HAGHANI

Milad@Haghanilaw.ca Tel: (905) 635-5862 Fax: (905) 635-5689

9

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

www.Haghanilaw.ca

Milad Haghani Professional Corporation



153 East 53rd Street 16/ F. Zone 19 New York, NY 10022 / Support 1-800-374-9700

Date: 10/08/2020

To Whom So Ever It may Concern

To,

Smit R.Jani

As per the request from Ketan M . Raghani Black Rock ID 245874/876567 , CITI Commercial Bank New York furnishing the the following valuation.

, We jurt ler col firm that he funds are rood clean , clear , f CITL BANK N.A.

Face Value : \$ 10000.00

Total Fund : \$ 10,980,000.00

T. Periods : 1 Year 1 day.

Product Code : N.A.

Michael & Cohot Michael Corbat

ID 312677

Incorporated in CITI Bank Commercial Bank with limited liability



March 26, 2021

2nd Request

SENT BY FAX: 212-559-7373 (4 pgs, no cover)

Citibank Commercial Bank 153 East 53rd Street 16/F Zone 19 New York, NY 10022

RE: JANI, Smit Our File No.: 21-2632

Further to Mr. Haghani's correspondence, dated March 16, 2021, a copy of which in enclosed for your ease of review, to date we still have not received a response.

We would ask again that you please confirm whether or not our client holds one or more investment portfolios managed by BlackRock, Inc. and if so, to provide us with the following:

1. Identity of the person in charge of the client's investment portfolio and/or account, along with their contact information; and

2. Up-to-date statements of investment activities, including face value of the portfolio.

Kindly respond to our request by no later than Friday April 9, 2021.

We look forward to receiving the requested documentation, along with a memorandum of your account, at your very earliest opportunity.

MILAD HAGHANI

Milad@Haghanilaw.ca Tel: (905) 635-5862 Fax: (905) 635-5689

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6 L Campbell

Yours very truly HAGHANI LAW

LIANNE CAMPBELL Assistant to Milad Haghani

Encl.

lianne@haghanilaw.ca

cc regular mail

17

Milad Haghani Professional Corporation

Haghani Law

March 16, 2021

SENT VIA REGISTERED MAIL

Citibank Commercial Bank 153 East 53rd Street 16/F Zone 19 New York, NY 10022

RE: JANI, Smit Our File No.: 21-2632

Please be advised that we represent Smit Jani. A duly executed authorization and direction addressed to you, is attached herein.

We have been advised that our client holds one or more investment portfolios managed by BlackRock, Inc. ID 245874/876567 that is being held by CITI Commercial Bank, New York. Reference is made to the attached letter of August 10, 2020 issued by your institution. We ask that you confirm whether the foregoing is correct. If so, please provide us with the following:

1. Identity of the person in charge of the client's investment portfolio and/or account, along with their contact information;

2. Up-to-date statement of investment activities, including face value of the portfolio.

We would be pleased to receive a copy of the requested materials electronically. In the event that pre-payment of your copying account is required, please forward an invoice.

MILAD HAGHANI

Milad@Haghanilaw.ca Tel: (905) 635-5862 Fax: (905) 635-5689

203-3018 New Street Burlington, ON L7N 1M5

ç

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

Milad Haghani Professional Corporation

Yours truly HAGHANI LAW

Milad Haghani Encl. cc. Via Facsimile: 1-212-559-7373 **(3 pages enclosed) **



Haghani Law

March 16, 2021

Via Registered Mail

BlackRock Investments LLC 161 Bay Street Toronto, ON M5J 2S1

JANI, Smit RE: Our File No.: 21-2632

Please be advised that we represent Smit Jani. A duly executed authorization and direction, addressed to you, is attached herein.

We have been advised that our client holds one or more investment portfolios managed by BlackRock, Inc. Reference is made to the attached letter of August 10, 2020 indicating that the portfolio holds a face value of \$10,000.00 and referring to Total Fund of \$10,980,000. I also enclose for your review an email correspondence from Ketan Raghani to our client, dated November 11, 2020.

We ask that you confirm whether our client does have an investment account with your entity. If so, please provide us with the following:

1. Identity of the person in charge of the client's investment portfolio and/or account, along with their contact information;

2. Up-to-date statement of investment activities, including face value of the portfolio.

We would be pleased to receive a copy of the requested materials electronically. In the event that pre-payment of your copying account is required, please forward an invoice.

Yours truly HAGHANI LAW

Milad Haghani Encl.

19

www.Haghanilaw.ca

Milad Haghani Professional Corporation

Milad@Haghanilaw.ca

MILAD HAGHANI

Tel: (905) 635-5862 Fax: (905) 635-5689

203-3018 New Street Burlington, ON L7N 1M5

O

203-27 Major Mackenzie Dr. E. Richmond Hill, ON

L4C 1G6



smit jani <smit@customfoodpackaging.ca>

Wed, Nov 11, 2020 at 12:30 PM

Documents

18 messages

Ketan R <ketanr710@gmail.com> To: smit@customfoodpackaging.ca Cc: bpr151970@gmail.com

Bonjour Smit...

Hope you are doing well...

This is in reference to our discussion regarding your documentation for the investment done by you..

In continuation to my last mail, regarding your documents, the expected date was10th November 2020 as per the talks with the transacting bank... but I am sorry to inform you that there is an delay in the matter and now it will be completed by or before 10th December 2020...

The reason for the delay is due to the hospitalization of the Program Manager and as per the report he is expected to join the office only by 1st week of December 2020.

I am sorry for the trouble causing you due to the delay...

Will keep you posted on the matter ..

Thanks and Regards...

Ketan Raghani..

UK/USA/HKG/Germany/Singapore Trade Association ..

ID NO 245874 / 876567

FOREX LICENSE NO ZULGH8724 (FED APPROVED).

PRIVATE PLACEMENT PROGRAM LICENSE NO PDUCF72F4. (FED APPROVED).

(Meetings Only After Appointment)

smit jani <smit@customfoodpackaging.ca> To: "Shokeen, Munish" <munish.shokeen@rbc.com> Wed, Nov 11, 2020 at 12:49 PM

FYI

Your team has completed bank to bank informal verification but if you need to do formal verification via swift I am okay to pay fees

Smit

[Clubted lext hidden]



May 26, 2021

3rd Request

SENT BY REGULAR MAIL

BlackRock Investments LLC 161 Bay Street Toronto, ON M5J 2S1

RE: JANI, Smit Our File No.: 21-2632

This is further to my further correspondence of March 16 and 26, 2021 copies of which are enclosed for your ease of review. Please note that we have instructions to proceed with a motion for pre-action discovery if we do not receive a response by June 8, 2021.

We would ask again that you please confirm whether or not our client holds one or more investment portfolios managed by BlackRock, Inc. and if so, to provide us with the following:

1. Identity of the person in charge of the client's investment portfolio and/or account, along with their contact information; and

2. Up-to-date statements of investment activities, including face value of the portfolio.

Kindly respond to our request by no later than June 8, 2021.

Yours very truly HAGHANI LAW

MILAD HAGHANI

Milad@Haghanilaw.ca Tel: (905) 635-5862 Fax: (905) 635-5689

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6 **LIANNE CAMPBELL** Assistant to Milad Haghani Encl.

lianne@haghanilaw.ca

Milad Haghani Professional Corporation



March 26, 2021

2nd Request

SENT BY REGULAR MAIL

BlackRock Investments LLC 161 Bay Street Toronto, ON M5J 2S1

RE: JANI, Smit Our File No.: 21-2632

Further to Mr. Haghani's correspondence, dated March 16, 2021, a copy of which in enclosed for your ease of review, to date we still have not received a response.

We would ask again that you please confirm whether or not our client holds one or more investment portfolios managed by BlackRock, Inc. and if so, to provide us with the following:

1. Identity of the person in charge of the client's investment portfolio and/or account, along with their contact information; and

2. Up-to-date statements of investment activities, including face value of the portfolio.

Kindly respond to our request by no later than Friday April 9, 2021.

We look forward to receiving the requested documentation, along with a memorandum of your account, at your very earliest opportunity.

MILAD HAGHANI

Milad@Haghanilaw.ca Tel: (905) 635-5862 Fax: (905) 635-5689

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6 Yours very truly HAGHANI LAW

LIANNE CAMPBELL Assistant to Milad Haghani Encl.

lianne@haghanilaw.ca

Milad Haghani Professional Corporation



(1) UPDATE ON YOUR REQUEST

May 12, 2021

Milad Haghani Haghani Law 203-3018 New Street Burlington, ON L7N 1M5 Citi Reference Number: 202104261240557460910

RE: Smit Jani File No.: 21-2632

Hello Milad,

You recently reached out to us, and we've reviewed your request.

We have completed our research and found that Citibank, N.A. did not issue the letter that you provided. Upon review of our records, we do not have any investment accounts for Smit Jani. Please reach out to Ms. Smit Jani for additional information about her request.

Thanks for your inquiry. We'd like you to know that it's important to us and we appreciate the opportunity to respond.

Thank you, Your Citi Executive Response Team 605-331-1698* *TTY: 800-945-0258 for hearing and speech impaired only CitiERU@citi.com This is **Exhibit "C"** referred to in the

Affidavit of SMIT RAMESH JANI

sworn before me this 28th day of July, 2021.

Alle

A commissioner for taking Affidavits for Ontario

Hi Milad,

The Bank has made demand and under the demands the entire amounts are owing. There is no forbearance agreement in place which would allow for other reduction/payments to the indebtedness owed. You have advised that your clients will not execute the forbearance agreement which has a sign back deadline of today. I am seeking instructions from my client.



RACHEL MOSES

T: <u>416.369.4115</u> F: 416.864.9223 <u>www.mindengross.com</u> 145 King St. West, Suite 2200, Toronto, ON M5H 4G2 Save contact details: <u>Rachel Moses</u>

MERITAS LAW FIRMS WORLDWIDE

This communication is for the use of the individual or entity named herein and contains information that may be privileged and confidential. If you are not the intended recipient, any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you have received this message in error, please advise the sender immediately.

From: Milad Haghani [mailto:Milad@haghanilaw.ca] Sent: Thursday, April 22, 2021 9:28 AM

To: Rachel Moses < RMoses@mindengross.com>

Cc: Lianne Campbell <lianne@haghanilaw.ca>

Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Good morning Rachel:

My client confirms that he has not attempted refinancing, having been confident that his applications will get declined but he will submit applications as soon as possible. I will forward both applications and responses to you. Meanwhile, he will bring the lease facility up-to-date by making payments of all overdue interests (Jan. 2021 to date), which based on your email should be less than \$4,000, by no later than end of the day on Monday, Apr. 26. I will confirm once he deposits the funds into the bank account.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

From:	Milad Haghani
To:	Rachel Moses
Cc:	Catherine Lee
Subject:	RE: RJ Packaging: Custom Food Packaging and RBC
Date:	May 10, 2021 8:15:00 PM

Hi Rachel:

As indicated previously, I do not have instructions to accept the terms of Forbearance Agreement as you had proposed. While my client had previously indicated their approval of a forbearance period up to August 31, 2021, it has never agreed to most of the other terms proposed in your draft. I have discussed the agreement with the guarantors and I have instructions to advise that with the exception of SMIT JANI, the other guarantors will not execute the agreement.

While I suspect your client may be inclined to commence enforcement proceeding as you had hinted previously in our telephone conversation, forcing guarantors and borrower to file for bankruptcy, doing so will result in it recovering less than what it would if it provides my client with reasonable opportunity and time to pay off the debt. While I am not privy to the exact particulars of circumstances that caused your client to suddenly demand repayment of the entire amount owing I am advised by my client that with the exception of the first few months of 2021 (Jan – Mar) it had always been compliant with the essential repayment terms of the loans. To expect repayment of over half a million dollars from a company that has had a significant drop in revenue due to pandemic may be within your client's right but certainly not reasonable or achievable at this point in time.

It may be best if your client would agree to terms of a forbearance agreement whereby it will allow for reinstatement of the credit facilities on similar terms as originally agreed-upon. That way they will minimize their costs while allowing the debtor time to increase revenues, which will in turn result in payment of all fees and interests your client contemplated originally.

The borrower has applied to CIBC for refinancing and expects to receive a response this week. I will forward the response once my client provides me with a copy. Meanwhile, I confirm that the borrower will pay towards the credit facilities, the maximum that he is able to afford at this time which is \$5,000/month. The borrower will of course review and increase the monthly payments based on cashflow and business growth.

I look forward to hearing back from you.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain

From:	Milad Haghani
To:	Rachel Moses
Cc:	Lianne Campbell
Subject:	RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging
Date:	April 21, 2021 10:42:18 AM

Good morning Rachel:

I have confirmed with my corporate client that it has funded the RBC operating account so that line of credit interests can be withdrawn. They have also brought the credit cards within limits.

Please confirm once you have instructions from your client to provide me with the breakdown of funds owing on the lease.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.

-----Original Message-----From: Milad Haghani Sent: April 19, 2021 3:39 PM To: Rachel Moses <RMoses@mindengross.com> Cc: Lianne Campbell <lianne@haghanilaw.ca>; Catherine Lee <catherine@haghanilaw.ca> Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Yes please.

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

Hi Rachel:

Yes, the borrower is fully operational but it will not be able to afford a significant paydown/reduction until end of August. It will, however, be able to pay off the following accounts before end of the month:

- Visa accounts ending in 7376 (which based on my reading of the forbearance agreement has a balance of only \$7.50);
- Visa account ending in 1327 (balance of \$2,767.88); and,
- Overdraft in current account at \$763.39.

It will not use any of the credit facilities, if they do continue to be available at this point.

I look forward to hearing back from you.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.

From: Rachel Moses <RMoses@mindengross.com>
Sent: April 15, 2021 12:43 PM
To: Milad Haghani <Milad@haghanilaw.ca>
Cc: Lianne Campbell <lianne@haghanilaw.ca>
Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.

From: Rachel Moses <<u>RMoses@mindengross.com</u>>
Sent: April 21, 2021 6:02 PM
To: Milad Haghani <<u>Milad@haghanilaw.ca</u>>
Cc: Lianne Campbell <<u>lianne@haghanilaw.ca</u>>
Subject: FW: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Hello Milad,

Thank you for your email and attachments. I will forward them to the Bank. I am available tomorrow other than between 9:30 and 11 a.m. Can you advise what it is you wish to discuss tomorrow? The Bank is not prepared to extend the forbearance period.



RACHEL MOSES

T: <u>416.369.4115</u> F: 416.864.9223 <u>www.mindengross.com</u> 145 King St. West, Suite 2200, Toronto, ON M5H 4G2 Save contact details: <u>Rachel Moses</u>

MERITAS LAW FIRMS WORLDWIDE

This communication is for the use of the individual or entity named herein and contains information that may be privileged and confidential. If you are not the intended recipient, any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you have received this message in error, please advise the sender immediately.

From: Milad Haghani [mailto:Milad@haghanilaw.ca]
Sent: Wednesday, April 21, 2021 5:52 PM
To: Rachel Moses <<u>RMoses@mindengross.com</u>>
Cc: Lianne Campbell <<u>lianne@haghanilaw.ca</u>>
Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Hi Rachel:

Please see attached screenshot showing that VISA ending in 1327 is within limits. I've also attached proof of

payment on the operating account showing that there is at least \$2,200 in that account. Lastly, I've attached proof of payment of \$1,800 on VISA ending in 7228, which brings it within limit.

Do you have some time tomorrow to chat?

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.

From: Rachel Moses <<u>RMoses@mindengross.com</u>>
Sent: April 21, 2021 12:56 PM
To: Milad Haghani <<u>Milad@haghanilaw.ca</u>>
Cc: Lianne Campbell <<u>lianne@haghanilaw.ca</u>>
Subject: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Hello Milad,

The breakdown for the lease facility is as follows:

Date of Payout: Client: Lease number:	April 20, 2021 RJ PACKAGING INCORPORATED 201000045274
Principal amount	316,000.00
Jan 1 to 31 2021 (in arears)	1,003.75
Feb 1 to 28 2021 (in	906.62

arrears)	
March 1 to 31 2021	1,003.75
(arrears)	
April 1 to 20 2021	647.60
Cancellation fee	2,500.00
Documentation fee	1,000.00
Sub total	323,061.72
13% HST	41,998.02
Total	365,059.74

Note: 36.59 per diem (32.38 + HST 4.21)

*Lease is under interim funding agreement, principal balance referenced only – client is paying interest only on a monthly basis.

With respect to the overdraft and Visa facility, as of today, they are still in an excess position/over authorized limit, as applicable. We confirm that the sign back deadline is April 22, 2021.

In the interim, the Bank reserves all of its rights and remedies.

Rachel Moses Minden Gross LLP T: 416.369.4115 F: 416.864.9223 www.mindengross.com 145 King St. West, Suite 2200, Toronto, ON M5H 4G2 Save contact details: http://www.mindengross.com/vcard.aspx?ID=Rachel-Moses MERITAS LAW FIRMS WORLDWIDE This communication is for the use of the individual or entity named herein and contains information that may be privileged and confidential. If you are not the intended recipient, any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you have received this message in error, please advise the sender immediately.

-----Original Message-----From: Milad Haghani [mailto:Milad@haghanilaw.ca] Sent: Wednesday, April 21, 2021 10:42 AM To: Rachel Moses <<u>RMoses@mindengross.com</u>> Cc: Lianne Campbell <<u>lianne@haghanilaw.ca</u>> Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Good morning Rachel:

I have confirmed with my corporate client that it has funded the RBC operating account so that line of credit interests can be withdrawn. They have also brought the credit cards within limits.

Please confirm once you have instructions from your client to provide me with the breakdown of funds owing on the lease.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.

-----Original Message-----From: Milad Haghani Sent: April 19, 2021 3:39 PM To: Rachel Moses <<u>RMoses@mindengross.com</u>> Cc: Lianne Campbell <<u>lianne@haghanilaw.ca</u>>; Catherine Lee <<u>catherine@haghanilaw.ca</u>> Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Yes please.

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6 Thanks Rachel.

My client is not prepared to sign the forbearance agreement as they cannot repay the entirety of the amount within the forbearance period your client is insisting upon.

I was hoping we could discus another way to resolve the issue.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that you have received this transmission in error; any review, dissemination, distribution or copying of this transmission is prohibited. If you have received this communication in error, please notify me immediately by reply e-mail and delete this message and all of its attachments.

From: Rachel Moses <RMoses@mindengross.com>
Sent: April 21, 2021 6:02 PM
To: Milad Haghani <Milad@haghanilaw.ca>
Cc: Lianne Campbell <lianne@haghanilaw.ca>
Subject: FW: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Hello Milad,

Thank you for your email and attachments. I will forward them to the Bank. I am available tomorrow other than between 9:30 and 11 a.m. Can you advise what it is you wish to discuss tomorrow? The Bank is not prepared to extend the forbearance period.

This is **Exhibit "D"** referred to in the

Affidavit of SMIT RAMESH JANI

sworn before me this 28th day of July, 2021.

Alle

A commissioner for taking Affidavits for Ontario

From:	<u>smit jani</u>		
To:	Milad Haghani		
Subject:	Fwd: RJ Packaging - FY 2019 Financial Statements		
Date:	July 13, 2021 9:28:04 AM		
Attachments:	Aged Payables Summary.pdf		
	Balance Sheet.pdf		
	Aged Receivables Summary.pdf		

Profit and Loss.pdf

----- Forwarded message ------From: **smit jani** <<u>smit@customfoodpackaging.ca</u>> Date: Thu, Oct 1, 2020 at 11:12 AM Subject: Fwd: RJ Packaging - FY 2019 Financial Statements To: Shokeen, Munish <<u>munish.shokeen@rbc.com</u>>

Pls see attached -Regards,
Smit Jani
President
45 Basaltic Road Unit # 1A
Concord, Ontario L4K 1G5
C. 647-457-7876
www.customfoodpackaging.ca

Balance Sheet

RJ Packaging Incorporated O/As Custom Food Packaging As at 31 December 2019

	31 DEC 2019
Assets	
Bank	
RBC - CAD - Chequing A/c	1,162.34
Total Bank	1,162.34
Current Assets	
Accounts Receivable	166,424.68
Cash	7,801.92
Cl. Inventory	238,424.00
Deposit Receivable - Rent	34,722.16
Deposits Receivable - Other	1,122.00
Total Current Assets	448,494.76
Fixed Assets	
45 Basaltic Rd	144,000.00
Accumulated Depreciation on Computer Equipment	(976.00)
Accumulated Depreciation on Production Machinery	(22,432.00)
Computer Equipment	4,489.99
Production Machinery	88,472.80
Total Fixed Assets	213,554.79
Total Assets	663,211.89
Liabilities	
Current Liabilities	
Accounts Payable	322,368.73
Income Tax Payable	3,780.00
RBC Credit Card - 1335	50.00
RBC Credit Card - 7236	57,043.33
RBC Credit Card - 7384	1,449.53
RBC Operating Line	120,000.00
RBC USD A/c	2.94
Sales Tax	(56,840.09)
TD BANK CHQ	35,486.07
Total Current Liabilities	483,340.51
Non-current Liabilities	
FA Loan	162,720.00
Loan from Owners	659,409.44
Total Non-current Liabilities	822,129.44
Total Liabilities	1,305,469.95
Net Assets	(642 258 06)

Net Assets

(642,258.06)

35

Equity	
Current Year Earnings	(679,373.44)
Owner A Share Capital	100.00
Retained Earnings	37,015.38
Total Equity	(642,258.06)

Profit and Loss

RJ Packaging Incorporated O/As Custom Food Packaging For the year ended 31 December 2019

Other Revenue125,866Sales886,622Total Trading Income1,260,914Consumbles12,739Consumbles12,7494Consumbles12,7494Custom Duties12,7494Direct Labor127,894Preight Inward62,666Purchases622,781Costor Sales622,781Costor Soles622,781Costor Soles3,561Costor Soles3,561Costor Soles3,561Costor Soles3,242Consulting Expenses3,242Consulting Expenses23,025Costor Expenses23,025Legal Expenses23,025Legal Expenses23,025Legal Expenses3,242Marketing and Trade Shows Expenses23,025Legal Expenses23,025Legal Expenses23,025Legal Expenses3,242Marketing and Trade Shows Expenses3,642Marketing Relamenship15,924 <t< th=""><th>Trading Income</th><th></th></t<>	Trading Income	
Sales 896,622 Total Trading Income 1,260,514 Consumbles 12,739 Custom Duties 16,547 Direct Labor 127,799 Freight Inward 62,546 Purchases 622,781 Total Cost of Sales 622,781 Operating Expenses 622,781 Operating Expenses 622,781 Advertising 62,546 Bank Fees 622,781 Sales 622,781 Cost of Sales 622,781 Operating Expenses 622,781 Cost of Sales 642,610 Operating Expenses 622,781 Cost of Sales 622,781 Operating Expenses 622,781 Cost of Sales 622,781 Operating Expenses 622,781 Cost of Sales 622,781 Operating Expenses 622,781 Cost of Sales 624,810 Cost of Sales 624,810 Cost of Sales 624,810 Cost of Sales 624,810 Cost of Sales 62,424 Consulting Expenses 62,424 Consulting Accounting Expenses 62,424 Interest Expense 62,444 Interest Expense 62,424<	Closing Stock	238,424.00
Total Trading Income 1,260,914 Consumbles 12,739 Cust of Sales 16,547 Direct Labor 127,894 Direct Labor 127,894 Preight Inward 62,645 Purchases 622,781 Total Cost of Sales 842,610 Gross Profit 418,304 Operating Expenses 418,304 Certification Expenses 16,614 Bank Fees 16,614 Bank Revaluations 3,661 Certification Expenses 46,889 Commission Expenses 45,839 Commission Expenses 3,242 Commission Expenses 3,242 Commission Expenses 3,242 Commission Expenses 23,218 Interest Expense 23,218 Insurance Expenses 5,440 Interest Expense 26,300 Marketing and Trade Shows Expenses 26,300 Marketing and Trade Shows Expenses 21,171 Marketing and Trade Shows Expenses 26,300 Marketing and Trade Shows Expenses 21,213 Meetship Expenses 21,213	Other Revenue	125,868.39
Cost of Sales 12,739 Custom Duties 16,547 Direct Labor 127,894 Freight Inward 62,646 Purchases 622,781 Total Cost of Sales 642,646 Operating Expenses 642,646 Cost of Sales 642,646 Operating Expenses 642,646 Advertising 55,268 Bank Fees 16,611 Bank Fees 66,612 Consulting Expenses 3,661 Certification Expense 3,242 Consulting Accounting Expenses 3,242 Consulting & Accounting Expenses 3,242 Consulting Accounting Expenses 3,2	Sales	896,622.05
Consumbles12,733Custom Duties16,547Direct Labor127,839Preight Inward62,646Purchases62,741Total Cost of Sales842,610Gross Profit418,304Operating Expenses52,068Advertising55,268Bank Fees16,614Bank Revaluations3,561Certification Expenses46,889Consulting Expenses46,889Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses5,2468Unterest Expenses5,2468Consulting & Accounting Expenses23,025Legal Expenses23,025Unterest Expenses26,901Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Membership Expenses27,323Office Expenses27,323Printing & Stationery Expenses5,600Realized Currency Gains4,913Rent Expenses5,600Realized Currency Gains4,913Rent Expenses5,600Realized Currency Gains4,912Realized Currency Gains4,912Reounding6	Total Trading Income	1,260,914.44
Custom Duties16,547Direct Labor127,894Preight Inward62,648Purchases622,781Total Cost of Sales642,648Operating Expenses418,304Operating Expenses16,614Advertising55,268Bank Fees16,614Bank Revaluations3,561Certification Expenses45,232Consulting & Accounting Expenses4,688Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,900Marketing Retalinership159,213Meab & Entertainment Expenses12,123Methership Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,600Realised Currency Gains4,918Repairs and Maintenance3,622Rounding6	Cost of Sales	
Direct Labor127,894Freight Inward62,646Purchases622,781Gross Profit418,304Operating Expenses418,304Advertising55,268Bank Fees16,614Bank Revaluations3,365Certification Expenses45,232Cleaning Expenses4,689Commission Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses3,242Consulting & Accounting Expenses23,025Legal Expense5,600Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses12,123Meats & Entertainment Expenses12,123Meats & Entertainment Expenses12,123Office Expenses29,455Office Expenses5,600Realised Currency Gains4,913Realised Currency Gains4,913Realised Currency Gains4,912Realised Currency Gains3,923Rounding6	Consumbles	12,739.87
Freight Inward62,646Purchases622,781Total Cost of Sales842,610Corss Profit418,304Operating Expenses418,304Advertising55,268Bank Fees16,614Bank Rees16,614Bank Rees45,232Certification Expenses45,232Cleaning Expenses3,242Consulting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses5,740Insurance Expenses23,025Legal Expenses26,901Marketing Retainership159,213Mendership Expenses17,779Motor Vehicle Expenses29,455Office Expenses29,455Office Expenses29,455Office Expenses5,608Realised Currency Gains4,913Realised Currency Gains3,629Rounding6	Custom Duties	16,547.97
Purchases622,781Total Cost of Sales842,610Gross Profit418,304Operating Expenses16,614Bank Rees16,614Bank Rees3,561Certification Expenses45,232Cleaning Expenses4,689Commission Expenses23,218Equipment Lease Expenses21,171Freight & Courier Expenses5,400Insurance Expenses23,025Legal Expenses6,694Marketing and Trade Shows Expenses23,025Legal Expenses26,001Marketing Retainership159,213Membership Expenses17,773Motor Vehicle Expenses27,329Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Repairs and Maintenance3,623Reounding6,604Repairs and Maintenance3,623Rounding6	Direct Labor	127,894.75
Total Cost of Sales842,610Gross Profit418,304Operating Expenses16,614Bank Fees16,614Bank Revaluations3,561Certification Expense45,232Cleaning Expenses4,689Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses5,740Insurance Expenses23,025Legal Expenses26,904Marketing Retainership159,213Metorship Expenses12,733Metorship Expenses12,733Printing & Stationery Expenses27,323Printing & Stationery Expenses5,608Realised Currency Gains49,813Ret Expenses182,668Repairs and Maintenance3,629Rounding6	Freight Inward	62,646.04
Gross Profit 418,304 Operating Expenses 55,266 Bank Fees 16,614 Bank Revaluations 3,561 Certification Expense 45,232 Cleaning Expenses 46,883 Cornision Expenses 3,242 Consulting Expenses 23,218 Equipment Lease Expense 21,171 Freight & Couring Expenses 21,171 Insurance Expenses 5,740 Interest Expense 5,920 Legal Expenses 6,924 Marketing and Trade Shows Expenses 26,901 Marketing Retainership 159,213 Meals & Entertainment Expenses 21,173 Motor Vehicle Expenses 27,329 Printing & Stationery Expenses 5,600 Office Expenses 5,600 Realised Currency Gains 4,913 Rent Expenses 5,600 <	Purchases	622,781.58
Operating ExpensesAdvertising55,268Bank Fees16,614Bank Revaluations3,561Certification Expenses45,232Cleaning Expenses4,689Commission Expenses23,218Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense5,924Marketing and Trade Shows Expenses6,924Marketing Retainership159,213Meals & Entertainment Expenses1,779Motor Vehicle Expenses29,455Office Expenses29,455Office Expenses29,455Office Expenses29,455Office Expenses29,455Office Expenses29,455Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Total Cost of Sales	842,610.21
Advertising55,268Bank Fees16,614Bank Revaluations3,561Certification Expense45,232Cleaning Expenses46,689Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Instrance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing Retainership159,213Mendership Expenses26,901Marketing Retainership12,123Mendership Expenses22,9455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Gross Profit	418,304.23
Bank Fees16,614Bank Revaluations3,561Certification Expense45,232Cleaning Expenses4,689Commission Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses6,924Marketing Retainership159,213Meales & Entertainment Expenses12,123Membership Expenses27,329Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Operating Expenses	
Bank Revaluations3,561Certification Expenses45,232Cleaning Expenses4,689Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Mealer & Expenses1,779Motor Vehicle Expenses27,329Office Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6,924	Advertising	55,268.68
Certification Expenses45,232Cleaning Expenses46,689Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses1,779Motor Vehicle Expenses29,455Office Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Bank Fees	16,614.23
Cleaning Expenses4,689Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expenses23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meabership Expenses1,779Motor Vehicle Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6,609Rounding6,609Rounding6,609Repairs and Maintenance3,629Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Repairs and Maintenance3,629Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609Rounding6,609 <t< td=""><td>Bank Revaluations</td><td>3,561.00</td></t<>	Bank Revaluations	3,561.00
Commission Expenses3,242Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses27,329Office Expenses27,329Office Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Certification Expense	45,232.31
Consulting & Accounting Expenses23,218Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses1,779Motor Vehicle Expenses27,329Office Expenses27,329Printing & Stationery Expenses3,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Cleaning Expenses	4,689.41
Equipment Lease Expense21,171Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Commission Expenses	3,242.26
Freight & Courier Expenses - Outwards129,130Insurance Expenses5,740Interest Expenses23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses27,329Office Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Consulting & Accounting Expenses	23,218.64
Insurance Expenses5,740Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Equipment Lease Expense	21,171.15
Interest Expense23,025Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Freight & Courier Expenses - Outwards	129,130.12
Legal Expenses6,924Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Insurance Expenses	5,740.92
Marketing and Trade Shows Expenses26,901Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Interest Expense	23,025.14
Marketing Retainership159,213Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Legal Expenses	6,924.78
Meals & Entertainment Expenses12,123Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Marketing and Trade Shows Expenses	26,901.00
Membership Expenses1,779Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Marketing Retainership	159,213.09
Motor Vehicle Expenses29,455Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Meals & Entertainment Expenses	12,123.56
Office Expenses27,329Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Membership Expenses	1,779.97
Printing & Stationery Expenses5,608Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Motor Vehicle Expenses	29,455.25
Realised Currency Gains4,913Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Office Expenses	27,329.35
Rent Expenses182,669Repairs and Maintenance3,629Rounding6	Printing & Stationery Expenses	5,608.15
Repairs and Maintenance3,629Rounding6	Realised Currency Gains	4,913.17
Rounding 6	Rent Expenses	182,669.07
	Repairs and Maintenance	3,629.32
Telephone & Internet Evenences 12,084	Rounding	6.39
12,004	Telephone & Internet Expenses	12,084.51
Travel Expenses - National 37,058	Travel Expenses - National	37,058.72
Unrealised Currency Gains 3,049	Unrealised Currency Gains	3,049.20

2019

Utility Expenses	16,330.34
Wages and Salaries	237,707.94
Total Operating Expenses	1,097,677.67

Net Profit

(679,373.44)

Aged Payables Summary

RJ Packaging Incorporated O/As Custom Food Packaging

As at 31 December 2019

CONTACT	CURRENT	< 1 MONTH	1 MONTH	2 MONTHS	3 MONTHS	OLDER	TOTAL
Aged Payables							
Canadian Protein	110,881.25	-	-	-	-	-	110,881.25
Chocosol Traders	936.74	_	_	-	210.00	-	1,146.74
Coleman Containers Limited	-	-	853.69	2,407.35	1,533.66	-	4,794.70
Conquest Distributors	-	343.52	1,681.28	166.36	-	-	2,191.16
Customs Quote Brokerage Services	-	-	898.41	-	-	-	898.41
ECOCERT CANADA	-	-	-	1,525.50	-	-	1,525.50
FG Canada	-	-	-	-	-	226.00	226.00
Flash Recruitment Services Inc.	-	-	19,961.82	17,686.24	-	-	37,648.06
Integrated Carriers	3,352.89	16.14	-	9,826.81	-	470.15	13,665.99
Millennium Service Provider Inc.	-	1,072.09	909.66	-	97.46	-	2,079.21
Miski Organics Superfoods Inc.	-	-	-	-	-	20,781.24	20,781.24
PESTEND	162.72	162.72	162.72	325.44	-	162.72	976.32
Routes Transport	-	-	-	-	-	88,698.93	88,698.93
SKS Freight & Brokerage	-	1,998.62	5,478.80	-	-	-	7,477.42
Tara Packaging	472.70	-	-	-	-	-	472.70
Tootsi Impex Inc.	-	15,348.14	-	-	-	-	15,348.14
Uline Canada Corporation	1,210.57	-	-	-	-	-	1,210.57
Urban Sprout	-	-	-	-	-	762.75	762.75
Whitebird	-	_	_	_	-	11,583.64	11,583.64
Total Aged Payables	117,016.87	18,941.23	29,946.38	31,937.70	1,841.12	122,685.43	322,368.73
Total	117,016.87	18,941.23	29,946.38	31,937.70	1,841.12	122,685.43	322,368.73

Aged Receivables Summary

RJ Packaging Incorporated O/As Custom Food Packaging

As at 31 December 2019

CONTACT	CURRENT	< 1 MONTH	1 MONTH	2 MONTHS	3 MONTHS	OLDER	TOTAL
Amson Global	1,586.45	-	322.05	-	-	-	1,908.50
Bio Neutra	-	-	-	6,667.55	-	-	6,667.55
Conros Corporation/ LePage's 2000 Inc.,	(11,023.85)	-	-	-	-	-	(11,023.85)
Deja Technologies	-	-	-	-	3,500.00	-	3,500.00
Earth Alive Clean Technologies	-	-	-	-	-	1,275.00	1,275.00
Flourish Pancakes	30,953.12	-	-	-	-	-	30,953.12
Interspan Canada Inc.	-	-	-	768.40	-	-	768.40
J&J Phonenix group inc	-	-	-	-	-	677.25	677.25
Jerry Dang	-	-	-	-	-	1,604.60	1,604.60
Leah's Essentials	90,832.81	-	-	-	-	-	90,832.81
Living Lotus	-	-	-	11.30	-	-	11.30
Miski Organics Superfoods Inc.	-	-	-	-	-	12,292.46	12,292.46
Reverse Karma	-	-	-	-	-	11,980.83	11,980.83
Sweet & Friendly	-	-	-	-	-	6,817.29	6,817.29
vania faria	-	-	-	-	-	226.00	226.00
Vegan Supplies	-	768.58	-	-	-	-	768.58
Xylitol USA	-	-	-	-	345.78	6,819.06	7,164.84
Total	112,348.53	768.58	322.05	7,447.25	3,845.78	41,692.49	166,424.68

This is **Exhibit "E"** referred to in the

Affidavit of SMIT RAMESH JANI

sworn before me this 28th day of July, 2021.

Alle

A commissioner for taking Affidavits for Ontario

Hi Milad,

The Bank has made demand and under the demands the entire amounts are owing. There is no forbearance agreement in place which would allow for other reduction/payments to the indebtedness owed. You have advised that your clients will not execute the forbearance agreement which has a sign back deadline of today. I am seeking instructions from my client.



RACHEL MOSES

T: <u>416.369.4115</u> F: 416.864.9223 <u>www.mindengross.com</u> 145 King St. West, Suite 2200, Toronto, ON M5H 4G2 Save contact details: <u>Rachel Moses</u>

MERITAS LAW FIRMS WORLDWIDE

This communication is for the use of the individual or entity named herein and contains information that may be privileged and confidential. If you are not the intended recipient, any dissemination, distribution or copying of this message or its contents is strictly prohibited. If you have received this message in error, please advise the sender immediately.

From: Milad Haghani [mailto:Milad@haghanilaw.ca] Sent: Thursday, April 22, 2021 9:28 AM

To: Rachel Moses < RMoses@mindengross.com>

Cc: Lianne Campbell <lianne@haghanilaw.ca>

Subject: RE: Forbearance Agreement - RJ Packaging Incorporated o/a Custom Food Packaging

Good morning Rachel:

My client confirms that he has not attempted refinancing, having been confident that his applications will get declined but he will submit applications as soon as possible. I will forward both applications and responses to you. Meanwhile, he will bring the lease facility up-to-date by making payments of all overdue interests (Jan. 2021 to date), which based on your email should be less than \$4,000, by no later than end of the day on Monday, Apr. 26. I will confirm once he deposits the funds into the bank account.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

Milad Haghani
Rachel Moses
Catherine Lee
RE: RJ Packaging: Custom Food Packaging and RBC
May 10, 2021 8:15:16 PM
image001.jpg

Hi Rachel:

As indicated previously, I do not have instructions to accept the terms of Forbearance Agreement as you had proposed. While my client had previously indicated their approval of a forbearance period up to August 31, 2021, it has never agreed to most of the other terms proposed in your draft. I have discussed the agreement with the guarantors and I have instructions to advise that with the exception of SMIT JANI, the other guarantors will not execute the agreement.

While I suspect your client may be inclined to commence enforcement proceeding as you had hinted previously in our telephone conversation, forcing guarantors and borrower to file for bankruptcy, doing so will result in it recovering less than what it would if it provides my client with reasonable opportunity and time to pay off the debt. While I am not privy to the exact particulars of circumstances that caused your client to suddenly demand repayment of the entire amount owing I am advised by my client that with the exception of the first few months of 2021 (Jan – Mar) it had always been compliant with the essential repayment terms of the loans. To expect repayment of over half a million dollars from a company that has had a significant drop in revenue due to pandemic may be within your client's right but certainly not reasonable or achievable at this point in time.

It may be best if your client would agree to terms of a forbearance agreement whereby it will allow for reinstatement of the credit facilities on similar terms as originally agreed-upon. That way they will minimize their costs while allowing the debtor time to increase revenues, which will in turn result in payment of all fees and interests your client contemplated originally.

The borrower has applied to CIBC for refinancing and expects to receive a response this week. I will forward the response once my client provides me with a copy. Meanwhile, I confirm that the borrower will pay towards the credit facilities, the maximum that he is able to afford at this time which is \$5,000/month. The borrower will of course review and increase the monthly payments based on cashflow and business growth.

I look forward to hearing back from you.

Thanks,

Milad Haghani Milad Haghani Professional Corporation o/a Haghani Law Office Lex Villa LLP

203-3018 New Street Burlington, ON L7N 1M5

203-27 Major Mackenzie Dr. E. Richmond Hill, ON L4C 1G6

T: 905-635-5862 F: 905-635-5689 C: 289-776-7480 E: milad@haghanilaw.ca

This message is intended only for the use of the individuals to which it is addressed and may contain

ROYAL BANK OF CANADA

Applicant

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING et al. Respondent

- and -

ONTARIO SUPERIOR COURT OF JUSTICE COMMERICAL LIST Proceeding commenced at TORONTO

AFFIDAVIT OF SMIT RAMESH JANI

MILAD HAGHANI PROFESSIONAL CORPORATION

203-3018 New Street Burlington, ON L7N 1M5

MILAD HAGHANI

LSO No. 63688E Tel: (905) 635-5862 Fax: (905) 635-5689

Lawyer for the Respondent

TAB "2"

Court File No. CV-21-00665286-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

BETWEEN:

ROYAL BANK OF CANADA

Applicant

and

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING, SMIT RAMESH JANI, MITALI SMIT JANI and JAYANTKUMAR NAGJIBHAI PANCHASARA

Respondents

AFFIDAVIT OF SMIT RAMESH JANI Sworn August 16, 2021

I, SMIT RAMESH JANI, of the City of Mississauga, in the Regional Municipality of Peel, MAKE OATH AND SAY:

- 1. I make this affidavit in response to applicant's supplementary application record and affidavit of Pauline Leitgeb, both dated August 12, 2021.
- 2. As demonstrated in the banking statements attached as Exhibit "A" to Pauline Leitgeb's affidavit, the respondent has made payments towards the subject credit facilities until April 21, 2021.
- 3. In early April 2021 I attempted to login to respondent's online banking platform with RBC to check the status of credit facilities and if necessary deposit funds to ensure compliance with interest payment obligations, but was unable to access the online platform.
- 4. Subsequently, on April 21, 2021, I attended the applicant's branch at Centre and Dufferin Street in Toronto and attempted to use the Automatic Teller Machine (ATM) but due to what seemed like a malfunction the ATM failed to return my card or show/print the balance.

1

- 5. I then made my way to the teller at the said branch and deposited \$2,200.00 into the operating account and \$1,800.00 towards one of the credit cards. Attached as **Exhibit "A"** are copies of the deposit slips.
- 6. I requested applicant's banking teller to issue a new banking card on April 21, 2021, but my request was refused and I was told that since my account is in "a special program" the branch could not issue a new banking card.
- 7. Subsequently, on several other occasions, I called RBC requesting a new card but as of this date the applicant has failed to provide a replacement. As a result, the respondent does not have access to any of the credit facilities. When I speak to applicant's representatives on the phone, I am told that they cannot issue a new card and direct me to attend a branch personally and when I attend the branch I am told that I have to call RBC as my account is in a "special program".
- 8. The respondent is prepared, willing, and ready to pay the entirety of interest on the credit facilities as they accrue and bring the outstanding interest payments up-to-date. However, as noted in my previous affidavit of July 28, 2021, the applicant has refused all such proposals and insists on return of the entirety of the indebtedness.
- 9. Respondent is solvent and stable; it continues to operate a profitable business and meets all its financial obligations.
- 10.1 make this affidavit for no improper purpose.

SWORN AFFIRMED BEFORE ME: in person X by video conference

by Smit Ramesh Jani at the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on August 16, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

2

Commissioner for taking affidavit (or as may be)

MILAD HAGHANI Barrister, Solicitor, Notary Public and a Commissioner for Oaths in and for Ontario.

Smit Jani

Smit Ramesh Jani

This is Exhibit "A" referred to in the Affidavit of SMIT

RAMESH JANI

sworn before me this 16th day of August, 2021.

Mil

A commissioner for taking Affidavits for Ontario

Royal Bank Of Canada 1136 CENTRE ST THORNHILL, ON L4J 3M8

Transaction Record

ransit: 05076 ite: 21 Apr 2021 ime: 15:29:53

Reference #: 2211115579390305076

Visa Payment 451607*****7228

1800.00 CAD

45

Items Received Cash

1800.00 CAD

ink you for choosing RBC Royal Bank.

(Duplicate Receipt)

Royal Bank Of Canada 1136 CENTRE ST THORNHILL, ON L4J 3M8

Transaction Record

Transit: 05076 Date: 21 Apr 2021 Time: 15:41:38

Reference #: 5211115649813205076

Items Received Cash Cheque

2200.00 CAD

Thank you for choosing RBC Royal Bank.



ROYAL BANK OF CANADA

Applicant

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING et al. Respondent

- and -

ONTARIO SUPERIOR COURT OF JUSTICE **COMMERICAL LIST** Proceeding commenced at TORONTO AFFIDAVIT OF SMIT RAMESH JANI MILAD HAGHANI

PROFESSIONAL CORPORATION

203-3018 New Street Burlington, ON L7N 1M5

MILAD HAGHANI

LSO No. 63688E Tel: (905) 635-5862 Fax: (905) 635-5689

Lawyer for the Respondent

TAB "3"

Court File No. CV-21-00665286-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

BETWEEN:

ROYAL BANK OF CANADA

Applicant

and

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING, SMIT RAMESH JANI, MITALI SMIT JANI and JAYANTKUMAR NAGJIBHAI PANCHASARA

Respondents

FACTUM OF THE RESPONDING PARTY, RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING

(Returnable August 19, 2021)

PART I – INTRODUCTION & FACTS

- 1. The applicant has brought this application for receivership pursuant to subsection 234(1) of the *Bankruptcy and Insolvency Act*, and section 101 of the *Courts of Justice Act*.
- The respondent RJ Packaging Incorporated, operating as Custom Food Packaging (the "Respondent") is a Federal Corporation that operates a packaging facility out of Concord, Ontario.
- 3. The Respondent entered into a Credit Agreement with the applicant on December 21, 2018. The Credit Agreement authorized a revolving loan to the Respondent to a maximum of \$150,000 ("Revolving Facility"), Credit Cards to the maximum of \$50,000 and a credit facility for leasehold renovations to the maximum of \$350,000 (collectively "Credit Facilities"). Only the Revolving Facility is payable on demand, but the lease facility is effectively made payable on demand as well by virtue of provisions in Master Lease Agreement (the "MLA") which make the Respondent in default of the MLA if an event of default occurs with respect to the Revolving Facility.

Affidavit of Craig McInnes sworn July 9, 2021, para. 9 and 10, TAB 2 of Applicant's Application Record.

- 4. All three Credit Facilities have been in place since about January 2019 and are tied to a bank account from which interest payments are withdrawn (the "Bank Account").
- 5. Respondent's indebtedness under the Credit Facilities is secured, among other means, by guarantees of other respondents in this matter, namely Smit Ramesh Jani, the principal of the Respondent, his spouse, Mitali Smit Jani, and another individual named Jayantkumar Nagjibhai Panchasara. There is also a General Security Agreement from the Respondent, registered under the Personal Property Security Act in favor of the applicant.

Affidavit of Craig McInnes sworn July 9, 2021, para. 12, TAB 2 of Applicant's Application Record.

6. The debtor has been substantially compliant with the terms of Credit Facilities. As a result of the economic downturn caused by the COVID-19 global pandemic and in its early days, the respondent experienced a short period of financial difficulties and missed a few payments. Since then, all interests payable under the Credit Facilities have been brought up-to-date and paid by the Respondent until its access to the Bank Account and Credit Facilities was blocked in late April 2021. The Respondent is prepared to bring, and continue to keep, all interests payable under all Credit Facilities in good standing. Respondent's latest payment towards interests owing under Credit Facilities was on April 21, 2021.

Affidavit of Smit Ramesh Jani, sworn July 28, 2021, para. 4-11 and 20, TAB 1 of Respondent's Application Record.

Affidavit of Smit Ramesh Jani, sworn August 16, 2021, para. 2 – 8, TAB 2 of Respondent's Application Record.

7. The applicant claims that the Respondent is in default of Credit Facilities by failing to provide RBC with documentary reports and statements regarding its financial affairs and demands full payment of all amounts outstanding including fees, costs, and interests.

Notice of Application, para. 2(h), Tab 1 of Applicant's Application Record, issued July 9, 2021.

8. In late 2020 and in response to applicant's demands the Respondent did make promises to repay the outstanding amount in full, but those promises were made

in reliance of false and fraudulent representations of a large return on investments, made by third parties against whom the Respondent intends to bring a claim for fraudulent misrepresentation.

Affidavit of Smit Ramesh Jani, sworn July 28, 2021, para. 13-16, TAB 1 of Respondent's Application Record.

9. Since April 21, 2021, Respondent's access to its bank account and Credit Facilities has been blocked by the applicant. Since then, the Respondent has offered to continue making payment on account of outstanding interests to keep the Credit Facilities in good standing, but the applicant has refused the offer and demands full payment.

Affidavit of Smit Ramesh Jani, sworn July 28, 2021, para. 21, TAB 1 of Respondent's Application Record.

Affidavit of Smit Ramesh Jani, sworn August 16, 2021, para. 3-7, TAB 2 of Respondent's Application Record.

PART II – ISSUES

10. The sole issue in this applicant is whether it is just or convenient for the Court to appoint a receiver of all assets, undertakings and properties of the Respondent.

PART III – LAW & ARGUMENTS

11. Both s. 243(1) of the *Bankruptcy and Insolvency Act* and s. 101 of the Court of Justice Act provide that the court may appoint a receiver if it considers it to be just or convenient to do so.

Bankruptcy and Insolvency Act, R.S.C., 1985, c. B-3, s.243(1).

12. In determining whether it is just or convenient, the court must have regard to all the circumstances of the case including the nature of the property, the rights and interests of the parties to the property, whether lender's security is at risk of deteriorating, whether there is a need to stabilize and preserve the business, whether there is a loss of confidence in the debtor's management and the positions and interests of other creditors.

<u>BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.</u>, 2020, ONSC 1953 (CanLII), para. 45.

13. In this case the Respondent is fully operational and continues to meet its obligations to the applicant and its employees. The Respondent has weathered the economic downturn caused by the global pandemic and its business has been improving. There is no evidence that the Respondent's business is

deteriorating as a result of liquidity problems and there is no need to stabilize and preserve the business.

- 14. There is no need to stabilize and preserve the business. The Respondent has been substantially compliant with its financial obligations to the applicant. Had it not been for the applicant's unreasonable persistence for repayment of entirety of indebtedness, refusal to accept ongoing interest payment, and blocking Respondent's access to its bank account and Credit Facilities, the Respondent would have remained compliant with all financial obligations owed to the applicant. There is a realistic and reasonable prospect that the Respondent will bring the Credit Facilities into good standing. If there is a loss of confidence in Respondent's management, there is no legitimate basis for it.
- 15. The Respondent has made payments towards interests and principal of the credit facilities until the applicant blocked its access to its bank account and insisted on receiving full repayment of indebtedness.
- 16. The Respondent respectfully submits that this is not a case where the Court ought to grant such an extraordinary remedy as appointment of a receiver and the application must be dismissed.

ALL OF WHICH IS RESPECTFULLY SUBITTED this 16th day of August 2021.

Mart

MILAD HAGHANI PROFESSIONAL CORPORATION 3018 New Street, Suite 203 Burlington, ON L7N 1M5

MILAD HAGHANI

LSO# 63688E Tel: 905-635-5682 Fax: 905-635-5689 Email: <u>milad@haghanilaw.ca</u>

Lawyer for the Respondents

ROYAL BANK OF CANADA

Applicant

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING et al. Respondents

- and -

ONTARIO SUPERIOR COURT OF JUSTICE COMMERICAL LIST Proceeding commenced at TORONTO

FACTUM OF RESPONDENTS

MILAD HAGHANI PROFESSIONAL CORPORATION

203-3018 New Street Burlington, ON L7N 1M5

MILAD HAGHANI

LSO No. 63688E Tel: (905) 635-5862 Fax: (905) 635-5689

Lawyer for the Respondents

ROYAL BANK OF CANADA

Applicant

RJ PACKAGING INCORPORATED operating as CUSTOM FOOD PACKAGING et al. Respondents

- and -

ONTARIO SUPERIOR COURT OF JUSTICE **COMMERICAL LIST** Proceeding commenced at TORONTO APPLICATION RECORD OF **RESPONDENTS** MILAD HAGHANI **PROFESSIONAL CORPORATION** 203-3018 New Street Burlington, ON L7N 1M5 MILAD HAGHANI LSO No. 63688E Tel: (905) 635-5862 Fax: (905) 635-5689 Lawyer for the Respondents