

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

-and-

CARAMEX LOGISTICS INC., 2281498 ONTARIO INC., and VARINDERPAL SINGH GIL

Respondents

FACTUM OF THE APPLICANT

(Application Returnable November 28, 2025)

November 20, 2025

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Court File No. CV-25-00006390-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

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PART I – THE APPLICATION

The Applicant, Royal Bank of Canada (the “**Bank**”), seeks the following Order, substantially in the form attached as Schedule “A” and in template form (the “**Appointment Order**”) to the Notice of Application:

- a) Appointing msi Spergel inc. as Receiver (“**Spergel**” or the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Respondents, Caramex Logistics Inc. (“**Caramex**”), and 2281498 Ontario Inc. (“**228 Ontario**”, and collectively with Caramex, the “**Debtors**”) acquired for, or used in relation to the businesses carried on by the Debtors;
- b) That the time for service, filing and confirming of the Notice of Application and the Application Record be abridged and validated so that this application is properly returnable today and dispensing with further service thereof; and,
- c) Such further and other relief as to this Honourable Court may seem just.

The Position of the Bank

1. It is the Bank's position that the present circumstances are an appropriate case for the appointment of the Receiver, including the following (all capitalized terms as defined herein):
 - a) The Debtors are in the transportation and logistics industry and the majority of the assets of the Debtors are moveable trucks and trailers. The Debtors' accounts with the Bank are in excess, and the Debtor has not provided reporting to the Bank. As a result, the Bank's lack of insight into the assets and location thereof is of substantial concern and further leaves the Bank's Security at risk;
 - b) The Bank is a secured creditor of the Debtors pursuant to the GSA's, the Caramex Lease and the 228 Lease;
 - c) The Debtors defaulted under the terms of the Letter Agreements, as a result of, *inter alia*, failing to make payments to the Bank as they became due; and chronic borrowings in excess of credit limit;
 - d) The Debtors have failed to cure the Defaults, and the Demands issued by the Bank have expired;
 - e) In the face of the expired Demands, the Debtors are insolvent. No further terms of credit nor forbearance is available to the Debtors from the Bank. It is necessary for the protection of the Debtors' estate that a Receiver be appointed; and,
 - f) The Bank's Security provides the Bank with the right to appoint a Receiver over all

PART II – FACTS/OVERVIEW

2. Caramex is a company incorporated pursuant to the laws of Canada, which carries on business in the city of Brampton, Ontario, with its head office located in Sylvan Lake, Alberta.

Reference: Affidavit of Ram Muralitharan, sworn November 4, 2025, at para 2 (the "Muralitharan Affidavit") and Exhibit "A" thereto.

3. 228 Ontario is a company incorporated pursuant to the laws of the Province of Ontario, with its head office located in Mississauga, Ontario.

Reference: Muralitharan Affidavit, at para 3 and Exhibit "B" thereto.

4. Varinderpal Singh Gil ("Varinderpal") is a principal of the Debtors and is a guarantor of the obligations owing by the Debtors to the Bank.

Reference: Muralitharan Affidavit, at para 4.

5. The Debtors are insolvent, and are currently in default (a "Default", or the "Defaults") of their obligations to the Bank as a result of the following:

- a) failing to make payments to the Bank as they became due;
- b) chronic borrowings in excess of credit limits;
- c) failing to maintain a fixed charge coverage of not less than 1.15:1; and,
- d) failure to provide financial reporting as required by the terms of the Financing.

Reference: Muralitharan Affidavit at para 6.

6. The Bank is unwilling to provide the Debtors with any further credit or forbearance.

Reference: Muralitharan Affidavit at para 8.

The Obligations to the Bank and Security Held

Caramex

7. As of October 7, 2025, Caremex was indebted to the Bank in the amount of \$5,979,324.98

CAD and \$112,396.54, plus accruing interest and the Bank's continuing costs of enforcement including legal and professional costs (the "**Caramex Obligations**"), in respect of certain financing advanced to Caramex pursuant to the terms of a Royal Bank of Canada Credit Agreement dated August 21, 2023, and as amended by the Amending Agreement dated October 22, 2024 (collectively, the "**Caramex Letter Agreement**").

Reference: **Muralitharan Affidavit, at para 9 and Exhibit "C".**

8. Caramex is also indebted to the Bank as a guarantor of the obligations of 228 Ontario.

Reference: **Muralitharan Affidavit, at para 19.**

9. The credit facilities established by the Caramex Letter Agreement are:

- a. Revolving Demand Facility: in the amount of \$3,200,000, upon which the sum of \$3,226,091.51 was owing as at October 7, 2025;
- b. Revolving Lease Line of Credit: in the amount of \$3,100,000, upon which the sum of \$2,077,346.63 was owing as at October 7, 2025;
- c. Credit Card Facility: to a maximum amount of \$250,000, upon which the sum of \$188,912.44 was owing as at October 7, 2025; and,
- d. All Business Vehicle Solutions Loans and/or Contracts: outstanding at any time and from time to time.

Reference: **Muralitharan Affidavit, at para 10.**

10. Caramex also operated an account with the Bank which was in an overdraft position in the amount of \$462,357.83 CAD and \$112,351.23 USD.

Reference: **Muralitharan Affidavit, at para 11.**

11. The Bank provided lease financing under the terms of the Master Lease Agreement dated

July 26, 2023, and leasing schedules 201000075549, 201000087736, 201000079582, and 201000075984 (the “**Caramex Lease**”).

(paragraphs 9, 10 and 11 above collectively, the “**Caramex Financing**”)

Reference: Muralitharan Affidavit, at para 12.

12. The Caramex Financing is secured by, *inter alia*, the following:

- a) General Security Agreement from Caramex dated May 21, 2021 (the “**Caramex GSA**”);
- b) The Caramex Lease;
- c) Guarantee and Postponement of Claim from 228 Ontario dated August 31, 2023, limited to the sum of \$6,000,000.00; and,
- d) Guarantee and Postponement of Claim from Varinderpal dated August 31, 2023, limited to the sum of \$2,500,000 (the “**Varinderpal Caramex Guarantee**”).

Reference: Muralitharan Affidavit, at para 13 and Exhibits “D” to “G” thereto.

228 Ontario

13. As of October 7, 2025, 228 Ontario was indebted to the Bank in the amount of \$1,543,926.62, plus accruing interest and the Bank’s continuing costs of enforcement including legal and professional costs (collectively with the Caramex Obligations, the “**Obligations**”), in respect of certain financing advanced to 228 Ontario pursuant to the terms of a Royal Bank of Canada Credit Agreement dated August 21, 2023 (the “**228 Ontario Letter Agreement**” and collectively with the Caramex Letter Agreement, the “**Letter Agreements**”).

Reference: Muralitharan Affidavit, at para 14 and Exhibit “H” thereto.

14. 228 Ontario is also indebted to the Bank as a guarantor of the obligations of Caramex.

Reference: Muralitharan Affidavit, at para 13.

15. The credit facilities established by the 228 Ontario Letter Agreement to which the Bank advanced funds is:

- a. Revolving Lease Line of Credit: with a credit limit of \$3,100,000, upon which the sum of \$1,045,147.24 was owing as at October 7, 2025; and,
- b. Credit Card Facility: with a credit limit of \$100,000, upon which the sum of \$123,834.21 was owing as at October 7, 2025.

Reference: Muralitharan Affidavit, at para 15.

16. 228 Ontario also operated an account with the Bank which was in an overdraft position in the amount of \$6,378.35.

Reference: Muralitharan Affidavit, at para 16.

17. The Bank provided lease financing under the terms of the Master Lease Agreement dated August 29, 2022, and leasing schedules 201000069529, 201000073769, and 201000071390 (the “**228 Ontario Lease**”).

Reference: Muralitharan Affidavit, at para 17.

18. The Bank also provided a conditional sales contract to 228 Ontario dated June 20, 2023 (the “**228 Ontario Conditional Sales Contract**”).

Reference: Muralitharan Affidavit, at para 18.

(paragraphs 15, 16, 17 and 18 above collectively, the “**228 Ontario Financing**” and

collectively with the Caramex Financing, the “**Financing**”)

19. The 228 Ontario Financing is secured by, *inter alia*, the following:

- a) General Security Agreement from 228 Ontario dated July 5, 2022 (the “**228 GSA**” and collectively with the Caramex GSA, the “**GSA’s**”);
- b) The 228 Ontario Lease;
- c) The 228 Ontario Conditional Sales Contract; and,
- d) Guarantee and Postponement of Claim from Caramex dated August 31, 2023, limited to the sum of \$3,000,000.00.

Reference: Muralitharan Affidavit, at para 19 and Exhibits “I” to “L” thereto.

The Bank’s Security Interest in The Personal Property of the Debtors

20. The GSA’s secure all personal property of the Debtors. The Bank has registered a Financing Statement as against each of the Debtors pursuant to the provisions of the *Personal Property Security Act* (Ontario) to perfect its security interest in the personal property of the Debtors secured under the GSA’s.

Reference: Muralitharan Affidavit, at paras 20-22, and Exhibits “M” and “N” thereto.

Defaults and Demands

21. The Debtors are insolvent, and have defaulted under the Financing, as set out above, which defaults continue.

Reference: Muralitharan Affidavit, at para 23.

22. As a result of the Defaults, the Bank delivered to the Debtors demands for payment and Notices of Intention to Enforce Security pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”), all dated October 9, 2025. The Bank also issued demands for payment to the guarantors of the Debtors, dated October 9, 2025. (collectively, the “**Demands**”).

Reference: **Muralitharan Affidavit, at paras 27, and Exhibit “P” thereto.**

23. All statutory notice periods in relation to the Demands have expired, and the Debtors and the guarantors of the Debtors have failed to repay the Obligations due, despite the Demands.

Reference: **Muralitharan Affidavit, at para 30.**

The Debtors’ Lack of Reporting

24. On September 11, 2025, the Bank issued a letter to the debtors detailing the Bank’s concerns, advising numerous reporting defaults of the Debtors, and requesting certain information and documents from the Debtors.

Reference: **Supplemental Affidavit of Ram Muralitharan, sworn November 19, 2025, at para 4 (the “**Supplemental Muralitharan Affidavit**”) and Exhibit “A” thereto.**

25. Under the 228 Ontario Lease, the Bank financed certain trucks including four used 2022 Volvo VNL760 trucks and 228 Ontario has failed to provide ownership permits for same despite the Bank’s requests.

Reference: **Supplemental Muralitharan Affidavit, at para 5.**

26. The Debtors’ reporting defaults are of concern to the Bank as the Bank does not have any visibility on the operations of the Debtors. Further, as a result of the Debtors’ failure to provide

requested reporting, the Bank does not have any insight as to the status of the rolling stock held by the Debtors, the ownership status of the Debtors' assets, or the locations of any assets of the Debtors in which the Bank holds a security interest.

Reference: Supplemental Muralitharan Affidavit, at paras 6 and 7.

27. The Debtors are in the transportation and logistics industry and the majority of the assets of the Debtors are moveable. As a result, the Bank's lack of information with respect to the assets and their location is of substantial concern and leaves the Bank's Security at risk.

Reference: Supplemental Muralitharan Affidavit, at para 8.

28. In addition to concerns regarding the assets of the Debtors, the Debtors' accounts held with the Bank are currently in excess of over \$550,000.00 and have been in an excess position since September 19, 2025. The Debtors have failed to respond to the Bank regarding the account excess.

Reference: Supplemental Muralitharan Affidavit, at paras 9 and 10.

29. The appointment of a Receiver is necessary on an urgent basis to address the time sensitive and significant risks to the Bank's Security.

Reference: Supplemental Muralitharan Affidavit, at para 11.

The Appointment of a Receiver

30. The Obligations due pursuant to the Demands have not been paid. The ten (10) day period under section 244 of the BIA has expired. The Debtors are in default of the Financing. The Bank is unwilling to provide any further forbearance or credit to the Debtors. The Bank is in a position to appoint a receiver over the assets and property of the Debtors as secured by the

Bank's Security, pursuant to section 243 of the BIA.

Reference: **Muralitharan Affidavit, at paras 31 and 32.**

31. The GSA's grant the Bank the right to appoint a Receiver over all personal property of the Debtors, as a result of the Defaults of the Debtors under the Financing.

Reference: **Muralitharan Affidavit, at paras 33 to 35.**

32. Spergel has consented to act as Receiver, should this Honourable Court so appoint it.

Reference: **Muralitharan Affidavit, at para 42.**

PART III – ISSUES, LAW AND ARGUMENT

Issues

33. The issues before this Court, and addressed below, are:

- a) Does this Court have jurisdiction to appoint the Receiver?
- b) Should this Court appoint the Receiver?
- c) If this Court decides to appoint the Receiver, then are the terms of the Receivership Order appropriate in the circumstances of this receivership?

(a) This Court has jurisdiction to appoint the Receiver

34. Subsection 243(5) of the BIA provides that an application under subsection 243(1) of the BIA is to be filed in a court having jurisdiction in the judicial district of the "locality of the debtor", which is defined in section 2 of the BIA.

[**BIA, s. 2, Schedule "B"; BIA, s. 243\(5\), Schedule "B".**](#)

35. The Debtors are Canadian and Ontario corporations which carry on business in Ontario. The businesses carried on by the Debtors that are subject to the proposed receivership includes premises located in Ontario. The locality of the Debtors is, therefore, Ontario, and this application is properly brought before the Ontario Superior Court of Justice.

36. Subsection 243(4) of the BIA provides that only a trustee, as defined in section 2 of the BIA, may be appointed under subsection 234(1) of the BIA.

[BIA, s. 2, Schedule “B”](#); [BIA, s. 243\(4\), Schedule “B”](#).

37. Spergel is a trustee as defined in the BIA, and therefore, satisfies the requirements for appointment pursuant to the BIA.

(b) This Court should appoint the Receiver

38. Section 244(1) requires that a secured creditor provide an insolvent person with the requisite advance notice of its intention to enforce security.

[BIA, s. 244\(1\), Schedule “B”](#).

39. The Applicant sent the Demands together with its Notice of Intention to Enforce Security pursuant to such section of the BIA, to the Debtors on October 9, 2025, and this application is being heard on a date that is after the date on which any applicable notice periods expired.

40. Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended (the “**CJA**”) provides for the appointment of a receiver by this Court where it is “just and convenient”. Section 243(1) of the BIA also provides that, on an application by a secured creditor, this Court may appoint a receiver if it considers it to be just and convenient to do so to: (a) take

possession over the assets of an insolvent person; (b) exercise any control that the Court considers advisable over the property and business; or (c) take any other action that the Court considers advisable.

CJA, s. 101, Schedule “B”; BIA, s. 243(1) and 243(2), Schedule “B”.

41. Where the loan agreement and related transaction documents contemplate the appointment of a receiver, this Court may have regard to the principles summarized by Justice Newbould in *RMB Australia Holdings Limited v. Seafield Resources Ltd.*:

28 In determining whether it is “just or convenient” to appoint a receiver under either the BIA or CJA, Blair J., as he then was, in *Bank of Nova Scotia v. Freure Village on Clair Creek* (1996), 40 C.B.R. (3d) 274 (Ont. Gen. Div. [Commercial List]) stated that in deciding whether the appointment of a receiver was just or convenient, the court must have regard to all of the circumstances but in particular the nature of the property and the rights and interests of all parties in relation thereto, which includes the rights of the secured creditor under its security. He also referred to the relief being less extraordinary if a security instrument provided for the appointment of a receiver:

While I accept the general notion that the appointment of a receiver is an extraordinary remedy, it seems to me that where the security instrument permits the appointment of a private receiver — and even contemplates, as this one does, the secured creditor seeking a court appointed receiver — and where the circumstances of default justify the appointment of a private receiver, the “extraordinary” nature of the remedy sought is less essential to the inquiry. Rather, the “just or convenient” question becomes one of the Court determining, in the exercise of its discretion, whether it is more in the interests of all concerned to have the receiver appointed by the Court or not.

29 See also *Elleway Acquisitions Ltd. v. Cruise Professionals Ltd.*, 2013 ONSC 6866 (Ont. S.C.J. [Commercial List]), in which Morawetz J., as he then was, stated:

...while the appointment of a receiver is generally regarded as an extraordinary equitable remedy, courts do not regard the nature of the remedy as extraordinary or equitable where the relevant security document permits the appointment of a receiver. This is because the applicant is merely seeking to enforce a term of an agreement that was assented to by both parties. See *Textron Financial Canada Ltd. v. Chetwynd Motels Ltd.*, 2010 BCSC 477, [2010] B.C.J. No. 635 at paras. 50 and 75 (B.C. S.C. [In Chambers]); *Freure Village*, *supra*, at para. 12; *Canadian Tire Corp. v. Healy*, 2011 ONSC 4616, [2011] O.J. No. 3498 at para. 18 (S.C.J. [Commercial List]); *Bank of Montreal v. Carnival National Leasing Limited and Carnival Automobiles Limited*, 2011 ONSC 1007, [2011] O.J. No. 671 at para. 27 (S.C.J. [Commercial List]).

[RMB Australia Holdings Limited v. Seafield Resources Ltd., 2014 ONSC 5205 \(CanLII\), paras. 28-29.](#)

42. The existence of a contractual right to appoint a receiver in the loan agreement and related transaction documents is key. Where the rights of the secured creditor include, pursuant to the terms of its security, the right to seek the appointment of a receiver, the burden on the applicant is lessened: while the appointment of a receiver is generally an extraordinary equitable remedy, the courts do not so regard the nature of the remedy where the relevant security permits the appointment and as a result, the applicant is merely seeking to enforce a term of an agreement already made by both parties.

[Elleway Acquisitions Limited v. The Cruise Professionals Limited, 2013 ONSC 6866 \(CanLII\) at para 27.](#)

43. This relief that is granted more as a matter of course, is especially true in cases in which the circumstances further support such an appointment. That is the case here.

44. With this lower burden, the following additional “just or convenient” factors identified by Justice Farley in *Confederation Life Insurance Co. v. Double Y Holdings Inc.* may be considered:

- a) The lenders' security is at risk of deteriorating;
- b) There is need to stabilize and preserve the Debtor's business;
- c) Loss of confidence in the Debtor's management; and,
- d) Positions and interests of other creditors.

Confederation Life Insurance Co. v. Double Y Holdings Inc., 1991 CarswellOnt 1511 (Ont. S.C.J. (Commercial List)) [“Confederation Life”], paras. 19-24, Tab 1 of the Applicant's Book of Authorities.

45. It is not essential that the moving party/secured creditor establish that it will suffer irreparable harm if a receiver/manager is not appointed.

Swiss Bank Corporation (Canada) v. Odyssey Industries Incorporated (1995), 30 C.B.R. (3d) 49 at paragraph 28, Tab 2 of the Applicant's Book of Authorities.

46. When the above *Confederation Life* factors are applied to this case, the Applicant submits that the burden to appoint a receiver has been met and that such appointment is just and convenient in the circumstances:

- a) ***The Debtors contractually agreed to the appointment of a receiver.*** The loan agreements and the related transaction documents among the Applicant and the Debtors expressly entitle the Applicant to appoint a receiver under certain circumstances, including the present circumstances. The Applicant now exercises these entitlements, subject to this Court's authority.
- b) ***The loan agreement is in default.*** As set out above, events of default have occurred and are continuing under the loan agreement and the related transaction documents. The Applicant has demanded on the Obligations. The Applicant provided the Debtors with statutory notice of their intention to enforce security, and the applicable notice periods have elapsed.
- c) ***The lenders' security is at risk of deteriorating.*** The Bank is concerned that the Debtors do not have the working capital needed to maintain their property. If the property of the Debtors deteriorates, the realizable value of the Security will diminish as a result.
- d) ***The Debtors' business needs to be stabilized and preserved.*** The Debtors' liquidity crisis will continue to worsen in the absence of action. A receiver will be able to take the necessary steps to preserve the Security, including conducting an orderly

sale process that will generate recoveries for creditors. If the Debtors' businesses experience further disarray, or the Security is not preserved, there will be further negative consequences.

- e) ***The Applicant has lost confidence in the Debtors' management.*** The Debtors have not advised or provided evidence of alternatives to a receivership that stand any reasonable chance of success, despite significant time in which to do so. The Applicant has justifiably lost confidence in the management of the Debtors due to the events described in the Muralitharan Affidavit.
- f) ***Position and interests of other Creditors.*** The Applicant is not the only creditor of the Debtors. As at the date of this Factum, no creditor has opposed the receivership application. The Receiver will be able to properly and equitably deal with the interests of creditors other than the Applicant. A receivership provides parties with an effective forum in which to deal with any issues, including any competing claims, that may arise in respect of the Debtors and their property.

47. As at the date of this Factum, the Applicant is not aware of any restructuring efforts by the Debtors that stands any reasonable chance of success.

(c) The Terms of the Receivership Order are Appropriate

48. The terms of the proposed Receivership Order are substantially the same as the terms of the Commercial List's model receivership order, and the modifications to same are indicated in the blacklined copy provided.

Blackline of the draft Order against the Model Receivership Order; Application Record, Tab 1, Schedule "A-2".

PART IV – ORDER REQUESTED

49. For the reasons set forth herein and in the Application Record, it is respectfully submitted that the appointment of a receiver is just and convenient and is necessary for the protection of the estate of the Debtors and the interests of the Bank and other stakeholders.

50. The Bank respectfully requests that this Honourable Court grant the Appointment Order substantially in the form attached as Schedule "A" to the Notice of Application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of November, 2025



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SCHEDULE “A”**LIST OF AUTHORITIES**

1. *RMB Australia Holdings Limited v. Seafield Resources Ltd.*, 2014 ONSC 5205 (CanLII);
2. *BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*, 2020 ONSC 1953 (CanLII);
3. *Elleway Acquisitions Limited v. The Cruise Professionals Limited*, 2013 ONSC 6866 (CanLII);
4. *Confederation Life Insurance Co. v. Double Y Holdings Inc.*, 1991 CarswellOnt 1511 (Ont. S.C.J. (Commercial List));
5. *RMB Australia Holdings Limited v. Seafield Resources Ltd.*, 2014 ONSC 5205 (CanLII);
6. *Swiss Bank Corporation (Canada) v. Odyssey Industries Incorporated* (1995), 30 C.B.R. (3d) 49;

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY-LAWS

Bankruptcy and Insolvency Act, RSC 1985, c B-3

Court may appoint receiver

243. (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person’s or bankrupt’s business; or
- (c) take any other action that the court considers advisable.

Restriction on appointment of receiver

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- (b) the court considers it appropriate to appoint a receiver before then.

Definition of receiver

(2) Subject to subsections (3) and (4), in this Part, receiver means a person who

(f) is appointed under subsection (1); or

(g) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under

(i) an agreement under which property becomes subject to a security (in this Part referred to as a “security agreement”), or

(ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

Definition of receiver — subsection 248(2)

(3) For the purposes of subsection 248(2), the definition *receiver* in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

Trustee to be appointed

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

Place of filing

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

Orders respecting fees and disbursements

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

Meaning of disbursements

(7) In subsection (6), disbursements does not include payments made in the operation of a business of the insolvent person or bankrupt.

Advance notice

244 (1) A secured creditor who intends to enforce a security on all or substantially all of

- (a) the inventory,
- (b) the accounts receivable, or
- (c) the other property

of an insolvent person that was acquired for, or is used in relation to, a business carried on by the insolvent person shall send to that insolvent person, in the prescribed form and manner, a notice of that intention.

Period of notice

(2) Where a notice is required to be sent under subsection (1), the secured creditor shall not enforce the security in respect of which the notice is required until the expiry of ten days after sending that notice, unless the insolvent person consents to an earlier enforcement of the security.

No advance consent

(2.1) For the purposes of subsection (2), consent to earlier enforcement of a security may not be obtained by a secured creditor prior to the sending of the notice referred to in subsection (1).

Exception

- (3) This section does not apply, or ceases to apply, in respect of a secured creditor
 - (a) whose right to realize or otherwise deal with his security is protected by subsection 69.1(5) or (6); or
 - (b) in respect of whom a stay under sections 69 to 69.2 has been lifted pursuant to section 69.4.

Idem

- (4) This section does not apply where there is a receiver in respect of the insolvent person.

Courts of Justice Act, RSO 1990, c. C-43.

Injunctions and receivers

101. (1) In the Superior Court of Justice, an interlocutory or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

Terms

- (2) An order under subsection (1) may include such terms as are considered just.

ROYAL BANK OF CANADA

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Court File No. CV-25-00006390-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
BRAMPTON, ONTARIO

FACTUM OF THE APPLICANT

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