

Court File No. CV-24-00003220-0000

ONTARIO

SUPERIOR COURT OF JUSTICE

THE HONOURABLE
JUSTICE

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FRIDAY, THE 4TH
DAY OF JULY, 2025



MITSUBISHI HC CAPITAL CANADA, INC. and
MITSUBISHI HC CAPITAL CANADA LEASING, INC.

Applicants

and

ORBIT EXPRESS INC., 10055913 CANADA INC.,
and 8615314 CANADA INC.

Respondents

APPLICATION UNDER SECTION 47 OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, C. B-3, AS AMENDED; AND SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O 1990, C. C.43, AS AMENDED

ORDER
(Asset Recovery Order)

THIS MOTION made msi Spergel Inc., in its capacity as the Court-appointed receiver and manager (the "**Receiver**") without security, of all of the assets, undertakings and properties of Orbit Express Inc., 10055913 Canada Inc., and 8615314 Canada Inc. (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors (the "**Property**"), for an Order, among other things:

1. Compelling the Debtors, Yadwinder Singh and Kulwant Singh (the "**Principals**") to permit the Receiver to take possession and exercise control over the Property.
2. Compelling Noble Express Inc. ("**Noble**") and 7583150 Canada Inc. ("**758**", together with Noble, the "**Related Companies**") to assist the Receiver in implementing

the Receivership Order and to provide information to the Receiver regarding the Property;

3. Authorizing the Receiver or its agents and representatives or any other party authorized by the Receiver to take possession of and remove any of the Debtors' Property from Noble or 758's possession;

4. Instructing the local police force or peace officers to assist the Receiver in implementing this Order, including in gaining access to and recovering the Debtors' Property in Noble or 758's possession, as required by the Receiver;

5. Authorizing the Receiver or its agents and representatives or any other party authorized by the Receiver to take possession of and remove from 1010 Central Parkway West, Mississauga, Ontario (the "**Mississauga Yard**") any of the Debtors' Property located at the Mississauga Yard;

6. Instructing the local police force or peace officers to assist the Receiver in implementing this Order, including in gaining access to the Mississauga Yard and recovering the Debtors' Property, as required by the Receiver; and

7. Authorizing and directing Bank of Montreal to identify and disclose all account numbers and financial institutions that the Misappropriated Funds were transferred to, and any information reasonably requested by the Receiver in relation to same;

was heard this day by videoconference.

ON READING the first report of the Receiver dated May 30, 2025 (the "**First Report**"), the materials filed on this motion, and on hearing submissions of counsel for the Receiver and all other parties listed on the Counsel Slip, no one else appearing although duly served as appears from the Affidavit of Service of Sydney Inghelbrecht sworn May 30, 2025, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service, filing and confirmation of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service and confirmation hereof.

CAPITALIZED TERMS

2. **THIS COURT ORDERS** that any terms in this Order not otherwise defined herein shall have the meaning set out in the First Report.

REPORT AND ACTIVITIES OF THE RECEIVER

3. **THIS COURT ORDERS** that the First Report and the activities and conduct of the Receiver, as set out in the First Report, be and are hereby approved; provided, however, that only the Receiver, in its personal capacity only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

RECOVER OF DEBTORS' PROPERTY

4. **THIS COURT ORDERS** that the Debtors and the Principals shall permit the Receiver to take possession and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, in accordance with the Receivership Order, including but not limited to, providing the Receiver with:

- a) possession and control over the books and records and internal bookkeeping records and accounting systems of the Debtors;
- b) information about the accounts payable and accounts receivable;
- c) the location of the Trucking Equipment; and
- d) the Misappropriated Funds.

5. **THIS COURT ORDERS** that the Debtors, Noble and 758 and any of its officers, directors and voting shareholders shall be required to assist the Receiver in implementing the Receivership Order and to provide the Receiver or its agents and representatives or any other party authorized by the Receiver information regarding the location of the Property.

6. **THIS COURT ORDERS** that the Debtors, Noble and 758 and any of its officers, directors and voting shareholders shall immediately disclose to the Receiver in writing their knowledge of the location of any of the Trucking Equipment.

7. **THIS COURT ORDERS** that the Receiver or its agents and representatives or any other party authorized by the Receiver to take possession of and remove from Noble or 758's possession any of the Debtors' Property in Noble or 758's possession.

8. **THIS COURT ORDERS** that any local sheriff, police or peace officers assist the Receiver, or its agents or representatives, in implementing this Order, including by assisting the Receiver or its agents or representatives in gaining access to and recovering the Property in Noble or 758's possession, as requested by the Receiver or its agents or representatives.

9. **THIS COURT ORDERS** that the Receiver or its agents and representatives or any other party authorized by the Receiver to take possession of and remove from the Mississauga Yard any of the Debtors' Property located at the Mississauga Yard

10. **THIS COURT ORDERS** that any local sheriff, police or peace officers assist the Receiver, or its agents or representatives, in implementing this Order, including by assisting the Receiver or its agents or representatives in gaining access to the Mississauga Yard and recovering the Property, as requested by the Receiver or its agents or representatives.

11. **THIS COURT ORDERS** that any person or other entity acting in any capacity whatsoever in power, possession or control of Property (a "**Person**") shall provide the Receiver or its agents and representatives, or any other party authorized by the Receiver, with immediate access to any real property, premises or structure, whether

fixed or temporary, in, below or upon which any Property is located (a “**Location**”). All Persons shall allow and/or facilitate the Receiver or its agents and representatives, or any other party authorized by the Receiver, to enter into any locked premises, garages, and/or gated yards, and to remove any equipment that may be blocking the recovery of the Property by its agents and representatives, or any other party authorized by the Receiver.

12. **THIS COURT ORDERS** that no Person, other than the Receiver or its agents and representatives, or any other party authorized by the Receiver, may move, relocate, transport, or conceal from the Receiver any Property in any manner whatsoever.

13. **THIS COURT ORDERS** that the Receiver shall not be required to make any payments to any Person in respect of costs any Person may incur to facilitate entry to any Location or in the recovery of any Property by the Receiver or its agents and representatives, or any other party authorized by the Receiver. Such costs include but are not limited to any costs in respect of rent, storage, repair or maintenance charges, and charges from time spent or incurred by any Person in facilitating the release of the Property to the Receiver.

THE MISAPPROPRIATED FUNDS

14. **THIS COURT AUTHORIZES AND DIRECTS** Bank of Montreal to identify and disclose all account numbers and financial institutions that the Misappropriated Funds were transferred to, and any information reasonably requested by the Receiver in relation to same.

GENERAL

15. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give

effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

16. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

17. **THIS COURT ORDERS** that the Principals shall pay the Receiver its costs of this motion, which are to be quantified at a later date.

18. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

19. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court.

JASON
PHILLIPS

Digitally signed by
JASON PHILLIPS
Date: 2025.07.11
15:37:47 -04'00'

Justice, Ontario Superior Court of Justice
REGISTRAR as per JUSTICE AGARWAL

7755 HURONTARIO STREET
BRAMPTON, ON L6W 4T6

MITSUBISHI HC CAPITAL CANADA, INC. et al

- and - ORBIT EXPRESS INC. et al

Applicants

Respondents

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
BRAMPTON, ONTARIO

ORDER

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