



Court File No. CV-22-00078521-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE MacNEIL

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THURSDAY, THE 2nd
DAY OF JUNE, 2022

B E T W E E N:

THE TORONTO-DOMINION BANK

Applicant

- and -

2580363 ONTARIO INC. AND 2580361 ONTARIO INC.

Respondents

ANCILLARY ORDER

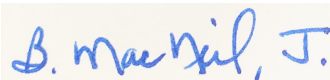
THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel inc. ("Spergel") as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 2580363 Ontario Inc. and 2580361 Ontario Inc. (collectively, the "Debtors") acquired for, or used in relation to the business carried on by the Debtors, including the real property described at Schedule "A" to the Appointment Order, as defined below, and owned by 2580361 Ontario Inc. (the "Real Property"), was heard this day by Judicial teleconference via Zoom at 45 Main Street East, Hamilton, Ontario.

ON READING the affidavit of Jill Lamothe sworn April 7, 2022 and the Exhibits thereto (the "Lamothe Affidavit"), and on hearing the submissions of counsel for the Applicant, and counsel for the Respondents, no one appearing for any other party on the service list although duly served as appears from the affidavit of service of Lindsay Ferguson sworn April 13, 2022 and the affidavits of service of Darlene Ashurst sworn April 19, 2022.

1. **THIS COURT ORDERS** that the Order appointing Spergel as Receiver of the Property of the Debtors dated June 2, 2022 (the "Appointment Order"), in the herein Application shall be effective on September 1, 2022, subject to the following:

- a. THIS COURT ORDERS that this Application is adjourned to a date to be set in September 2022 to be spoken to. This Court further Orders that, should the Debtors fulfill all terms of the Agreement between the Debtors and the Applicant dated May 26, 2022 (the "Forbearance Agreement") on or before August 31, 2022, including payment of the indebtedness due to the Applicant and all interest and costs, then the Appointment Order will not be effective. In such case, the herein Application shall be withdrawn on a without-costs basis, and the Applicant shall speak to this matter on a date to be set in September 2022 to advise the Court of same;
- b. THIS COURT ORDERS that in the event that the Debtors fail to pay the indebtedness due to the Applicant, including all interest and costs, on or before August 31, 2022, or in the event that the Debtors otherwise default under the terms of the Forbearance Agreement (a "Default"), then the Appointment Order shall be effective as of September 1, 2022 or the date of such Default, whichever comes first, and the Applicant shall speak to this matter in September, 2022, or earlier if a Default does take place, to advise the Court of same.

2. **THIS COURT ORDERS** that the Applicant shall have the right to return the application on an earlier date, on four (4) days' notice to the service list, should the Applicant's security and the assets encumbered thereunder (as detailed in the Lamothe Affidavit) be determined by the Applicant to be at risk.



Justice, Ontario Superior Court of Justice

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v.

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PROCEEDING COMMENCED AT HAMILTON

ANCILLARY ORDER

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