

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

BETWEEN

BANK OF MONTREAL

Applicant

- and -

8331707 CANADA INC.

Respondent

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended

MOTION RECORD

(re approval of sale transaction, approval of distribution and ancillary matters, and
discharge of Receiver)
(motion returnable July 16, 2021)

July 9, 2021

CHAITONS LLP

5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Sam Rappos (LSO # 51399S)

Tel: (416) 218-1137

E-mail: samr@chaitons.com

**Lawyers for msi Spergel Inc.,
Court-appointed Receiver**

TO: THE SERVICE LIST

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TAB 1

Court File No. CV-20-00653228-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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NOTICE OF MOTION

(re approval of sale transaction, approval of distribution and ancillary matters, and discharge of Receiver)
(motion returnable July 16, 2021)

MSI SPERGEL INC. (“**Spergel**”), in its capacity as Court-appointed receiver (the “**Receiver**”) of the property, assets and undertakings of the Respondent, 8331707 Canada Inc. (the “**Debtor**”), will make a motion to a Judge of the Commercial List on Friday July 16, 2021 at 9:30 a.m., or as soon after that time as the motion can be heard, by judicial teleconference via Zoom at Toronto, Ontario. Please refer to the conference details attached as **Schedule “A”** hereto in order to attend the motion and advise if you intend to join the motion by e-mailing Sam Rappos at samr@chaitons.com.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

(a) an order:

- (i) approving the sale transaction (the "**Sale Transaction**") contemplated by the agreement of purchase and sale between the Receiver and 2745810 Ontario Limited (the "**Purchaser**") dated June 15, 2021 (the "**Sale Agreement**");
- (ii) vesting in the Purchaser the Debtor's right, title and interest in and to the "Purchased Assets" (as defined in the Sale Agreement) (the "**Purchased Assets**"), free and clear of all claims and encumbrances other than permitted encumbrances, upon delivery of a certificate by the Receiver to the Purchaser;

(b) an order:

- (i) if necessary, abridging the time for service of this notice of motion and the Receiver's motion record and validating the method of service so that the motion is properly returnable on July 16, 2021;
- (ii) approving the First and Final Report of the Receiver dated July 8, 2021 (the "**Report**") and the conduct and activities of the Receiver described therein;
- (iii) approving the fees and disbursements of the Receiver and its counsel Chaitons LLP, including estimated accruals to completion of the receivership proceeding, as set out in the Report and Fee Affidavits (as defined below);
- (iv) authorizing and directing the Receiver to distribute the net proceeds of the Property to the Applicant, Bank of Montreal ("**BMO**");

- (v) approving the Receiver's Statement of Receipts and Disbursements as at June 30, 2021 and its Projected Statement of Receipts and Disbursements;
 - (vi) sealing the Confidential Appendices of the Report pending the closing of the Sale Transaction or further Order of the Court;
 - (vii) discharging Spergel as the Receiver and releasing Spergel from any and all liability in connection with its appointment as the Receiver; and
- (c) such further and other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

1. Spergel was appointed as Receiver pursuant to the Court order dated April 21, 2021 (the "**Appointment Order**"), which became effective as of 5:00 p.m. on April 30, 2021.
2. The Appointment Order authorized the Receiver to, among other things, market and sell any or all of the property, assets and undertaking of the Debtor (the "**Property**"), including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate, with the approval of the Court.
3. The Property includes, without limitation, the real property municipally known as 59 Woodlawn Road West, Guelph, Ontario (the "**Real Property**").

4. The Debtor acquired the Real Property on December 27, 2018 and operated an Esso branded gas station thereon pursuant to a motor fuel branded supply agreement with Parkland Fuel Corporation (“**Parkland**”).

Sale Transaction

5. As detailed in the Report, the Receiver carried on an extensive marketing of the Property. As a result of the process, the Receiver has entered into the Sale Agreement with the Purchaser.
6. The Real Property is subject to a right of refusal in favour of Parkland. The Receiver notified Parkland of the sale process and Parkland did not make an offer to acquire the Real Property.
7. The Receiver is of the view that the Sale Agreement should be approved by the Court, as:
 - (a) the Property has been adequately exposed to the market based on the steps taken by the Receiver;
 - (b) the Sale Agreement represents the best offer received for the Purchased Assets; and
 - (c) BMO, as first mortgagee of the Real Property and secured creditor of the Debtor, supports the Receiver completing the Sale Transaction.

Distribution to BMO

8. The Receiver has obtained an independent opinion that the security held by BMO is valid and enforceable against the Property and BMO has the first in priority mortgage against the Real Property.

9. The Receiver is requesting that, following the closing of the Sale Transaction, it be authorized and directed to distribute the net sale proceeds of the Property to BMO.

Sealing

10. The Receiver will be requesting that the Court grant an order sealing the Confidential Appendices to the Report pending further order of the Court or the closing of the Sale Transaction, as the information contained in the documents is commercially sensitive and would negatively impact the Receiver's ability to re-market the Purchased Assets in the event the Sale Transaction does not close.

Approval of Fees and Disbursements

11. The Receiver will also be requesting that the Court approve its fees and disbursements and that of its legal counsel, including estimated accruals to completion of the receivership proceeding, as detailed in the Report and the Affidavit of Deborah Hornbostel sworn July 8, 2021 and the Affidavit of Maya Poliak sworn July 8, 2021 (collectively, the "**Fee Affidavits**").

General

12. The Report.
13. The Fee Affidavits.
14. Rules 1.04, 1.05, 2.01, 2.03, and 37 of the *Rules of Civil Procedure* (Ontario).
15. The *Bankruptcy and Insolvency Act* (Canada) and the *Courts of Justice Act* (Ontario).
16. The equitable and inherent jurisdiction of the Court.

17. Such other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Report and the appendices thereto, including without limitation the Fee Affidavits; and
2. such further and other material as counsel may advise and this Honourable Court may permit.

July 9, 2021

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Sam Rappos (LSO # 51399S)
Tel: (416) 218-1137
E-mail: samr@chaitons.com

TO: THE SERVICE LIST

**Lawyers for msi Spergel Inc.,
Court-appointed Receiver**

SCHEDULE “A”**Zoom Meeting**

<https://us02web.zoom.us/j/85887710336?pwd=RVA2S1RYWIFaeGZiYnplM0VxR0x0UT09>

Meeting ID: 858 8771 0336

Passcode: 440702

One tap mobile

+16465588656,,85887710336#,,, *440702# US (New York)

+16699009128,,85887710336#,,, *440702# US (San Jose)

Dial by your location

+1 646 558 8656 US (New York)

+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

Meeting ID: 858 8771 0336

Passcode: 440702

Find your local number: <https://us02web.zoom.us/u/kbfQrtKXAW>

BANK OF MONTREAL
Applicant

- and -

8
8331707 CANADA INC.
Respondent

Court File No. CV-20-00653228-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

NOTICE OF MOTION
(re approval of sale transaction, approval of
distribution and ancillary matters, and discharge
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(motion returnable July 16, 2021)

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5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Sam Rappos (LSO #51399S)
Tel: (416) 218-1137
E-mail: samr@chaitons.com

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TAB 2



Court File. No. CV-20-00653228-00CL

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

BETWEEN

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Applicant

- and -

8331707 CANADA INC.

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APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. c-43, as amended.

FIRST AND FINAL REPORT OF THE RECEIVER

July 8, 2021

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- N. Fee Affidavit of Maya Poliak sworn July 8, 2021
- O. Receiver's Interim Statement of Receipts and Disbursements as at June 30, 2021

CONFIDENTIAL APPENDICES

- A. Confidential Information Memorandum dated May 17, 2021 (excluding appendices)
- B. Receiver's Summary of Offers Received
- C. Unredacted Sale Agreement
- D. Metrix Realty Group appraisal dated June 14, 2021
- E. Antec Appraisal Group appraisal dated June 29, 2021
- F. Receiver's Summary of Appraisals Memo
- G. Receiver's Projected Final Statement of Receipts and Disbursements

I. INTRODUCTION AND BACKGROUND

1. On application made by the Bank of Montreal ("**BMO**") pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act* (the "**BIA**") and section 101 of the *Courts of Justice Act*, msi Spergel Inc. ("**Spergel**") was appointed receiver (in such capacity, the "**Receiver**"), without security, of the assets, undertakings and properties of 8331707 Canada Inc. ("**833**") effective as of 5:00 PM on April 30, 2021 by Order of The Honourable Mr. Justice Cavanagh dated April 21, 2021 (the "**Appointment Order**"). Attached hereto as **Appendix "A"** is a copy of the Appointment Order.
2. 833 was incorporated on October 22, 2012 under the *Canada Business Corporations Act*, with its registered office at 34 Dafoe Crescent, Brampton. 833 has two directors, Jigneshbhai Shah and Tejash Kumar Shah. Attached hereto as **Appendix "B"** is a copy of a Federal Corporation Information Report for 833 obtained on June 22, 2021.
3. On December 27, 2018, 833 acquired the real property located at 59 Woodlawn Road West, Guelph, ON, and legal described as: PART LOT 4 PLAN 169 AS IN RO803884, CITY OF GUELPH (PIN:71359-0141(LT)) (the "**Real Property**"). A copy of the parcel register for the Real Property as at June 22, 2021 (the "**Parcel Register**") is attached hereto as **Appendix "C"**.
4. On December 12, 2018, 833 executed an Assignment & Assumption Agreement with respect to an Esso Branded Motor Fuel Supply Agreement (the "**Fuel Supply Agreement**") in conjunction with the then current owner of the Real Property and Parkland Fuel Corporation ("**Parkland**") and commenced operations as an Esso branded gas station shortly after acquiring the Real Property.
5. The Receiver is unaware of the business operations of 833 prior to its acquisition of the Real Property.

6. Based on information obtained from Parkland with respect to the supply of fuel, it appears that 833's sales declined steadily and dramatically from January 2018 through April 2021 resulting in the inability for 833 to generally meet its liabilities as they became due.

7. On November 12, 2020, 833's secured lender, BMO, issued demand for repayment of 833's indebtedness and its notice of intention to enforce security pursuant to Section 244 of the *BIA*.

8. On December 3, 2020, 833 advised BMO that it had executed an Agreement of Purchase and Sale for the Property on November 23, 2020 with 5039420 Ontario Limited (the "**November 23 Sale Agreement**"). BMO had several concerns regarding the November 23 Sale Agreement, including the fact that it was a conditional offer, and therefore issued a Notice of Application on December 11, 2021 to seek the appointment of a receiver on January 11, 2021.

9. BMO subsequently entered into a forbearance agreement with 833 and allowed 833 further time to complete the November 23 Sale Agreement; however, 833 continuously extended the date for the waiver of the purchaser's conditions.

10. Given the excessive period of time and the inability of 833 to complete the November 23 Sale Agreement, BMO attended at Court on April 21, 2021 to seek the appointment of Spergel as Receiver. On that date, 833 advised the Court that on April 12, 2021 it had entered into an Amending Agreement with respect to the November 23 Sale Agreement whereby:

- (a) the sale would be completed on April 29, 2021;
- (b) a further \$400,000 deposit would be paid to 833; and,
- (c) the purchaser was changed to 2830716 Ontario Inc.

11. On the consent of BMO and 833, the Court issued the Appointment Order with an effective date of April 30, 2021 at 5:00 PM, in order to allow for the closing of the November 23 Sale Agreement and payment of the net sale proceeds to BMO.

12. Late in the afternoon on April 30, 2021, 833 advised BMO that it had executed a further extension of the November 23 Sale Agreement to May 10, 2021 to allow for the purchaser to waive its conditions. Accordingly, the Appointment Order took effect at 5:00 PM on April 30, 2021.

II. PURPOSE OF THIS REPORT AND DISCLAIMER

13. This report (the “**Report**”) is filed:

- (a) to provide the Court with information on the Receiver’s activities since its appointment, including the sale process undertaken by the Receiver for the sale of the Real Property and related personal property (collectively, the “**Assets**”); and
- (b) in support of the Receiver’s motion for an Order:
 - (i) approving the Report and the actions of the Receiver described herein;
 - (ii) approving the agreement of purchase and sale between the Receiver, as vendor, and 2745810 Ontario Limited (the “**Purchaser**”), as purchaser, dated June 15, 2021 (the “**274 Sale Agreement**”), and authorizing the Receiver to complete the transaction contemplated thereby (the “**Transaction**”);

- (iii) vesting in the Purchaser, 833's right, title and interest in and to the Purchased Assets (as defined in the 274 Sale Agreement), free and clear of any claims and encumbrances, other than permitted encumbrances;
- (iv) sealing Confidential Appendices "A" to "G" of the Report (the "**Confidential Appendices**") until the earlier of the completion of the Transaction or further Order of this Court;
- (v) approving the fees and disbursements of the Receiver and the Receiver's counsel, including the estimated accruals described in this Report for fees and disbursements to be incurred to the completion of these proceedings;
- (vi) approving the Receiver's Statement of Receipts and Disbursements as at June 30, 2021 and its Projected Statement of Receipts and Disbursements;
- (vii) authorizing and directing the Receiver to distribute the net proceeds of the property of 833 to BMO;
- (viii) effective upon the filing of a certificate by the Receiver certifying that all outstanding matters to be attended to in connection with the receivership of 833 have been completed to the satisfaction of the Receiver, discharging Spergel as the Receiver and releasing Spergel from any and all liability that Spergel has or, may hereafter, have by reasons of, or in any way arising out of, the acts or omissions of Spergel while acting in its capacity as Receiver, including, without limitation, any and all dealings with the Assets, save and except for any gross negligence or wilful misconduct on the Receiver's part; and,

- (ix) such further and other relief as counsel may advise and this Court may permit.
14. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Report for any other purpose.
15. In preparing this Report, the Receiver has relied upon certain information provided to it by 833'S former management. The Receiver has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Receiver expresses no opinion or other form of assurance with respect to such information.
16. All references to dollars in this Report are in Canadian currency unless otherwise noted.

III. ACTIONS OF THE RECEIVER UPON APPOINTMENT

17. Upon its appointment on April 30, 2021, the Receiver attended at the Real Property for the purpose of taking possession and securing the Assets and assessing the ongoing viability of operating the business.
18. The Receiver notes that upon its arrival, there were no books and records onsite, the fuel tanks were empty, and the store inventory levels were low. The onsite store worker advised that there had been no fuel for several days. He telephoned his manager and the Receiver spoke to him to advise him of the receivership, ascertain some operating information and terminate his services with 833.

19. The Receiver also contacted Mr. Jigneshbhai Shah to advise him of the receivership appointment. Mr. Jigneshbhai Shah expressed a strong desire to have the November 23 Sale Agreement completed and advised the Receiver that he would be very cooperative with the receivership proceedings.

20. The Receiver had arranged for a gas station consultant to attend and assist the Receiver in taking possession of the Assets. Following site inspections and discussions with the consultant, the Receiver made the decision to continue operations of the gas station and convenience store businesses as soon as possible. Given that the receivership appointment took place on a Friday night, the Receiver counted and removed the cash on hand, photographed the premises and secured them by changing all of the locks.

21. On May 1, 2021, the Receiver emailed a copy of the Appointment Order to Mr. Jigneshbhai Shah along with correspondence demanding the provision of accounting records and other pertinent documents required to be delivered pursuant to the Appointment Order. The responding provision of information by Mr. Jigneshbhai Shah was minimal. On May 19, 2021, further correspondence was sent to Mr. Jigneshbhai Shah with respect to the outstanding requested information. No response was received. Copies of those letters are collectively attached hereto as **Appendix "D"**. To date, the Receiver has not received any accounting records from 833, other than copies of two annual HST returns that were filed on May 7, 2021 for the years ending December 31, 2019 and December 31, 2020.

22. Shortly after being appointed, the Receiver contacted Parkland to advise of the receivership and arrange for the delivery of fuel and switchover of the ongoing accounting, invoicing and reporting to the Receiver.

23. The Receiver prepared and issued all statutory notices in accordance with the *BIA*.

24. The Receiver engaged Chaitons LLP ("**Chaitons**") as the Receiver's independent legal counsel.

25. Since taking possession of the Property, the Receiver's activities have been focused primarily on the day-to-day management of the gas station and convenience store business and safeguarding of the Assets, including, without limitation, the following:

- (a) preparing and entering into an Operating Agreement with 1753927 Ontario Inc. for the ongoing site management and provision of staff;
- (b) arrangements for funding of ongoing operations and the issuance of a Receiver's Certificate pursuant to the Appointment Order;
- (c) arrangements with Parkland for ongoing fuel deliveries and payments thereof;
- (d) opening of the Receiver's trust account and execution of various pre-authorized debit arrangements with suppliers;
- (e) arrangements with BMO for the transition of 833's automatic banking transactions to the Receiver's trust account;
- (f) arranging supplier and utility accounts and credit facilities for the Receiver;
- (g) obtaining approval from the Ministry of the Attorney General and the Ontario Lottery & Gaming Commission ("**OLG**") for the operation of lottery facilities;
- (h) monitoring and approving store inventory purchases;
- (i) monitoring and posting daily sales and cash deposits to the Receiver's trust account;
- (j) tracking and reconciling daily sales (cash deposits, credit card receipts, commissions, cross lease receipts and other miscellaneous charges and receipts etc.) with daily sales reports and arranging payment of balances due;

- (k) arranging for insurance coverage for the Receiver and ongoing payment arrangements;
- (l) dealings with Canada Revenue Agency (“CRA”) to ascertain filing status and outstanding liabilities of 833, obtain online access to the various tax accounts, and to open an HST account for the Receiver;
- (m) dealings with unpaid and unsecured suppliers;
- (n) contacting the City of Guelph regarding 833’s property tax status;
- (o) contacting the previous environmental consultant to provide a reliance letter with respect to its previous Phase 2 environmental report;
- (p) reviewing and approving operating issues and required site repairs;
- (q) obtaining confirmation of the material and installation date of the underground fuel tanks from TSSA;
- (r) verifying and maintaining proper licensing ie. propane, TSSA, tobacco, OLG, fire safety, fuel pump calibration etc.; and
- (s) ongoing payment processing, cash management and forecasting.

26. The Receiver has continued operations to date with the intention to sell 833’s business as a going concern.

27. The Receiver and Chaitons contacted the lawyer for 833 and the lawyer representing the buyer with respect to the November 23 Sale Agreement in an attempt to investigate the legitimacy of that agreement and the possibility of completing that transaction.

28. Prior to the receivership appointment, 833 had advised BMO and the Court that deposits totaling \$975,000 had been paid by the purchaser pursuant to the November 23

Sale Agreement and its subsequent amending agreements. As no such funds had been deposited in 833's BMO operating account, the Receiver sought to determine the whereabouts of the deposits that were reportedly paid.

29. The purchaser's lawyer advised the Receiver that it held the original \$25,000 deposit in trust and that two drafts in the amounts of \$450,000 dated February 21, 2021 and \$400,000 dated April 20, 2021 had been paid by its client to 833. Copies of the bank drafts were provided to the Receiver by the purchaser's counsel. The Receiver's investigation revealed that the first bank draft had been doctored, as it was originally issued and cashed in 2014 to a different payee for a different amount. The second draft had been issued and reversed on the same date. The Receiver notes that the purchaser made no indication to the Receiver that it wished to complete the November 23 Sale Agreement.

IV. THE RECEIVER'S SALES PROCESS

30. On May 17, 2021, the Receiver commenced a sales process to actively market the Assets for sale on an "as-is, where-is" basis, with offers due by noon on June 15, 2021 (the **"Offer Deadline"**).

31. The Receiver arranged to advertise the sale of the Assets in the following newspapers:

- (a) two advertisements in the Toronto Star on May 19 and 22, 2021;
- (b) two advertisements in the Toronto Sun on May 19 and 22, 2021; and,
- (c) two advertisements in the National Post on May 22 and 26, 2021.

Copies of the foregoing newspaper advertisements are collectively attached hereto as **Appendix "E"**.

32. The Receiver prepared a Confidential Information Memorandum (the “**CIM**”) and established an electronic data room containing all material information in the Receiver’s possession that related to the Assets including the following:

- (a) Phase II Environmental Site Assessment Report dated December 8, 2017, in respect of the Real Property;
- (b) a Tax Statement of Account dated October 20, 2020, issued by the City of Guelph in respect of the Real Property;
- (c) a summary of 833’s monthly fuel volume purchases provided by Parkland for the period January 2018 through March 2021;
- (d) the Assignment & Assumption Agreement dated December 12, 2018, regarding the Motor Fuel Supply Agreement dated March 11, 2015 (included therein);
- (e) a Credit Application for Parkland; and,
- (f) A TSSA report dated June 1, 2021, providing information on the underground fuel tanks (added to the data room on June 2, 2021).

33. The CIM also contained a copy of the Appointment Order, the Terms and Conditions of the sale which stipulated the Offer Deadline, a Draft Offer Form, and Legal Terms of Use and Disclaimer for the Data Room. A copy of the CIM excluding appendices is attached hereto as **Confidential Appendix “A”**. A copy of the Terms and Conditions of the sale is attached hereto as **Appendix “F”**.

34. As part of its marketing efforts, the Receiver emailed a “teaser” document to approximately 90 prospective purchasers known by the Receiver through the administration of other receiverships to have an interest in acquiring gas station assets.

35. Prospective purchasers were provided with a copy of the CIM and a link to access the data room upon signing a Non-Disclosure Agreement (“**NDA**”) in the form prepared by the Receiver. The Receiver’s marketing efforts resulted in the execution of 27 NDAs.

36. As at the Offer Deadline, the Receiver had been presented with four valid offers. A fifth offer was received but was not properly signed and the required 10% deposit had not been remitted.

37. During the afternoon of June 15, 2021, the Receiver emailed all parties who had submitted valid offers to allow them the opportunity to improve their offer amounts and terms by submitting amendments to their offers by noon on June 17, 2021. A copy of that email sent is attached hereto as **Appendix “G”**. Only one offer was improved. A summary of the offers presented to the Receiver is attached hereto as **Confidential Appendix “B”**.

38. On June 17, 2021, the Receiver accepted the 274 Sale Agreement, a copy of which is attached hereto as **Appendix “H”** with the purchase price and deposit amount redacted, which is subject only to the approval of this Honourable Court. Attached hereto as **Confidential Appendix “C”** is an unredacted copy of the 274 Sale Agreement.

V. THE RECEIVER’S ASSESSMENT OF THE 274 SALE AGREEMENT

39. The Receiver engaged the services of Metrix Realty Group (“**Metrix**”) and Antec Appraisal Services (“**Antec**”) to attend at and conduct appraisals of the Assets. The Receiver obtained appraisals from Metrix on June 15, 2021 and from Antec on June 29, 2021. Copies of the Metrix and Antec appraisals are being filed with the Court as **Confidential Appendices “D”** and **“E”** respectively.

40. The Receiver has prepared a Summary of Appraisals Memo (the “**Appraisals Memo**”) filed with the Court as **Confidential Appendix “F”** summarizing the appraised values of the

Metrix and Antec appraisals and comparing them to the purchase price in the 274 Sale Agreement.

41. The Receiver is of the view that the sales process has been fair and transparent and allowed for sufficient exposure of the Assets to properly canvass the market for a purchaser. To the best of the Receiver's knowledge, all reasonable requests for information made by potential purchasers were satisfied.

42. The Receiver believes that the 274 Sale Agreement represents the highest and best realization for the Assets, that the terms and conditions contained within the 274 Sale Agreement are commercially reasonable and that the proposed purchase price is fair value for the Assets.

43. BMO, which is owed in excess of \$1.9 million, has accepted the recommendation of the Receiver and consents to the sale of the Assets on the terms and conditions of the 274 Sale Agreement.

44. The Receiver recommends that the Court approve the Transaction.

VI. RIGHT OF FIRST REFUSAL

45. Paragraph 7 of The Motor Fuels Supply Agreement dated March 11, 2015, which was assigned and assumed by 833 on December 12, 2018, contains a Right of First Refusal ("**ROFR**") in favour of Parkland with respect to any sale of the business by 833. Attached hereto as **Appendix "I"** is a copy of the ROFR provision.

46. At the outset of the Receiver's marketing process, the Receiver advised Parkland that it was conducting a sale of the Assets and no request for information on the sales process was made by Parkland to the Receiver.

47. In any event, the Receiver is of the opinion that the ROFR only has application to a sale by 833 and is not binding upon the Receiver.

VII. REQUEST FOR A SEALING ORDER

48. Each of the Confidential Appendices contains commercially sensitive information which, if disclosed, could impact a future sale process for the Assets in the event that the Transaction is not completed. The Receiver seeks a sealing order in respect of the items contained within the Confidential Appendices until the closing of the Transaction or further Order of the Court.

VIII. SECURED CREDITORS AND PROPOSED DISTRIBUTION

49. As set out in the Parcel Register, the following encumbrances are registered against the Real Property:

Reg. No.	Creditor	Date	Amount	Comments
WC817533	The Corporation of the City of Guelph	30-Nov-20		Agreement- Site Plan Control
WC444864	Parkland Industries Ltd.	28-Aug-15	\$2	Right of First Refusal
WC444865	Parkland Industries Ltd.	09-Jun-16	\$53,000	Charge
WC540290	Parkland Industries Ltd.	09-Jun-16		Name Change to Parkland Fuel Corporation
WC557941	Bank of Montreal	27-Dec-18	\$1,878,000	Charge
WC557943	Bank of Montreal	27-Dec-18		Assignment of Rents
WC557946	Parkland Fuel Corporation	27-Dec-18		Postponement from Parkland to BMO
WC632795	msi Spergel Inc.	5-May-21		Receivership Court Order

50. The following is a summary of the Ontario *Personal Property Security Act* (“PPSA”) registrations against 833 as at June 21, 2021, which can be seen in the Enquiry Response Certificate for 833 attached hereto as **Appendix “J”**:

Creditor	Date	Security Particulars
Bank of Montreal	20-Dec-18	Inventory, Equipment, Accounts, Other
Honda Canada Finance Inc.	12-Nov-19	2019 Honda CRA VIN#2HKRW2H90KH130564

51. BMO holds a first mortgage on the Real Property (the “**BMO Mortgage**”) and an Assignment of Rents, which is collateral security to the BMO Mortgage, both of which were registered on December 27, 2018. The Receiver has been informed by BMO that, as at June 22, 2021, the outstanding amount due on the BMO Mortgage was \$1,802,388.67, comprised of \$1,711,390.48 in principal plus accrued interest of \$90,998.19. Interest is accruing at \$415.15 per diem.

52. BMO also holds a security agreement executed on November 28, 2018 and registered on December 2018 (the “**Security Agreement**”). As at June 22, 2021 the outstanding balance for these loans was \$96,138.06, comprised of \$93,000 in principal plus accrued interest of \$3,138.06. Interest is accruing at \$19.53 per diem.

53. BMO also issued a \$40,000 CEBA Loan in the principal amount of \$40,000 and has a General Security Agreement registered under PPSA on December 20, 2018.

54. Attached hereto as **Appendix “K”** is correspondence from BMO dated June 22, 2021 confirming that the total amount owing to BMO and secured under its security was \$1,938,526.73 plus Receiver’s borrowings of \$50,501.36, inclusive of accrued interest as at June 22, 2021.

55. By letter dated July 8, 2021, attached hereto as **Appendix “L”**, Chaitons provided the Receiver with its opinion that, subject to the usual assumptions and qualifications, the

security comprised of the BMO Mortgage and Security Agreement are valid and enforceable against the Assets in accordance with their terms.

56. The Receiver notes that Parkland subordinated its security to BMO effective December 27, 2018 with respect to its \$53,000 charge.

57. On July 7, 2021, Honda Canada Finance Inc. ("**Honda**") provided the Receiver with a secured claim with respect to the 2019 Honda CRV for which Honda has a security registration under PPSA. The vehicle is co-leased by Mr. Shah. The Receiver has determined that there is most likely no equity in the vehicle lease and therefore intends on releasing its interest in the vehicle.

58. CRA has advised the Receiver that it currently has no outstanding trust claims that would rank in priority to BMO's security.

59. The Receiver provided the City of Guelph with notice of the receivership via mail and email and has received no response with respect to the property tax arrears or current instalments due. As at October 26, 2020, there was an outstanding balance of \$20,432 with respect to the year 2020 and no older tax arrears. The Receiver anticipates the payment of arrears upon the closing of the Transaction.

60. From the net proceeds of the sale of the Assets, the Receiver proposes to pay the following:

- (a) the Receiver's borrowings of \$50,000 plus applicable interest;
- (b) the fees and disbursements of the Receiver and Chaitons (both to date and accrued to completion);
- (c) property tax arrears outstanding; and
- (d) the remaining balance to BMO

IX. FEES AND DISBURSEMENTS

61. Attached hereto as **Appendix “M”** is the Fee Affidavit of Deborah Hornbostel, sworn July 8, 2021, which attaches a copy of the Receiver’s accounts pertaining to the receivership to and including July 4, 2021. In total, the Receiver has incurred a total of 202.4 hours resulting in professional fees in the amount of \$89,772.00, exclusive of HST and inclusive of a courtesy discount of \$5,006.50 from its standard rates.

62. Attached hereto as **Appendix “N”** is the Fee Affidavit of Maya Poliak, sworn July 8, 2021, which attaches a copy of the accounts of Chaitons, which reflects the services provided to the Receiver in the amount of \$4,715 plus disbursements of \$210.90 and applicable taxes in the amount of \$624.04 to and including June 30, 2021 along with supporting dockets.

63. The Receiver has reviewed the accounts of Chaitons and given the Receiver’s involvement in this matter, the Receiver is of the opinion that all the work set out in Chaitons’s accounts was carried out and was necessary. The hourly rates of the lawyers and clerks at Chaitons who worked on this matter are reasonable in light of the services required and the services were carried out by lawyers and clerks with the appropriate levels of experience.

64. The Receiver estimates that the additional fees and disbursements for itself and Chaitons that are necessary to complete the receivership proceedings, including Chaiton’s preparation for and attendance on the motion before this Court on July 16, 2021 and services rendered with respect to completing and reporting on the Transaction, will be approximately \$30,000 for the Receiver and \$15,000 for Chaitons, plus applicable taxes (collectively the **“Fee Accrual”**). To the extent that the Fee Accrual is not utilized, the Receiver will distribute any remaining funds to BMO.

X. RECEIVER'S STATEMENTS OF RECEIPTS AND DISBURSEMENTS

65. Attached hereto as **Appendix "O"** is a copy of the Receiver's Statement of Receipts and Disbursements as at June 30, 2021.

66. The Receiver has also included as **Confidential Appendix "G"** its Projected Final Statement of Receipts and Disbursements in accordance with its proposed distributions as discussed earlier in this report.

XI. DISCHARGE OF THE RECEIVER

67. Subsequent to the date of this Report and prior to the Receiver's discharge, the Receiver proposes to attend to the following:

- (a) the ongoing management of the business operations until the closing of the Transaction;
- (b) all matters regarding the closing of the Transaction;
- (c) attending to the closure and payment of the various operating accounts and filing of related tax returns;
- (d) payment of fees and disbursements of the Receiver and Chaitons up to the date of the Receiver's discharge;
- (e) distribution of the net receivership proceeds to BMO;
- (f) filing of required reports to the Office of the Superintendent of Bankruptcy;
- (g) other residual and/or administrative matters in connection with Spergel's appointment as the Receiver; and

(h) filing of the Receiver's certificate of discharge (the "**Discharge Certificate**").

68. The Receiver is of the view that it is appropriate to seek an order of this Honorable Court at this time discharging the Receiver, subject to this Honourable Court's approval of the proposed payments and distributions and subject to the filing of the Discharge Certificate with this Honourable Court confirming its remaining duties have been completed and that the discharge be operative on the filing of the Discharge Certificate.

XII. RECOMMENDATIONS

69. For the reasons discussed in this Report, the Receiver recommends that the Court grant the relief specified at paragraph 13 of this Report.

This Report is respectfully submitted this 8th day of July, 2021.

msi Spergel Inc.,

In its capacity as Court Appointed Receiver of
8331707 Canada Inc.

and not in its personal or corporate capacity

Per:



Deborah Hornbostel, CPA, CA, CFE, CIRP, LIT

Appendix A

Court File No. CV-20-00653228-00CL

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

THE HONOURABLE MR.

)

WEDNESDAY, THE 21ST

JUSTICE CAVANAGH

)

DAY OF APRIL, 2021

)

**BANK OF MONTREAL****Applicant**

- and -

8331707 CANADA INC.**Respondent**

APPLICATION UNDER Section 243(1) of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3, as amended and Section 101 of the *Courts of Justice Act*,
R.S.O. 1990, c. c-43, as amended

**ORDER
(appointing Receiver)**

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. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of 8331707 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day via judicial videoconference at 330 University Avenue, Toronto, Ontario.

ON READING the affidavits of Eugene Chow sworn December 10, 2020 and April 16, 2021 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and such other parties as listed on the counsel slip, no one appearing for any other party on the service list although duly served as appears from the affidavits of service of Laurie Marshall sworn December 30, 2020, Nana Barima sworn December 22, 2020 and Tony Van Klink sworn April 16, 2021, the consent signed by the Debtor, and upon being advised that the Debtor does

not oppose the making of this Order, and on reading the consent of msi Spergel Inc. to act as the Receiver.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and service validated, as necessary, so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the *BIA* and section 101 of the *CJA*, effective 5:01 p.m. EST on April 30, 2021 (the "Effective Time") msi Spergel Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property"), and without limiting the generality of the foregoing, the Property includes the real property described on schedule "A", unless prior to the Effective Time all indebtedness of the Debtor to the Applicant is paid in full. Paragraphs 3 to 32 of this Order shall only become operative as of the Effective Time and then only in the event that the appointment of msi Spergel Inc. as Receiver is effective. The Applicant shall file with the Court by no later than May 3, 2021 a Certificate confirming whether or not the appointment of msi Spergel as Receiver is effective.

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of

independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$100,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property, including the real property described on schedule "A";
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or

provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or

with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and

encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$150,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. 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.

30. 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.

31. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32. 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.

Schedule "A"

(Real Property)

a) Property Identifier Number 71359-0141, LRO # 61

the real property legally described as PART LOT 4 PLAN 169 AS IN RO803884;
GUELPH, and municipally known as 59 Woodlawn Road West, Guelph, Ontario.

Schedule "B"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$_____

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the "Receiver") of all assets, undertakings and properties of 8331707 Canada Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor (the "Property") appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the 11th day of January, 2021 (the "Order") made in an action having Court file number _____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$150,000 which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the last day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of Montreal from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 20__.

msi Spergel Inc., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

BANK OF MONTREAL 8331707 CANADA INC.
Applicant and Respondent

Court File No.: CV-20-00653228-00CL

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

Proceeding commenced at TORONTO

RECEIVERSHIP APPOINTMENT ORDER

**MILLER THOMSON LLP
ONE LONDON PLACE
255 QUEENS AVENUE, SUITE 2010
LONDON, ON CANADA N6A 5R8**

Tony Van Klink LSO#: 29008M
tvanklink@millerthomson.com
Tel: 519.931.3509
Fax: 519.858.8511

Lawyers for the Applicant,
Bank of Montreal

Appendix B



Jobs Immigration Travel Business Benefits Health Taxes More services

Canada.ca → Innovation, Science and Economic Development Canada → Search for a Federal Corporation

Federal Corporation Information

Federal Corporation Information - 833170-7

[Glossary of Terms used on this page](#)

[Order copies of corporate documents](#)

Note

This information is available to the public in accordance with legislation (see [Public disclosure of corporate information](#)).

Corporation Number 833170-7

Business Number (BN) 841148448RC0001

Corporate Name 8331707 CANADA INC.

Status Active

Governing Legislation *Canada Business Corporations Act - 2012-10-22*

[Order a Corporate Profile PDF Readers](#)

Registered Office Address

34 DAFOE CRES
BRAMPTON ON L6Y 2L2
Canada

Note

Active CBCA corporations are required to [update this information](#) within 15 days of any change. A [corporation key](#) is required. If you are not authorized to update this information, you can either contact the corporation or contact [Corporations Canada](#). We will inform the corporation of its [reporting obligations](#).

Directors

Minimum 1

Maximum 1

TEJASH kumar shah
15 FAIRWOOD CIR
brampton ON L6R 0X6
Canada

Jigneshbhai Shah
34 DAFOE CRES
BRAMPTON ON L6Y 2L2
Canada

Active CBCA corporations are required to [update director information](#) (names, addresses, etc.) within 15 days of any change. A [corporation key](#) is required. If you are not authorized to update this information, you can either contact the corporation or contact [Corporations Canada](#). We will inform the corporation of its [reporting obligations](#).

Annual Filings

Anniversary Date (MM-DD)	10-22
Date of Last Annual Meeting	2017-03-30
Annual Filing Period (MM-DD)	10-22 to 12-21
Type of Corporation	Non-distributing corporation with 50 or fewer shareholders
Status of Annual Filings	2021 - Not due 2020 - Overdue 2019 - Overdue

Corporate History

Corporate Name History

2012-10-22 to Present	8331707 CANADA INC.
-----------------------	---------------------

Certificates and Filings

Certificate of Incorporation	2012-10-22
------------------------------	------------

[Order copies of corporate documents](#)

Start New Search

Date Modified: 2021-06-04

Contact us

News

Prime Minister

Departments and agencies

Treaties, laws and regulations

How government works

Public service and military

Government-wide reporting

Open government

Appendix C

PROPERTY DESCRIPTION: PART LOT 4 PLAN 169 AS IN R0803884; GUELPH

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
LT CONVERSION QUALIFIED

RECENTLY:

RE-ENTRY FROM 71359-0077

PIN CREATION DATE:

2009/01/22

OWNERS' NAMES

8331707 CANADA INC.

CAPACITY SHARE

ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2009/01/22 **						
**SUBJECT, ON FIRST REGISTRATION UNDER THE LAND TITLES ACT, TO:						
** SUBSECTION 44(1) OF THE LAND TITLES ACT, EXCEPT PARAGRAPH 11, PARAGRAPH 14, PROVINCIAL SUCCESSION DUTIES *						
** AND ESCHEATS OR FORFEITURE TO THE CROWN.						
** THE RIGHTS OF ANY PERSON WHO WOULD, BUT FOR THE LAND TITLES ACT, BE ENTITLED TO THE LAND OR ANY PART OF						
** IT THROUGH LENGTH OF ADVERSE POSSESSION, PRESCRIPTION, MISDESCRIPTION OR BOUNDARIES SETTLED BY						
** CONVENTION.						
** ANY LEASE TO WHICH THE SUBSECTION 70(2) OF THE REGISTRY ACT APPLIES.						
**DATE OF CONVERSION TO LAND TITLES: 2009/01/22 **						
MS5863	1959/02/02	LEASE		*** DELETED AGAINST THIS PROPERTY ***	SUN OIL COMPANY LIMITED	C
ROS263642	1983/02/24	AGREEMENT			THE CORPORATION OF THE CITY OF GUELPH	
RO803844	1999/03/01	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** LATIF, FAYYAZ MAHMOOD LATIF, SELMA	1295712 ONTARIO LTD.	
REMARKS: PLANNING ACT STATEMENT						
RO803845	1999/03/01	CHARGE		*** DELETED AGAINST THIS PROPERTY *** 1295712 ONTARIO LTD.	BANK OF MONTREAL	
RO806231	1999/06/03	NOTICE OF LEASE		*** DELETED AGAINST THIS PROPERTY *** 1295712 ONTARIO LTD.	PETRO-CANADA	
RO806596	1999/06/17	NOTICE OF LEASE		*** DELETED AGAINST THIS PROPERTY *** 1295712 ONTARIO LTD.	THE TDL GROUP LTD.	

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
RO817533	2000/11/30	AGREEMENT		THE CORPORATION OF THE CITY OF GUELPH	1295712 ONTARIO LTD. BANK OF MONTREAL	C
		REMARKS: SITE PLAN CONTROL				
RO818298	2001/04/09	AGREEMENT		*** DELETED AGAINST THIS PROPERTY *** THE TDL GROUP LTD.	1295712 ONTARIO INC.	
		REMARKS: RO806596				
RO818652	2002/03/08	AGREEMENT		*** DELETED AGAINST THIS PROPERTY *** THE TDL GROUP LTD.	BANK OF MONTREAL	
		REMARKS: RO806596, RO803845 & RO818298 DELETED EXPIRED		INTEREST AS PER BULLETIN 89004 2018/07/13 PB		
RO818882	2002/12/20	TRANSFER		*** DELETED AGAINST THIS PROPERTY *** 1295712 ONTARIO LTD.	2011263 ONTARIO INC.	
RO818883	2002/12/20	CHARGE		*** DELETED AGAINST THIS PROPERTY *** 2011263 ONTARIO INC.	HSBC BANK CANADA	
RO818884	2002/12/20	ASSIGNMENT GENERAL		*** DELETED AGAINST THIS PROPERTY *** 2011263 ONTARIO INC.	HSBC BANK CANADA	
		REMARKS: RO818883 - RENTS				
WC236560	2009/02/04	DISCH OF CHARGE		*** COMPLETELY DELETED *** BANK OF MONTREAL		
		REMARKS: RE: RO803845				
WC236605	2009/02/05	APL (GENERAL)		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.		
		REMARKS: MS5863-DELETED EXPIRED INTEREST AS PER BULLETIN 89004 2018/07/13 PB				
WC236772	2009/02/09	CHARGE		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.	HSBC BANK CANADA	
WC236773	2009/02/09	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.	HSBC BANK CANADA	
		REMARKS: WC236772				
WC236828	2009/02/09	DISCH OF CHARGE		*** COMPLETELY DELETED *** HSBC BANK CANADA		
		REMARKS: RE: RO818883				
WC244370	2009/05/13	NOTICE OF LEASE		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.	1749612 ONTARIO INC.	

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REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
WC439238	2015/07/06	APL (GENERAL)		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.		
	REMARKS: TO DELETE RO806231					
WC444864	2015/08/28	NOTICE	\$2	PARKLAND INDUSTRIES LTD.		C
	REMARKS: RIGHT OF FIRST REFUSAL					
WC444865	2015/08/28	CHARGE	\$53,000	2011263 ONTARIO INC.	PARKLAND INDUSTRIES LTD.	C
WC515830	2017/09/01	APL (GENERAL)		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.		
	REMARKS: DELETE RO806596					
WC515831	2017/09/01	APL (GENERAL)		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.		
	REMARKS: DELETE WC244370					
WC515855	2017/09/01	TRANSFER		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.	2368632 ONTARIO INC.	
WC515856	2017/09/01	CHARGE		*** COMPLETELY DELETED *** 2368632 ONTARIO INC.	2011263 ONTARIO INC.	
WC516695	2017/09/13	DISCH OF CHARGE		*** COMPLETELY DELETED *** HSBC BANK CANADA		
	REMARKS: WC236772.					
WC540290	2018/06/14	APL CH NAME INST		PARKLAND INDUSTRIES LTD.	PARKLAND FUEL CORPORATION	C
	REMARKS: WC444864, WC444865					
WC540607	2018/06/15	CHARGE		*** COMPLETELY DELETED *** 2368632 ONTARIO INC.	CREEMORE FINANCIAL LTD.	
WC540608	2018/06/15	NO ASSGN RENT GEN		*** COMPLETELY DELETED *** 2368632 ONTARIO INC.	CREEMORE FINANCIAL LTD.	
	REMARKS: WC540607					
WC540609	2018/06/15	POSTPONEMENT		*** COMPLETELY DELETED *** PARKLAND FUEL CORPORATION	CREEMORE FINANCIAL LTD.	
	REMARKS: WC444865 TO WC540607					
WC540610	2018/06/15	POSTPONEMENT		*** COMPLETELY DELETED ***		

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NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
		REMARKS: WC444864 TO WC540607		PARKLAND FUEL CORPORATION	CREEMORE FINANCIAL LTD.	
WC540619	2018/06/18	DISCH OF CHARGE		*** COMPLETELY DELETED *** 2011263 ONTARIO INC.		
		REMARKS: WC515856.				
WC557939	2018/12/27	TRANSFER	\$2,750,000	2368632 ONTARIO INC.	8331707 CANADA INC.	C
WC557941	2018/12/27	CHARGE	\$1,878,000	8331707 CANADA INC.	BANK OF MONTREAL	C
WC557943	2018/12/27	NO ASSGN RENT GEN		8331707 CANADA INC.	BANK OF MONTREAL	C
		REMARKS: TO BE DELETED UPON THE DELETION OF WC557941				
WC557946	2018/12/27	POSTPONEMENT		PARKLAND FUEL CORPORATION	BANK OF MONTREAL	C
		REMARKS: WC444865, WC540290 TO WC557941				
WC557959	2018/12/27	DISCH OF CHARGE		*** COMPLETELY DELETED *** CREEMORE FINANCIAL LTD.		
		REMARKS: WC540607.				
WC632795	2021/05/05	APL COURT ORDER		SUPERIOR COURT OF JUSTICE COMMERCIAL LIST	MSI SPERGEL INC.	C

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Appendix D

May 1, 2021

DELIVERED BY EMAIL: 8331707canadainc@gmail.com

8331707 Canada Inc.

Attention: Mr. Jigneshbhai Shah

Dear Sirs:

Re: 8331707 Canada Inc. (the "Company")

As you are aware, msi Spergel Inc. has been appointed as Receiver of the Company pursuant to an Order of the Ontario Superior Court of Justice on April 21, 2021 by the Honourable Justice Cavanagh (the "**Appointment Order**"). A copy of the Appointment Order is attached.

Pursuant to the Appointment Order, we hereby request that we be provided with the following documents and other information forthwith:

1. Insurance policies and related payment information and status;
2. Detailed listing of creditors including names, addresses and amounts owing;
3. Contact information for the purported purchaser 2830716 Ontario Inc.
4. General ledger and supporting records from the POS system;
5. Financial Statements for the last two years together with all documentation in support thereof, including, but not limited to the trial balance, income statement and balance sheet and all supporting documentation;
6. All bank statements for the past two years;
7. Payroll remittance records for the past two years along with supporting records;
8. GST returns for the past two years along with supporting calculations;
9. Canada Revenue Agency Notices of Assessment and Statements of Account;
10. Information on any third-party assets including lease agreements;
11. Dip reading logs;
12. Equipment maintenance records;
13. Property survey; and,

14. Minute Book.

The above list is by no means exhaustive and we reserve hereby our right to demand production of additional materials as deemed appropriate. Please provide items 1-3 as soon as possible.

Yours very truly,

msi Spergel Inc.
Court Appointed Receiver of
8331707 Canada Inc.

Per:



Deborah Hornbostel, CPA, CA, LIT, CFE


SPERGEL

Insolvency • Restructuring • Consulting

Deborah Hornbostel, CPA, CA, LIT, CFE

Phone: (416) 498-4308

deborah@spergel.ca

May 19, 2021

Via Email 8331707canadainc@gmail.com

8331707 Canada Inc.

14 Dafoe Crescent

Brampton, ON L6Y 2L2

Attention: Mr. Jigneshbhai Shah

Dear Sirs:

Re: 8331707 Canada Inc. (the "Company")

Further to our correspondence to you on May 1, 2021 (copy attached) and several subsequent emails to you with respect to the Honda CRV, surveillance camera password and underground fuel storage tanks, you have failed to comply with our requests for information and the turnover of assets, books and records of the Company.

In accordance with Sections 4, 5, and 6 of the April 21, 2021 Court Order of Justice Cavanagh (copy attached), you are required to provide access and co-operation to the Receiver. In particular, you are required to forthwith advise the Receiver of the existence of any books, documents, securities, contracts, corporate and accounting records, computerized records, plans, drawings and any other papers, records and information of any kind related to the business or affairs of the Company in your possession or control and provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto.

It is imperative that you comply with the foregoing, failing which the Receiver will proceed to Court for a further order to obtain unfettered access to the Company's records, wherever located. Such an order may also have cost consequences for you.

Kindly contact the writer to make arrangements for the turnover of the books and records upon receipt of this correspondence.

Yours very truly,

msi Spergel Inc.
Court Appointed Receiver of
8331707 Canada Inc.

Per:



Deborah Hornbostel, *CPA, CA, LIT, CFE*



SPERGEL

Appendix E

>> BUSINESS

U.S. regulator details rules for railway merger

Kansas City Southern, CN Rail must prove deal will enhance competition

ROSS MAROWITS

The U.S. railway regulator has decided that Canadian National Railway's proposed \$33.6-billion (U.S.) acquisition of Kansas City Southern will be decided on current merger rules.

The Surface Transportation Board also refused to approve the Montreal-based railway's proposed voting trust agreement at this time because the file is incomplete.

The regulator previously approved CP Rail's voting trust stemming from its rival bid that was considered by KCS to be superior until CN Rail amended its offer on Friday.

The board also determined that the CP Rail proposal would be determined based on rules in effect in 2001 when KCS received a waiver.

CN Rail says in a news release that it welcomes the decision to apply current merger rules "which requires demonstrating that the combination would enhance competition."

CN had argued that the same



GRAHAM HUGHES THE CANADIAN PRESS FILE PHOTO

CN Rail amended its takeover offer for Kansas City Southern on Friday to beat CP Rail's bid.

merger rules should "apply equally" to both transactions. But when that was rejected last month, CN said it would submit an application that complies with the current merger rules, a move backed up by transportation board's decision Monday.

"We requested that the STB review its superior proposal to combine with KCS under these rules because we are confident that a CN-KCS combination will create a safer, faster, clean-

er and stronger railway that is ideally positioned to support the growth of an emerging consumption-based economy through better service options and customer choice," Canada's largest railway said in its news release.

CN added the board's "procedural" decision to defer consideration of its voting trust was based solely on the fact that a merger agreement for the combination of CN and KCS has not

yet been filed.

"We firmly believe that, once the STB has had the opportunity to undertake a full and fair review of our voting trust, we will have demonstrated that our voting trust is in the public interest."

The board explained its decision in a seven-page decision.

"Indeed, the proposed transaction poses issues that the current merger rules were designed to address, namely the

potential competitive impacts of a merged entity with some degree of overlapping routes and presently existing direct competition — characteristics that would appear to pertain to the CN and KCS systems."

Canadian Pacific said it concurs with the decision to apply new merger rules to CN, saying it shows that the board will review CN's proposed trust with the idea that a voting trust is a privilege, not a right that should not be used routinely.

"With this new ruling by the STB, CP's confidence in the superiority of its friendly agreement with KCS is redoubled," it said in a news release.

"The fairness of CP's outstanding offer to acquire KCS is compelling because CP+KCS is the only Class 1 merger that is viable."

The CEOs of both Canadian railway rivals will be on hand this week to extol the virtues of their bids at a transportation conference. CN chief executive JJ Ruest will appear Wednesday at the Bank of America Securities Virtual Transportation, Airlines and Industrials Conference. CP Rail CEO Keith Creel will present on Thursday.

The Canadian Press

Cannabis firm hopes dragons take a puff

Waterloo startup to pitch 'three-in-one' shop on hit CBC show 'Dragons' Den'

ROBERT WILLIAMS
WATERLOO REGION RECORD

WATERLOO—It all comes down to 90 seconds.

One short and sweet business pitch that could have enormous consequences.

It's just two weeks until Elizabeth Becker and Diana Becker-Park will pitch their Waterloo startup HiBnb on CBC's "Dragons' Den."

The sisters — one living in Waterloo, the other in Toronto — will have just a minute and a half to wow the dragons with their three-in-one cannabis company.

Picture Airbnb with a pre-rolled joint left on your pillow instead of a chocolate — and that's just one side of the company.

The business operates under three different umbrellas — Play Hi, Stay Hi and Get Hi. It's a one-stop shop to find cannabis friendly rentals and 4/20 friendly activities like yoga, improv classes and "puff n' paint." The website also provides a legal platform for advertisers that also works as an information hub for all things cannabis.

The sisters have cleared their schedules to prepare — it's not an opportunity that comes around every day.

"It was a no-brainer once I really started researching it and I put in an audition and they contacted us several months ago," said Elizabeth.

She was invited to participate in subsequent auditions, giving her an opportunity to revise the pitch and take the initial feedback to craft a new direction.

Elizabeth is keeping that direction close to the vest right now, and viewers will have to wait until the show airs in the fall to find out what happens.



DAVID BEBEE WATERLOO REGION RECORD

Diana Becker-Park, left, and Elizabeth Becker's company, HiBnb, aims to be a one-stop shop to find cannabis friendly rentals and activities. The firm also provides a legal platform for advertisers that also works as an information hub for all things cannabis.

If they are successful in landing investments, they'll have to keep a tight lip on the results until the show runs.

"We'll have to sign nondisclosure agreements so we won't be able to say anything," she said. "But it's going to be hard to hide my smile for all that time if we do end up being successful."

The business is already off to a promising start and the sisters are quite up front that the "Dragons' Den" appearance is a great opportunity, but the business's success will come down its innovative approach to the growing cannabis tourism industry.

It's already secured \$500,000 in pre-seed funding to continue its expansion across North America and was awarded the 2021 Innovator/Disruptor award by Short Term Rentalz.

Officially starting in the summer of 2019, the website just had its soft launch in January in Canada. And then the COVID-19 pandemic hit.

"The entire tourism industry has just been decimated by the pandemic and we have certainly felt the effects of that," said Diana, who offers more of a traditional business background to the team.

Elizabeth became what she would call a "cannabis enthusiast" in her early years after relocating to the west coast of Canada and eventually California. For a time, she even considered herself an activist, a strong proponent for legalization when attitudes toward the drug were still largely skewed from the federal U.S. government's war

Ontario pension fund invests \$500M in Ares

PAULA SAMBO

Investment Management Corp. of Ontario, a money manager for pension funds in the Canadian province, has committed \$500 million (U.S.) to Ares Management Corp. as it looks to boost its higher-yielding credit operations.

The pension fund said it's investing \$400 million to a customized portfolio, with the goal of capitalizing on Ares all-weather approach, taking advantage of opportunistic dislocations and market inefficiencies. The remaining \$100 million will be allocated to the flagship Ares Pathfinder fund.

"Ares can offer us, over time, high yield, leveraged loans, structured credits and then into the private credit space, middle-market lending. They have the ability to provide capital to parts of the market that are in dislocation," Jennifer Hartviksen, managing director for global credit at IMCO, said in an interview.

Hartviksen was brought in from Invesco Ltd. last year to build out IMCO's global credit

strategy, which currently invests in corporate bonds, real estate, infrastructure, emerging markets, structured and off-balance-sheet products such as loans backed by intellectual property to generate higher risk-adjusted returns.

She said that by investing through Ares, the pension fund will have the ability to move between different segments as the opportunities present themselves.

The pension manager for government workers in the province manages \$73.3 billion (Canadian) in assets. It plans to boost its \$4.6-billion credit portfolio to at least \$8 billion over the next four years.

IMCO was created less than five years ago to consolidate several public-sector funds under one manager. It's still in the process of building its investment team and diversifying the assets it inherited.

The pension manager for Ontario posted an overall gain of 5.4 per cent for 2020. The credit portfolio returned almost twice as much at 10.6 per cent.

Bloomberg

Woodside to sell stake in natural gas project

THE CANADIAN PRESS

VANCOUVER—Woodside Petroleum Ltd. says it plans sell its 50 per cent stake in the proposed Kitimat liquified natural gas development in British Columbia.

The Australian company says the plan includes the divestment or windup and restoration of assets, leases and agree-

ments covering the 480-kilometre Pacific Trail Pipeline route and the site for the proposed LNG facility at Bish Cove.

Woodside will keep a position in the Liard Basin upstream gas resource.

Chevron Canada Ltd., the operator of the project, said earlier this year that it would stop

funding further feasibility work on the project. The company put its interest up for sale in December 2019, but has failed to find a buyer.

Acting CEO Meg O'Neill said exiting the Kitimat project will allow the company to focus on higher value opportunities in Australia and Senegal.

BUSINESS OPPORTUNITY

ESSO GAS BAR FOR SALE

msi Spergel Inc., in its capacity as Court-Appointed Receiver of 8331707 Canada Inc. requests offers for the purchase of real estate and operating business assets located at 59 Woodlawn Rd.W., Guelph, ON. The site is approximately half an acre with a gross building area of approximately 1,367 sq. ft. and includes an operating gas bar and convenience store with a food drive-thru facility.

The deadline for offers is Tuesday, June 15, 2021 at 12PM.

For Further Information Contact:



SPERGEL

Deborah Hornbostel
Tel: 416-498-4308
deborah@spergel.ca

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courier advancement
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The deadline for offers is Tuesday, June 15, 2021 at 12PM. For further information contact:



Deborah Hornbostel
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Legal & Tender Notices

**IN THE MATTER OF
THE BANKRUPTCY OF
ELDEST INTERNATIONAL
LTD. A COMPANY DULY
INCORPORATED
UNDER THE LAWS OF
THE PROVINCE OF
ONTARIO HAVING ITS
HEAD OFFICE IN THE
CITY OF RICHMOND
HILL AND PROVINCE OF
ONTARIO.**

Notice is hereby given
that Eldest International
Ltd. carrying on business
at 12 Stokes Cres. filed an
assignment in bankruptcy
on the 18th day of May
2021 and that the first
meeting of creditors is
to be held on June 8th,
2021 at the hour of 11:00
o'clock in the forenoon
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Legal & Tender Notices

NOTICE TO CREDITORS AND OTHERS

All claims against
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Anne Elizabeth Thoburn,
who died on February
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Elrose Avenue, Windsor,
Ontario, must be filed
with the undersigned
personal representative
on or before, June 28,
2021, thereafter the
undersigned will
distribute the assets of
the said Estate having
regard only to the claims
then filed.

DATED at Toronto, this
14th day of May, 2021.

Tracy Thoburn
c/o Richard Wm. Chuback
2171 Avenue Road
Suite 103
Toronto, Ontario
M5M 4B4

Court/Estate #: 32-2737980

In the Matter of the
Bankruptcy Of
Farhat Masood
Of the City of Mississauga
In the Province of Ontario.

Notice is hereby given
that the bankruptcy of
Farhat Masood, occurred
on May 17, 2021 and
that the first meeting of
creditors will be held on
June 7, 2021 at 12:00
PM at the Office of the
Trustee, Via telephone
conference.

Creditors to e-mail
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No. M197984
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Between:
KATE BRKICH

Plaintiff

And:

**QUANG DAT MAI and
THI MINH NGUYEN**

Defendants

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To: The Defendant, QUANG DAT MAI

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Court-Appointed Receiver of 8331707
Canada Inc. requests offers for the
purchase of real estate and operating
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ECONOMY

RETAIL SALES SEEN PLUNGING IN APRIL AMID WAVE 3 CURBS

Canadian retail sales most likely plunged by 5.1 per cent in April, Statistics Canada said on Friday, a fall that analysts said coincided with provincial efforts to fight a third wave of COVID-19. The agency also said March retail trade rose by 3.6 per cent from February, thanks in part to higher sales at building material and garden equipment and supplies dealers. Analysts in a Reuters poll had forecast a 2.3 per cent increase. StatCan cited the “rapidly evolving economic situation” as a reason for predicting the April decline. The estimate was calculated based on responses received from 46 per cent of companies surveyed. “The strength in March seems to have been more than fully reversed in April as much of the country moved back into lockdown,” said Stephen Brown, senior Canadian economist at Capital Economics. *Reuters*



ECONOMY

Fed officials lower jobs expectations as hiring outruns available workers

ANN SAPHIR AND HOWARD SCHNEIDER

WASHINGTON • U.S. Federal Reserve officials and new Dallas Fed data have begun lowering expectations for May jobs growth in the United States as business hiring plans continue to outrun the supply of people able or willing to work. Dallas Fed president Robert Kaplan said Friday that hiring difficulties have continued through May, and will likely lead to another weak

jobs report following the lower-than-expected 266,000 positions added in April. A survey published by the Dallas Fed earlier in the day pointed to weakening job growth as well. That has been attributed to a number of factors including ongoing unemployment benefit payments and a lack of child care, and “these structural issues, which we saw in the report for April ... all those tensions are not going to go away” immediately, Kaplan said at a Dallas Fed conference on technology. “We

think you are going to see another odd or unusual report ... Businesses are telling us they got plenty of demand but they cannot find workers either skilled or unskilled.” Fed officials had hoped to see a “string” of months in which a million or more new jobs were added to U.S. payrolls, helping the country quickly claw back the 8.2 million positions still missing from before the pandemic. St. Louis Fed president James Bullard earlier this week however called that figure “hyped up,” and said a



JIM WATSON / AFP VIA GETTY IMAGES FILES

This restaurant in Annapolis, Md., is hiring but overall the Fed expects a weak jobs report for May.

“more realistic” expectation was for perhaps half-a-million jobs a month. The comments highlight a growing dilemma at the Fed as it wrestles over how long to keep emergency levels of economic support in place as the pandemic ebbs and the economy revs up for what may be the strongest year of growth since the early 1980s. Philadelphia Fed president Patrick Harker on Friday became the second Fed official, along with Kaplan, to urge a faster start to talks over when and how quickly to reduce the central bank’s US\$120-billion in monthly bond purchases. “It is something that, in

my mind, we should start to have a conversation about sooner rather than later,” Harker said at a virtual event organized by The Washington Post. Atlanta Fed president Raphael Bostic and Richmond Fed president Thomas Barkin, speaking at the same event with Kaplan, both stuck to their positions that more hiring needs to take place before they’d discuss a bond purchase “taper.” “Right now we are not in a position where that’s in play for moves,” Bostic said, even as some begin to warn of a possibly overheating economy. *Reuters*

MINING

G7 agrees to stop funding for coal

PROJECT FINANCING

MARKUS WACKET AND ELIZABETH PIPER

BERLIN/LONDON • The world’s seven largest advanced economies agreed on Friday to stop international financing of coal projects that emit carbon by the end of this year, and phase out such support for all fossil fuels, to meet globally agreed climate change targets. Stopping fossil fuel funding is seen as a major step the world can make to limit the rise in global temperatures to 1.5 degrees Celsius above pre-industrial times, which scientists say would avoid the most devastating impacts of climate change. Getting Japan on board to end international financing of coal projects in such a short timeframe means those countries, such as China, which still back coal are increasingly isolated and could face more pressure to stop. In a communiqué, which Reuters saw, the Group of Seven nations — the United States, Britain, Canada, France, Germany, Italy and Japan — plus the European Union said “international investments in unabated coal must stop now.”

“(We) commit to take concrete steps towards an absolute end to new direct government support for unabated international thermal coal power generation by the end of 2021, including through Official Development Assistance, export finance, investment, and financial and trade promotion support.” Coal is considered unabated when it is burned for power or heat without using technology to capture the resulting emissions. Alok Sharma, president of the COP26 climate summit, has made halting international coal financing a “personal priority” to help end the world’s reliance on the fossil fuel, calling for the UN summit in November to be the one “that consigns coal to history.” He called on China to set out its “near-term policies that will then help to deliver the longer-term targets and the whole of the Chinese system needs to deliver on what President Xi Jinping has set out as his policy goals.” The G7 nations also agreed to “work with other global partners to accelerate the deployment of zero emission vehicles,” “overwhelmingly” decarbonizing the power sector in the 2030s and moving away from international fossil fuel financing, although no specific date was given for that goal. They reiterated their commitment to the 2015 Paris Agreement aim to cap the rise in temperatures to as close as possible to 1.5 degrees Celsius above pre-industrial times and to the developed country climate finance goal to mobilize US\$100 billion annually by 2020 through to 2025. In a report earlier this week, the International Energy Agency (IEA) made its starkest warning yet, saying investors should not fund new oil, gas and coal supply projects if the world wants to reach net zero emissions by mid-century. *Reuters*

‘Meaningful financial risks’

CN Continued from FPI

A merger of KCS with either Canadian railway would create a North American network touching the United States, Mexico and Canada. Calgary-based CP’s rail system currently runs across Canada, but only as far south as Kansas City in the U.S. CN, Canada’s largest railway, reaches as far south as New Orleans, 40 miles east of KCS’s tracks. Sixty-five miles of CN’s 7,500 miles of track overlap with KCS’s network, which could trigger concerns with the STB. “I am confident that together with KCS’s experienced and talented team, we will meaningfully connect the continent — enhancing competition, offering more choice for customers, and driving environmental stewardship and shareholder value,” CN chief executive Jean-Jacques Ruest said in a statement. The regulator will also rule on whether CN can use a voting trust to hold KCS shares while the STB reviews the deal. A decision on the trust is expected in June, but a decision on the takeover could take more than a year. The STB decision is the “determining event, and it is far from guaranteed,” National Bank analyst Cameron Doerksen said in a note on Friday. “CN has characterized trust approval as relatively routine, but in our view approval is far from assured.” If the voting trust is rejected, CN said it would pay US\$1 billion to KCS. And if the trust is approved, but the

merger rejected, CN would be forced to sell KCS out of the trust. CN also agreed to reimburse KCS for the US\$700-million break fee it owes CP to terminate the earlier deal. “While a merger with KSU (the ticker symbol for KCS) would undoubtedly be strategically very positive for CN, we believe the company is taking some meaningful financial risks,” Doerksen wrote. TCI Fund Management Ltd., a London-based hedge fund led by billionaire Christopher Hohn — which is CP’s largest shareholder and also owns roughly three per cent of CN — sent a letter to CN’s board on Tuesday asking it to “abandon” the deal, saying that it is unlikely to receive the green light from regulators. “We think the decision of the KSU board lacked vision and courage,” TCI partner Ben Walker said in an email statement. “The STB will, and indeed, ought to, reject the CN voting trust because it is against the public interest to have a significant U.S. infrastructure asset like KCS in a state of suspended animation or limbo for two years.” If the deal is shut down, Canadian Pacific said it would still be interested in submitting a new bid. “CP anticipates being available to engage with KCS to enter into another agreement to acquire KCS,” Creel said in a statement to the STB on Friday. CN shares ended the day down almost two per cent to \$125.80 in Toronto, while CP closed up 0.6 per cent to \$97.77. KCS added 0.5 per cent to US\$295 in New York. *Financial Post*

ADS CANADIAN BANK
THE BANK OF NOVA SCOTIA TRUST COMPANY
LETTERS PATENT OF AMALGAMATION

Notice is hereby given, pursuant to the provisions of section 233 of the *Trust and Loan Companies Act* (Canada), that ADS Canadian Bank and The Bank of Nova Scotia Trust Company (together, the “Applicants”) intend to make a joint application to the Minister of Finance, on or after May 24, 2021, for letters patent of amalgamation continuing the Applicants as one company under the name “The Bank of Nova Scotia Trust Company” in English and “La Société de Fiducie Banque de Nouvelle-Écosse” in French. The head office of the amalgamated company would be located in Toronto, Ontario.

The effective date of the proposed amalgamation would be November 1, 2021, or any other date fixed by the letters patent of amalgamation.

Note: The publication of this Notice should not be construed as evidence that letters patent will be issued. The granting of the letters patent will be dependent upon the normal *Trust and Loan Companies Act* (Canada) application review process and the discretion of the Minister of Finance.

May 1, 2021

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Deborah Hornbostel
Tel: 416-498-4308
deborah@spergel.ca

SPERGEL

ECONOMY

CONSUMER
CONFIDENCE CLIMBS
TO RECORD HIGH

Canadian consumer confidence hit records as vaccination efforts pick up and authorities begin lifting COVID-19 containment measures. The Bloomberg Nanos Canadian Confidence Index, a measure of sentiment based on household surveys, climbed to 65.7 last week, the highest reading since polling began in 2008. Gains were driven by optimism over the economic outlook and Canadians feeling better about their personal finances. The improving sentiment numbers will stoke confidence among economists and policy-makers that households will be in a spending mood once Canada emerges from strict pandemic restrictions. Growth probably will slow to a post-pandemic low of 2.5 per cent annualized in the second quarter. Economists anticipate a strong second half, with growth expected to average 6.6 per cent. *Bloomberg*



‘Excess exuberance’
a reminder of
1990s market frenzy



KEVIN CARMICHAEL
National Business
Columnist

In February, Tiff Macklem, the Bank of Canada governor, said the following when asked about the housing market: “We are starting to see some early signs of excess exuberance, but we’re a long way from where we were in 2016-2017 when things were really hot.” (Emphasis ours.)

That was then. Canada’s house-buying mob can travel a lot of ground in three months. A new assessment by the central bank shows the real estate frenzy is now

probably more extreme than it was four years ago.

On May 20, the Bank of Canada released its annual Financial System Review (the FSR), which amounts to a checkup on the health of the country’s network of banks, shadow banks, asset managers, traders and investment houses. It’s a group over which the central bank has essentially no formal authority. But for one day at least, the FSR gives the governor a bully pulpit from which to attempt to exercise moral suasion.

Macklem flagged six “vulnerabilities,” or weak spots, that could cause the system to crumble if hit hard enough with an external shock, such as a recession or the failure of a big financial institution. Two of those vulnerabilities related to housing: the mountain of debt that households have piled up chasing runaway prices, and those runaway prices, which, in some

big-city markets, the Bank of Canada thinks are being pushed higher by speculation and naive expectations that home prices only go up.

Notably, the Bank of Canada’s most recent research suggests that the froth in at least some markets is now worse than in 2016 and 2017. Policy-makers reckon that households with mortgages that are 450 per cent bigger than their incomes are vulnerable to bankruptcy. That group represented 22 per cent of all home loans in the fourth quarter, compared with a previous peak of about 18 per cent in the third quarter of 2017.

The figure was 16 per cent at the end 2019, when households appeared to be slowly working off their debts. That trend has reversed. Canadians are again adding to their already impressive debt piles, which represent a risk to future growth.

A mismatch between supply and demand explains most of the surge in house prices, but there is some mania in those numbers. Macklem’s February characterization of what he was starting to see in Canada’s housing market brought to mind a famous description of stock markets in December 1996: “How do we know when irrational exuberance has unduly escalated asset values, which then become subject to unexpected and prolonged contractions as they have in Japan over the past decade?”

Those were the words of Alan Greenspan, the former chair of the U.S. Federal Reserve. It was widely assumed that Greenspan was attempting to signal his discomfort with the market frenzy over internet stocks. It didn’t work. The dot-com bubble burst in early 2000. Good thing many of Canada’s housing markets are only excessively exuberant, and not irrationally so.

Financial Post



PETER J. THOMPSON / FINANCIAL POST

“Postmedia and Wise will work together on key areas of the business to accelerate growth, including content licensing opportunities focused on high quality and relevant content for our audiences, and others across North America,” said Mary Anne Lavallee, Postmedia executive vice-president and chief operating officer.

MEDIA

Postmedia, Wise Publishing
launch strategic partnership

Personal finance
content
and tools

Postmedia Network Inc. announced on Tuesday that it is launching a strategic partnership with Wise Publishing Inc., a Toronto-based personal finance publisher.

The deal will see Postmedia make an equity investment and take a minority position in the fast-growing publisher, whose websites MoneyWise.com and MoneyWise.ca garner 10 million unique visitors monthly.

Postmedia, which represents more than 120 brands across multiple print, online and mobile platforms, will

partner with Wise to increase personal finance content and tools while further building the MoneyWise brand.

“As part of the strategic partnership, Postmedia and Wise will work together on key areas of the business to accelerate growth, including content licensing opportunities focused on high quality and relevant content for our audiences, and others across North America,” said Mary Anne Lavallee, Postmedia executive vice-president and chief operating officer, in a statement.

“Our audiences will benefit from new personal finance tools such as mortgage rate calculators, which complement Postmedia’s existing content offerings. The team at Wise Publishing is

dynamic and innovative and Postmedia will benefit from their specialized expertise in performance marketing solutions,” she added.

Wise aims to help readers save money, research bank accounts, search for mortgage rates and navigate ways to manage their money.

“It’s so critically important to find investors who understand your business, share your vision and can help your company realize its goals,” said Kyle Trattner, Wise Publishing chief executive.

“Postmedia enhances our incredibly strong group of experienced backers who align with our mission: to help millions of people make good financial decisions and get ahead in life.”

Financial Post

Loblaw one-time payment ‘slap in the face’

GROCERY

Continued from FP1

The way grocery chains pay their employees has drawn intense public scrutiny throughout the past year, particularly after it was revealed that some of the biggest players were in contact with one another before each cancelled their respective \$2-per-hour pandemic bonus for frontline staff on the same day last June. All denied any wrongdoing in the case.

But the move, at a time when grocery sales were skyrocketing due to restrictions on restaurants, sparked interest from Ottawa, which continues to consider changes to competition legislation.

Unifor, which represents Canadian grocery workers, earlier this month criticized Loblaw Cos. Ltd. for refusing to “fairly compensate frontline workers,” despite first-quarter adjusted net earnings of \$392 million. Loblaw, however, is reinstating a pandemic bonus for staff, though it’s a one-time

payment of \$25 to \$175 — a gesture one union official likened to a “slap in the face.”

Brookfield researchers consulted with nearly 300 food retail employees in Ontario through interviews, surveys and focus groups, along with employers and industry insiders, for the report. The employees reported “higher-than-normal levels of tension” during the pandemic, since they were called upon to enforce mask rules and preside over long lines outside capacity-limited stores.

A common belief, among veteran grocery store staff, is that the new generation of workers are worse off, according to report co-author Kimberly Bowman, a senior projects manager at the Brookfield Institute.

“There are a lot of people going into this industry making very low rates of pay relative to how much it costs to live in parts of Ontario,” she said.

Bowman acknowledged that grocery employees have an opportunity to advance, earn higher wages and work steadier hours. But that sort of seniority is difficult to reach, since low-paid, entry-level workers end up leaving their jobs long before they can advance. The employee turnover rate averages 30 per cent per store, according to the report.

The number of cashier jobs has been growing, but more of the positions are now part-time. Full-time cashier positions in Ontario dropped by 16 per cent between 2006 and 2016, Brookfield reported. Of Ontario’s 130,000 cashiers, 80 per cent work part time, with wages ranging from \$14.25 to \$15.87, while 68 per cent

of the 69,000 shelf-stockers work part time, earning \$14.25 to \$18.35.

“An employee might need to be available for 40 or 50 hours per week, but be offered work for only 10 or 20 hours,” the report said. “Perhaps not surprisingly, this can result in people working two to three jobs.”

Part of the reason behind the shift toward part-time work could be a change in the way Canadians shop for food. Over the past 30 years, grocery shopping has stopped being a predominantly daytime activity. Now, the bulk of the shopping happens in “micro-trips” after work, or on weekends. Sunday has become grocery’s busiest shopping day of the week, in terms of sales per hour, Brookfield said.

That shift has meant stores need fewer full-time workers during the day and more part-timers covering the rush period in the evening.

Eric La Flèche, chief executive at Metro Inc., told Financial Post last year that turnover is a reality in the grocery sector because “for a lot of people it’s not their career.” But others do manage to make a career out of it, he said.

“In the stores, there’s always been turnover, there always will be turnover, but there’s also opportunities for long-term careers,” he said last fall. “We still attract people who become department managers, assistant store managers, stores managers, district managers, VP of ops. But it’s retail, it’s tough, it’s weekends, it’s nights. Some folks today don’t want to work those hours.”

Financial Post

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ESSO GAS BAR FOR SALE
msi Spergel Inc., in its capacity as Court-Appointed Receiver of 8331707 Canada Inc. requests offers for the purchase of real estate and operating business assets located at 59 Woodlawn Rd.W., Guelph, ON. The site is approximately half an acre with a gross building area of approximately 1,367 sq. ft. and includes an operating gas bar and convenience store with a food drive-thru facility.
The deadline for offers is Tuesday, June 15, 2021 at 12PM. For further information contact:
Deborah Hornbostel
Tel: 416-498-4308
deborah@spergel.ca
SPERGEL

IN THE MATTER OF THE BANKRUPTCIES OF
1147941 ONTARIO LIMITED
1510161 ONTARIO LIMITED
COMPANIES DULY INCORPORATED
PURSUANT TO THE LAWS OF THE
PROVINCE OF ONTARIO WITH A HEAD
OFFICE IN THE TOWN OF MAPLE
PROVINCE OF ONTARIO
Notice is hereby given that **1147941 ONTARIO LIMITED** and **1510161 ONTARIO LIMITED**, located 3230 King Vaughan Road, Suite 1, Maple, Ontario filed assignments in bankruptcy on the 20th day of May, 2021 and that Schwartz Levitsky Feldman Inc. was appointed as Trustee, and that the First Meeting of Creditors will be held on the 9th day of June, 2021, at the hour of 09:00 o'clock in the forenoon, at:
Schwartz Levitsky Feldman Inc.
2300 Yonge Street, Suite 1500
Toronto, Ontario
SLF M4P 1E4
(416)785-5353
(416)784-3025 fax

IN THE MATTER OF THE BANKRUPTCY OF
KING YORK PAVING LTD.
A COMPANY DULY INCORPORATED
PURSUANT TO THE LAWS OF THE
PROVINCE OF ONTARIO WITH A HEAD
OFFICE IN THE
TOWN OF MAPLE
PROVINCE OF ONTARIO
Notice is hereby given that **KING YORK PAVING LTD.** located at 3230 King Vaughan Road, Suite 1, Maple, Ontario filed an assignment in bankruptcy on the 21st day of May, 2021 and that Schwartz Levitsky Feldman Inc. was appointed as Trustee, and that the First Meeting of Creditors will be held on the 9th day of June 2021, at the hour of 10:00 o'clock in the forenoon, at:
Schwartz Levitsky Feldman Inc.
2300 Yonge Street, Suite 1500
Toronto, Ontario
SLF M4P 1E4
(416)785-5353
(416)784-3025 fax

IN THE MATTER OF THE BANKRUPTCIES OF
1466654 ONTARIO LIMITED
1585714 ONTARIO LIMITED
NISSA PAVING CO. LTD.
PAVERS PLUS STONE SUPPLY LTD.
COMPANIES DULY INCORPORATED
PURSUANT TO THE LAWS OF THE
PROVINCE OF ONTARIO WITH A HEAD
OFFICE IN THE TOWN OF MAPLE
PROVINCE OF ONTARIO
Notice is hereby given that **1466654 ONTARIO LIMITED**, **1585714 ONTARIO LIMITED**, **NISSA PAVING CO. LTD.** and **PAVERS PLUS STONE SUPPLY LTD.**, located 3230 King Vaughan Road, Suite 1, Maple, Ontario filed assignments in bankruptcy on the 21st day of May, 2021 and that Schwartz Levitsky Feldman Inc. was appointed as Trustee, and that the First Meeting of Creditors will be held on the 9th day of June, 2021, at the hour of 10:30 o'clock in the forenoon, at:
Schwartz Levitsky Feldman Inc.
2300 Yonge Street, Suite 1500
Toronto, Ontario
SLF M4P 1E4
(416)785-5353
(416)784-3025 fax

NOTICE
No. DUBA/Cons/434/MR/2021-(114)
Dated 18/05/2021
MR. MOHIT SINGH VERMA S/O BHOLA SINGH VERMA RESIDENT OF 233 TIMBERCREST RD, WEST LAFAYETTE, IN, USA, PRESENT ADDRESS 233 TIMBERCREST RD, WEST LAFAYETTE, IN, USA AND MISS. PRERANA NANDKUMAR POTDAR DAUGHTER OF NANDKUMAR RAJARAM POTDAR RESIDENT OF PLOT NO 0195, FLAT 301A, OPP HOLI MAIDAN, SEC 19 KOPARKHAIRNE, NAVI MUMBAI, PIN 400709, MAHARASHTRA, INDIA PRESENT ADDRESS FLAT NO 14, 3RD FLOOR GIORDANO BUILDING, BUR DUBAI, UAE
CANADIAN NATIONAL MOHIT SINGH VERMA AND INDIAN NATIONAL PRERANA NANDKUMAR POTDAR PRESENTLY RESIDING IN USA & UAE AND HAVE GIVEN NOTICE OF INTENDED MARRIAGE BETWEEN THEM UNDER THE FOREIGN MARRIAGES ACT, 1969. IF ANY ONE HAS ANY OBJECTION TO THE PROPOSED MARRIAGE HE/SHE SHOULD FILE THE SAME WITH THE UNDERSIGNED ACCORDING TO THE PROCEDURE LAID DOWN UNDER THE ACT/ RULES WITHIN THIRTY DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE
(Jitender Singh Negi) (Marriage Officer)
Consulate General of India P.O.BOX: 737, DUBAI (UAE), FAX NO. 0097143970453 Email: consl.dubai@mea.gov.in, cons3.dubai@mea.gov.in
Homepage: www.cgidubai.gov.in

ECONOMICAL MUTUAL INSURANCE COMPANY
NOTICE OF ANNUAL MEETING
The 149th Annual Meeting of Economical Mutual Insurance Company will be held on June 17, 2021 at 1:00 p.m. (ET). Mutual policyholders and duly appointed proxyholders will be invited to register to attend and participate in the Meeting, which will be held via webcast.
At this meeting, current mutual policyholders will receive the consolidated financial statements of the company for the year ended December 31, 2020. They will also be asked to appoint the external auditors and elect directors.
BY ORDER OF THE BOARD OF DIRECTORS,
Michael Padfield
Corporate Secretary
Waterloo, Ontario
economical INSURANCE

Appendix F

Appendix “2”

Terms and Conditions

1. msi Spergel Inc. in its capacity as Receiver (“**Spergel**” or the “**Receiver**”) of the assets, undertakings and properties of 8331707 Canada Inc. (“**833**”) invites written offers to purchase, on an en bloc basis, 833’s right, title and interest, if any, in the assets (the “**Assets**”) as described in the Confidential Information Memorandum dated May 17, 2021 (the “**CIM**”).

All offers must be received by Spergel at its offices located at 505 Consumers Road, Suite 200, Toronto, ON, M2J 4V8 Attention: Deborah Hornbostel no later than 12:00 p.m. Toronto time on Tuesday, June 15, 2021 (the “Offer Deadline”).

2. This is **NOT** a sale by tender. The highest or any offer shall not necessarily be accepted. All offers will be considered on an individual basis, as and when received. The Receiver may in its sole discretion choose to accept or reject an offer either prior to or after the Offer Deadline.
3. All offers must be in substantially the same form as the template Agreement of Purchase and Sale attached to the CIM, shall be signed by the party making the offer (the “**Offeror**”), shall remain open for acceptance until 5:00 p.m., Toronto time on Thursday, June 17, 2021 (the “**Acceptance Time**”) and may be accepted by the Receiver countersigning the Agreement of Purchase and Sale submitted by the Offeror. Any changes and modifications to the template Agreement of Purchase and Sale are to be indicated on a blackline to the template Agreement of Purchase and Sale which is to be submitted along with the executed version.
4. The Receiver may, in its sole discretion, discuss with any Offeror amendments to its offer prior to the Offer Deadline and invite the Offeror to submit an amended offer provided the amended offer is received by the Offer Deadline.
5. The Receiver will notify all parties which have submitted an offer whether an offer has been accepted by 5:00 p.m., Toronto time on Thursday, June 17, 2021. If an offer is accepted, such acceptance shall be communicated to the party whose offer was accepted by notice in writing delivered by mail, courier, facsimile or e-mail to the address/e-mail address or facsimile number set forth in its offer.
6. All offers must be accompanied by a deposit equal to 10% of the purchase price in the form of a bank draft or certified cheque in Canadian funds payable to "msi Spergel Inc., Receiver of 83312707 Canada Inc.- In Trust" (the “**Deposit**”), which deposit will be subject to the terms hereof. Acceptance of an offer by Spergel shall result in an Agreement of Purchase and Sale (the “**Purchase Agreement**”) between the Offeror (the “**Purchaser**”) and the Receiver on the terms contained in the Purchase Agreement with respect to the Assets. If the Purchaser’s Offer is accepted and court approval obtained, the draft or cheque accompanying the offer shall be deemed a non-refundable cash deposit subject to the terms of the Purchase Agreement.
7. Offers may not be subject to any conditions precedent except those that are customary in a transaction of this nature. Specifically, an offer may not be conditional on financing (including

vendor take back financing) or any internal approval or on the outcome of any review or due diligence. Offerors will upon request provide the Receiver with evidence of their financial ability to complete a transaction for the Assets.

8. The agreement arising upon the acceptance of an offer by the Receiver is subject to the approval of the Ontario Superior Court of Justice (the “**Court**”) in the receivership proceeding of 833. Following acceptance of an offer the Receiver will seek an order of the Court in 833’s receivership proceeding approving the Purchase Agreement and vesting the Assets in the Purchaser as provided for in the Purchase Agreement.
9. Offers shall be made on the basis that the Offeror has inspected the Assets and has relied entirely upon its own inspections and investigations of the Assets and title to same and has agreed to purchase the Assets and take possession thereof on an "as is, where is" and "without recourse" basis with no representations or warranties as to title, encumbrances, description, present or future use, fitness for use, environmental condition, merchantability, quantity, condition, existence, quality, value or the validity, invalidity, or enforceability of any patent, copyright or trademark right, or any other matter or thing whatsoever, either stated or implied, except as expressly contained in the Purchase Agreement. The CIM is prepared solely for the convenience of prospective purchasers to assist them in their inspection and evaluation of the Assets, and is not warranted to be complete or accurate, and is not part of these Terms and Conditions.
10. Cheques or drafts accompanying offers that are not accepted by Spergel shall be returned to the Offeror by prepaid registered mail or courier, addressed to the Offeror at the address set forth in its offer, without interest thereon.
11. In consideration of the Receiver receiving offers, no Offeror shall be allowed to retract, withdraw, vary or countermand its offer prior to the Acceptance Time. Where prior to the Acceptance Time and the acceptance by the Receiver of any offer, an Offeror retracts, withdraws, varies or countermands its offer, the deposit shall be forfeited by the Offeror to the Receiver on account of liquidated damages and not a penalty, in addition to any other remedy to which the Receiver may be entitled by reason of such breach.
12. Spergel reserves the right to amend or terminate the proposal or offer process, or to withdraw or amend the Assets offered for sale, at any time, at its sole discretion. With respect to any withdrawal or amendment, the sole obligation of Spergel to an Offeror shall be to inform them of the withdrawal of any asset or any amendment to any of the Assets offered for sale. With respect to termination of the proposal or offer process, the sole obligation of Spergel to an Offeror shall be to return the Offeror’s deposit without interest or deduction.
13. The submission of an offer to Spergel shall constitute an acknowledgement and an acceptance by the Offeror of these Terms and Conditions.
14. Spergel is acting solely in its capacity as the Receiver of 833 and not in its personal capacity, and its liabilities hereunder, if any, or under any Purchase Agreement, or sale contemplated hereby, will be solely in its capacity as the Receiver of 833 and it shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise.

15. Each Offeror represents and warrants that:
 - (a) it is a corporation duly formed, organized and subsisting under the laws of Canada, Ontario or another province of Canada;
 - (b) it has the corporate power and authority to submit the offer and all necessary actions and approvals have been taken or obtained by the Offeror to authorize the creation, execution, delivery and performance of the offer and the offer has been duly executed and delivered by the Offeror and constitutes a legal, valid and binding obligation of the Offeror, and is enforceable against the Offeror in accordance with its terms; and
 - (c) it is not a non-Canadian entity for the purpose of the *Investment Canada Act* (Canada) and it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).
16. All stipulations as to time are strictly of the essence.
17. The validity and interpretation of these Terms and Conditions shall be governed by the laws of Ontario and the laws of Canada applicable in the Province of Ontario, and shall enure to the benefit of and be binding upon the Receiver and the Offerors, and their respective heirs, executors, administrators, successors or permitted assigns as the case may be.
18. The Receiver shall not be required to pay any commission or brokerage fee whatsoever in connection with any sale pursuant to the Purchase Agreement.
19. The Receiver may, at its sole discretion, waive or alter any or all of the conditions in these Terms and Conditions, any such waiver to be in writing. All conditions contained herein are for the exclusive benefit of the Receiver.
20. These Terms and Conditions do not form part of the Purchase Agreement. The Purchase Agreement as executed by the Purchaser and the Receiver shall constitute the entire agreement between the Receiver and the Purchaser and there are no representations, warranties or collateral agreements except as expressed therein.

May 17, 2021

Appendix G

From: [Deborah Hornbostel](#)
To: [Deborah Hornbostel](#)
Cc: [Sam P. Rappos](#)
Bcc: [REDACTED]
Subject: Sale by msi Spergel Inc. Court Appointed Receiver of 8331707 Canada Inc. re 59 Woodlawn Rd. W., Guelph
Date: June 15, 2021 2:13:00 PM
Attachments: [image002.png](#)

This email is being sent to all parties that have submitted an offer.

We are requesting that each prospective purchaser, if they wish to do so, increase their offering price and/or remove any condition(s) in their offer. If any such changes are proposed, they are to be sent by return email on or before noon on Thursday, June 17th, 2021. **Changes to the offers submitted, other than to increase the offering price or remove conditions are not permitted.** Any offer for which changes are proposed in accordance with the foregoing shall be deemed to be amended to include the proposed changes. Any increase in the offering price shall be accompanied by an additional deposit for 10% of the amount of the increase, payable by noon on Thursday, June 17, 2021.

This email is not and shall not be deemed to be a rejection nor a counter offer of any offer submitted. Any offer submitted, whether or not amended in accordance with the foregoing, may be accepted by the Receiver prior to the Acceptance Time (as defined in the Terms and Conditions) in its sole discretion.

Deborah Hornbostel, CPA, CA, CIRP, LIT, CFE | Partner

msi Spergel inc. | Licensed Insolvency Trustees

505 Consumers Road, Suite 200, North York, M2J 4V8

T: 416-498-4308 | F: 416-498-4308

Deborah@spergel.ca | www.spergelcorporate.ca

Insolvency • Restructuring • Consulting



This email may contain privileged information and is intended only for the named recipient. Distribution, disclosure or copying of this email by anyone other than the named recipient is prohibited. If you are not the named recipient, please notify us immediately by return email and permanently destroy this email and all copies.

Appendix H

AGREEMENT OF PURCHASE AND SALE**8331707 CANADA INC.****THIS AGREEMENT** dated as of the 15_day of June_____, 2021.

BETWEEN:

MSI SPERGEL INC., in its capacity as Court-appointed receiver of the assets, undertakings and properties of **8331707 CANADA INC.** and not in its personal or corporate capacity and without personal or corporate liability.

(the "**Vendor**")

OF THE FIRST PART

- and -

2745810 Ontario Limited(the "**Purchaser**")

OF THE SECOND PART

IN CONSIDERATION of the mutual agreements contained in this Agreement, the sufficiency of which is acknowledged by each of the Vendor and the Purchaser, the Vendor and the Purchaser agree as follows:

1. **DEFINITIONS**

In this Agreement, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

- (a) "**Act**" means, for purposes of Section 20 hereof only, the *Excise Tax Act* (Canada);
- (b) "**Adjusted Inventory Value**" has the meaning ascribed to it in Section 9(c) hereof;
- (c) "**Agreement**" means this agreement of purchase and sale executed by the Purchaser and accepted by the Vendor, together with the attached schedules;



- (d) **"Approval and Vesting Order"** means an order of the Court substantially in the form of the template Approval and Vesting Order for use on the Commercial List of the Court on notice to the service list in the Debtor's receivership proceeding, all persons having a registered Encumbrance against the Purchased Assets, or any part thereof, and such other persons as the Purchaser may reasonably request, approving the transaction provided for in this Agreement, the completion by the Vendor of the transaction provided for in this Agreement and vesting in the Purchaser, or as the Purchaser may direct, all of the right, title and interest, if any, of the Debtor in the Purchased Assets free and clear of any right, title or interest of the Debtor, the Vendor or any other person, including all Encumbrances, save and except any Permitted Encumbrances;
- (e) **"Assignment of Contracts"** means an assignment and assumption of the right, title and interest and obligations of the Debtor in the Assumed Contracts to the Purchaser in the form mutually agreed upon between the Vendor and the Purchaser, each acting reasonably;
- (f) **"Assumed Contracts"** shall have the meaning ascribed to it in Section 3 hereof;
- (g) **"Buildings"** means the buildings, improvements, installations and fixtures of every nature and kind situate in, on and/or over the Lands;
- (h) **"Business"** means the business previously carried on by the Debtor from the Lands consisting of the operation of a gas station and convenience store and the leasing of commercial space;
- (i) **"Business Day"** means any day other than a Saturday or a Sunday or a statutory holiday in the Province of Ontario;
- (j) **"Closing"** shall have the meaning ascribed to it in Section 10 hereof;
- (k) **"Closing Adjustments"** shall have the meaning ascribed to it in Section 8(a) hereof;
- (l) **"Closing Documents"** means the Vendor's closing deliveries and the Purchaser's Closing deliveries together as set forth in Sections 17 and 18 hereof;
- (m) **"Court"** means the Ontario Superior Court of Justice (Commercial List);
- (n) **"Court Order"** means the order of the Honourable Mr. Justice Cavanagh dated the 21st day of April, 2021 in the receivership proceeding of the Debtor whereby the Vendor was appointed receiver of the assets, undertakings and properties of the Debtor;
- (o) **"Damages"** shall have the meaning ascribed to it in Section 18(h) hereof;
- (p) **"Date of Closing"** shall have the meaning ascribed to it in Section 10 hereof;



- (q) **"Debtor"** means 8331707 Canada Inc.;
- (r) **"Deposit"** shall have the meaning ascribed to it in Section 7(a) hereof;
- (s) **"DRA"** shall have the meaning ascribed to it in Section 11(a)(i) hereof;
- (t) **"Encumbrances"** means all claims, liabilities, liens, mortgages, pledges, security interests, charges, restrictions and encumbrances of any kind or description, fixed or contingent, accrued or unaccrued, arising under contract, tort, statute or otherwise affecting or in any way relating to the Purchased Assets or any part thereof;
- (u) **"Environmental Activity"** means any past or present activity, event or circumstance in respect of any Hazardous Materials, including its storage, use, holding, collection, purchase, accumulation, assessment, generation, manufacture, construction, processing, treatment, stabilization, disposition, handling or transportation or its release, escape, leaching, dispersal, emission, discharge or migration into the natural environment, including movement through or in the air, soil, subsoil, surface water or ground water, or in indoor spaces;
- (v) **"Environmental Law"** means any and all applicable federal, provincial, municipal and local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives, authorizations, rules, codes, permits, licenses, agreement or other governmental restrictions having the force of law relating to the environment, occupational health and safety, health protection, Hazardous Materials or any Environmental Activity;
- (w) **"Estimated Inventory Value"** shall have the meaning ascribed to it in Section 9(d) hereof;
- (x) **"ETA Election"** shall have the meaning ascribed to it in Section 20(c) hereof;
- (y) **"Excluded Assets"** means the following assets, property, rights and interests of the Debtor:
 - (i) all cash on hand, bank deposits, guaranteed investment certificates, securities and other similar cash or cash equivalent items;
 - (ii) all notes receivable and other debts due or accruing due to the Debtor, whether or not related to the Business;
 - (iii) all prepaid expenses not related to the Business;
 - (iv) all income tax refunds, HST refunds and all other tax refunds and amounts that may be due to the Debtor from Canada Revenue Agency or any provincial tax authorities;



- (v) all corporate records, minute books, tax records and returns, and other records having to do with the corporate organization of the Debtor;
- (vi) all lottery tickets, the lottery terminal and related supplies;
- (vii) any goods and chattels located on the Lands and owned by a third party including but not limited to the following items owned by Parkland Fuel Corporation:

Sign Type	Quantity
MID Inserts	(1 per side) 4 inserts
Canopy Inserts & boxes	(1 per side) 4 sides
Price Panel	1
VSAT	1
Speedpass Pad	1
Manual Imprinter	1
G-site/Passport POS device	1
Hurricane Sign Frame	1
Pump topper sign frames	5
Windshield/waste combo unit	4
Column cladding	4 uprights; and

- (viii) all information and materials in electronic and physical form of the Debtor not specifically related to or used in connection with the Business.
- (z) **"Government Authority"** means any person, body, department, bureau, agency, board, tribunal, commission, branch or office of any federal, provincial or municipal government having or claiming to have jurisdiction over part or all of the Purchased Assets, the transaction contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters;
- (aa) **"Hazardous Materials"** means any substance, material, matter or thing defined or regulated by any Environmental Law, contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Government Authority and any "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", all as defined in, referred to or contemplated in any Environmental Law and, not to limit the generality of the foregoing, includes asbestos, mould, urea formaldehyde foam insulation and mono- or poly-chlorinated biphenyl wastes;

- (bb) "**HST**" shall have the meaning ascribed thereto in Section 20(a) hereof;
- (cc) "**ICA**" shall have the meaning ascribed thereto in Section 14(b) hereof;
- (dd) "**Inventory**" means all inventories of or relating to or associated with the Business and situated on the Lands, including:
 - (i) fuel in underground storage tanks; and,
 - (ii) convenience store merchandise.
- (ee) "**Lands**" means the lands legally described on Schedule "A" hereto, together with all easements, rights-of-way, privileges and appurtenances attaching thereto and enuring to the benefit thereof;
- (ff) "**Material Damage**" shall have the meaning ascribed to it in Section 12 hereof;
- (gg) "**Permitted Encumbrances**" means the encumbrances listed in Schedule "B" hereof;
- (hh) "**Personal Property**" means the personal property relating to or associated with the Business situated on the lands and listed on Schedule "C" hereof;
- (ii) "**Purchase Price**" shall have the meaning ascribed thereto in Section 7 hereof;
- (jj) "**Purchased Assets**" means the Lands, the Buildings, the Personal Property, the Inventory and the Rights;
- (kk) "**Purchaser**" means 2745810 Ontario Limited;
- (ll) "**Purchaser's Solicitor**" means Mixa Law;
- (mm) "**Registry Office**" shall have the meaning ascribed to it in Section 11(a) hereof;
- (nn) "**Requisition Date**" means the fifth business day immediately preceding the return date of the motion to obtain the Approval and Vesting Order;
- (oo) "**Rights**" means the right, title and interest, if any, of the Vendor relating to the Land and the Buildings;
- (pp) "**TRS**" shall have the meaning ascribed to it in Section 11(a) hereof;
- (qq) "**Vendor**" means msi Spergel Inc., in its capacity as Court-appointed receiver of the assets, undertakings and properties of the Debtor, and not in its personal or corporate capacity and without personal or corporate liability; and



(rr) "Vendor's Solicitors" means the firm of Chaitons LLP;

2. NATURE OF TRANSACTION

The Purchaser shall purchase and the Vendor shall sell all of the right, title and interest, if any, of the Debtor in the Purchased Assets, upon and subject to the terms of this Agreement.

3. ASSUMED CONTRACTS

- (a) As soon as practicable prior to the Closing Date, the Purchaser shall provide written notice to the Vendor of those contracts and or licenses which relate to the Business which the Purchaser has elected, at its sole discretion, to assume on Closing, if any (individually, an **"Assumed Contract"** and collectively, the **"Assumed Contracts"**), and such notice shall be deemed to be a provision contained in this Agreement.
- (b) Upon and subject to the terms of this Agreement, the Vendor shall assign to the Purchaser all of the Debtor's right, title and interest, if any, in and to the Assumed Contracts pursuant to the Assignment of Contracts and the Purchaser shall assume and indemnify and save harmless the Vendor from and against the obligations and liabilities under the Assumed Contracts arising after Closing.
- (c) This Agreement and any document delivered under this Agreement shall not constitute an assignment or attempted assignment of any Assumed Contract contemplated to be assigned to the Purchaser under this Agreement which is not assignable without the consent of a third party and if such consent has not been obtained such assignment or attempted assignment would constitute a breach of such Assumed Contract.
- (d) The Purchaser shall be solely responsible for obtaining all third party consents which are required or desirable for the assignment of the Assumed Contracts. The Vendor shall cooperate with the Purchaser in obtaining such consents but the Vendor shall be under no obligation to incur any expense or make any payment required to effect the assignment of the Assumed Contracts.
- (e) Any Assumed Contract for which the consent of a third party is required to effect the assignment and for which such third party consent has not been obtained as of Closing may be disclaimed by the Vendor.

4. ASSUMED LIABILITIES

Subject to the terms and conditions of this Agreement, the Purchaser agrees that it will, as and from the Date of Closing, effective as of the Closing, assume, discharge, perform, pay and fulfill and indemnify and save harmless the Vendor from and against the following obligations and liabilities (collectively, the **"Assumed Liabilities"**):



- (a) all obligations and liabilities under the Assumed Contracts arising after Closing; and
- (b) all liabilities and obligations in respect of the Purchased Assets arising or incurred from and after Closing, including, without limitation, all obligations and liabilities relating to the Permitted Encumbrances.

5. **OBLIGATIONS EXCLUDED**

The Purchaser is not assuming and shall not be responsible for any liabilities or obligations of the Debtor other than those liabilities and obligations arising from the Purchased Assets and Assumed Contracts.

6. **EXCLUDED ASSETS**

- (a) The Vendor is not selling and the Purchaser is not purchasing the Excluded Assets, all of which are excluded from the Purchased Assets and the purchase and sale hereunder.
- (b) If any of the Excluded Assets or any proceeds thereof shall at any time come into the possession of or under the control of the Purchaser, such assets and/or proceeds shall be held by the Purchaser, in trust for the benefit of the Vendor. Upon the Purchaser becoming aware that it has come into possession of such assets and/or proceeds, the Purchaser shall forthwith so advise the Vendor in writing of same and shall, if so requested by the Vendor, account and deliver over to the Vendor, at the Vendor's cost, any such assets and/or proceeds.

7. **PURCHASE PRICE**

The aggregate purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the "**Purchase Price**") shall be the sum of (i) one million three hundred thousand _____ dollars (\$ _____), plus (ii) the value of the Inventory calculated in accordance with Section 9(c). The Purchase Price shall be paid, accounted for and satisfied as follows:

- (a) **Deposit:** The Vendor acknowledges receipt from the Purchaser prior to the date of this Agreement of a deposit in the principal amount of \$ _____ (the "**Deposit**"), representing 10% of the Purchase Price excluding the value of the Inventory, which sum shall be held by the Vendor, in trust, as a deposit pending Closing or termination of this Agreement. Subject only to the terms of this Agreement, the Deposit is to be credited on account of the Purchase Price upon completion of the transaction contemplated in this Agreement. In the event that this Agreement is not completed due to the Purchaser's default, the Vendor, in addition to any other remedies that it may have, shall be entitled to retain the Deposit as liquidated damages and not as a penalty. In the event that this Agreement is terminated for any reason whatsoever other than the default of the



Purchaser, the Deposit shall be returned to the Purchaser forthwith, without interest or deduction;

- (b) **Balance Due at Closing:** the balance of the Purchase Price, net of the Deposit and subject to the adjustments contained in this Agreement, by payment at Closing to the Vendor (or as the Vendor may otherwise direct in writing) by way of certified cheque, bank draft or wire transfer drawn upon one of Canada's chartered banks or other financial institution acceptable to the Vendor.
- (c) **Allocations:** The Vendor and the Purchaser acknowledge and agree that they shall each make their own allocations of the Purchase Price between the Purchased Assets for the purposes of the *Income Tax Act* (Canada) and any filings in accordance with the provisions thereof.

8. **CLOSING AND POST-CLOSING ADJUSTMENTS**

- (a) **Closing Adjustments:** Adjustment shall be made, as of 12:01 a.m. on the Date of Closing, for realty taxes, local improvement rates, municipal/provincial levies and charges, water and assessment rates, utilities, fuel costs, and any other items which are usually adjusted in purchase transactions involving commercial properties in Ontario. The Date of Closing shall be for the account of the Purchaser, both as to income and expense. Save and except the adjustment provide for in Section 9(c) for the value of the Inventory, the Vendor shall not be required to re-adjust after closing any item on or omitted from the statement of adjustments.
- (b) **Reduction in Property Taxes:** The Purchaser acknowledges and agrees that the Vendor shall be entitled to the benefit of any reduction in the property taxes payable with respect to the Lands for the period prior to the Closing Date. To the extent that the Purchaser receives any amounts from the applicable municipality in respect of any reduction of property taxes relating to the period prior to the Date of Closing, the Purchaser shall forthwith forward such amounts to the Vendor.

9. **TERMS OF PURCHASE**

- (a) **"As Is, Where Is":** The Purchaser acknowledges that the Vendor is selling and the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis subject to whatever defects, conditions, impediments, Hazardous Materials or deficiencies which may exist on the Date of Closing, including, without limiting the generality of the foregoing, any latent or patent defects in the Purchased Assets and such defects as may be revealed in the Vendor's Deliveries. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets that the Purchaser shall have conducted such inspections of the condition and title to the Purchased Assets as it deems appropriate and shall have



satisfied itself with regard to these matters. No representation, warranty or condition expressed or implied, statutory or non-statutory, oral or written has been or will be given by the Vendor as to title, encumbrances, description, fitness for any present or intended purpose or use, the existence or non-existence of Hazardous Materials, compliance or non-compliance with any Environmental Law, any Environmental Activity from, on or in relation to the Lands, the existence, state, nature, identity, extent or effect of any investigations, administrative orders, control orders, stop orders, compliance orders or any other orders, proceedings or actions under any Environmental Law in relation to the Lands, merchantability, condition, or quality, cost, state of repair, degree of maintenance, durability or in respect of any other matter or thing whatsoever concerning the Purchased Assets, or the right of the Vendor to sell same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* of Ontario do not apply hereto and have been waived by the Purchaser. The descriptions of the Purchased Assets contained in this Agreement are for the purposes of identification only and no representation, warranty or condition has or will be given by the Vendor concerning the accuracy of such descriptions. Any documentation, materials or information provided by the Vendor to the Purchaser regarding the Purchased Assets, or any part thereof, was provided solely for the convenience of the Purchaser and is not warranted or represented to be complete or accurate and does not form part of this Agreement. The Purchaser shall and shall be deemed to rely entirely on its own inspections and investigations concerning the Purchased Assets. The Purchaser acknowledges that it shall have no recourse to the Vendor with respect to the environmental condition of the Lands and has satisfied itself with respect to same. If the Closing occurs, the Purchaser shall assume any and all risks relating to the physical condition of the Purchased Assets which existed on or prior to the Closing Date. Neither the Purchaser nor any permitted occupant of the Lands shall have any recourse to the Vendor as a result of the nature or condition of the Purchased Assets. This section 9(a) shall not merge on Closing and is deemed incorporated by reference into all Closing documents and deliveries.

- (b) **Title and Other Requisitions:** The Purchaser acknowledges that it shall, at its own expense, examine title to the Lands and satisfy itself as to the state thereof, satisfy itself as to outstanding work orders affecting the Lands, satisfy itself as to the use of the Lands being in accordance with applicable zoning requirements and satisfy itself that the Buildings may be insured to the satisfaction of the Purchaser. Title to the Lands shall be good and marketable title in fee simple free from all Encumbrances save and except Permitted Encumbrances. The Purchaser shall be allowed until the Requisition Date, at its own expense, to satisfy itself that on Closing it will acquire title to the Purchased Assets free of any Encumbrances other than Permitted Encumbrances and shall provide Vendor's counsel with notice in writing of any valid requisition or objection in respect of Encumbrances against the Purchased Assets by no later than 5:00 p.m. (Eastern Standard



Time) on the Requisition Date. The Vendor agrees to take reasonable steps and utilize its best efforts to satisfy or comply with any valid requisition. If the Vendor shall, through any cause, be unable to answer or comply with any valid requisition or objection which the Purchaser will not waive, this Agreement shall be at an end (notwithstanding any intervening negotiations or litigation or any attempt to remove or comply with the same) and the full amount of the Deposit shall be returned to the Purchaser forthwith, without interest or deduction and the Purchaser shall not be entitled to any other compensation of any kind whatsoever with respect to the failure to satisfy or comply with such requisition. The Vendor shall not be required to furnish or produce any survey, abstract, deed, declaration or document or evidence of title except those in its possession.

- (c) **Inventory:** The value of the Inventory for the purpose of calculating the Purchase Price shall be calculated as follows: (a) for fuel, at the Vendor's actual invoiced cost for the quantity on hand; and (b) for convenience store merchandise, 45% of the Vendor's retail value.

Not less than two (2) Business Days prior to the Date of Closing the Vendor shall provide to the Purchaser the Vendor's estimated value for the Inventory (the "**Estimated Inventory Value**"). The Estimated Inventory Value shall be used to calculate the Purchase Price for the Closing.

Following Closing the Estimated Inventory Value will be adjusted in accordance with the following: (i) at the Date of Closing a physical count/measure and valuation of the Inventory will be completed by the Vendor using the services of one or more qualified independent professionals acceptable to the Vendor and the Purchaser, acting reasonably (the "**Adjusted Inventory Value**"); (ii) the Adjusted Inventory Value shall be provided by the Vendor to the Purchaser within two (2) Business Days after the Date of Closing; (iii) the Purchase Price shall be adjusted either upwards or downwards, based on whether the Adjusted Inventory Value is greater than or less than the Estimated Inventory Value. It is expressly acknowledged and agreed that:

- (i) both the Vendor and the Purchaser are entitled to be present and monitor the physical count/measure and valuation of the Inventory;
- (ii) the cost of obtaining the independent inventory count and valuation shall be shared equally between the Vendor and the Purchaser;
- (iii) the amount of any adjustment to the Purchase Price shall be paid by certified cheque, bank draft or wire transfer within one (1) Business Day of the delivery by the Vendor to the Purchaser of the Adjusted Inventory Value; and
- (iv) for the purposes of clarity, expired inventory will have a value of zero dollars (\$0.00)



10. **DATE OF CLOSING**

Subject to the provisions of Section 12 hereof, the transaction contemplated hereunder shall be completed (the moment of completion shall be referred to as "**Closing**") the later of the first business day following the date upon which the time to appeal the Approval and Vesting Order has expired, or, in the event that an appeal from the Appeal and Vesting Order is filed, the first business day following the final dismissal of the appeal, or 30 days from acceptance of this offer (the "**Date of Closing**"), unless the parties hereto otherwise agree to such other date in writing. All documents and monies shall be delivered in accordance with the provisions of Section 11 of this Agreement.

11. **ELECTRONIC REGISTRATION**

- (a) In the event that the electronic registration system ("**TERS**") is operative in the relevant land registry office (the "**Registry Office**"), the following provisions shall apply:
- (i) The Purchaser shall be obliged to retain a solicitor who is an authorized TERS user, has the necessary computer facilities to complete the transaction via TERS and is in good standing with the Law Society of Upper Canada to represent the Purchaser in connection with the completion of the transaction and shall authorize such solicitor to enter into the Vendor's solicitor's standard form of escrow closing agreement or document registration agreement which will establish the procedures and timing for closing this transaction, provided they are in accordance with Law Society guidelines (the "**DRA**").
 - (ii) The delivery and exchange of the Closing Documents:
 - (1) shall not occur contemporaneously with the registration of the Deed and other registerable documentation; and
 - (2) shall be governed by the DRA, pursuant to which the Vendor's Solicitors and Purchaser's Solicitor shall hold all Closing Documents in escrow, and will not be entitled to release them except in strict accordance with the provisions of the DRA.
- (b) The Purchaser expressly acknowledges and agrees that the Vendor will not release the Approval and Vesting Order for registration until the balance of funds due on Closing, in accordance with the Statement of Adjustments, are remitted by personal delivery to the Vendor's Solicitors (or in such other manner as the Vendor or Vendor's Solicitors may direct) prior to the release of the Approval and Vesting Order for registration, which the Vendor's Solicitors will hold in escrow.



- (c) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been made by the Vendor upon the Purchaser when the Vendor's Solicitors have:
- (i) delivered to the Purchaser's Solicitor all Closing Documents required to be delivered by the Vendor to the Purchaser pursuant to Section 17 hereof;
 - (ii) advised the Purchaser's Solicitor in writing that the Vendor is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
 - (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Vendor's Solicitors without the cooperation or participation of the Purchaser's Solicitor, and specifically when the "completeness signatory" for the Approval and Vesting Order has been electronically "signed" by the Vendor's Solicitors,

without the necessity of personally attending upon the Purchaser or the Purchaser's Solicitor with the Closing Documents, and without any requirement to have an independent witness evidencing the foregoing.

- (d) Notwithstanding anything contained in this Agreement to the contrary, it is expressly understood and agreed by the parties hereto that an effective tender shall be deemed to have been made by the Purchaser upon the Vendor, when the Purchaser's Solicitor has:
- (i) delivered to the Vendor's Solicitor the balance due at Closing and all Closing Documents required to be delivered by the Purchaser to the Vendor pursuant to Section 18 hereof;
 - (ii) advised the Vendor's Solicitors in writing that the Purchaser is ready, willing and able to complete the transaction in accordance with the terms and provisions of this Agreement; and
 - (iii) completed all steps required by TERS to complete this transaction that can be performed or undertaken by the Purchaser's Solicitor without the cooperation or participation of the Vendor's Solicitors, and specifically when the "completeness signatory" for the Approval and Vesting Order has been electronically "signed" by the Purchaser's Solicitor,

without the necessity of personally attending upon the Vendor or the Vendor's Solicitors with the Closing Documents, and without any requirement to have an independent witness evidencing the foregoing.



- (e) If through no fault of the Purchaser's Solicitor or the Vendor's Solicitors TERS is unavailable on the Closing Date, such that the Purchaser's Solicitor is unable to register the Approval and Vesting Order, then the transaction contemplated by this Agreement shall be completed in escrow in accordance with the terms of the DRA which shall apply until such time as TERS becomes available. Upon TERS becoming available, the Vendor's Solicitors shall advise the Purchaser's Solicitor forthwith and the parties shall arrange to complete the registration of the Approval and Vesting Order as expeditiously as possible, whereupon the escrow shall be released.

In the event of any conflict or inconsistency between the terms of this Section 11 and the terms of the DRA, the terms of this Section 11 shall prevail.

12. **PRE-CLOSING RISK AND POST-DAMAGE ENTITLEMENTS**

The Purchased Assets are and shall remain at the Vendor's risk until Closing. In the event of damage to the Purchased Assets prior to the Closing Date, in excess of two hundred and fifty thousand (\$250,000) Dollars, as determined by an independent third party expert appointed by the Vendor ("**Material Damage**"), the Purchaser may, at its option: (a) complete the transaction contemplated by this Agreement without reduction of the Purchase Price, in which event all proceeds of insurance or compensation shall be payable to the Purchaser; or (b) rescind this Agreement, and the parties hereto shall have no further rights and remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without interest or deduction, and the Purchaser shall not be entitled to any other compensation of any kind whatsoever with respect to the failure to close as a result of such loss or damage. The Vendor shall use its best efforts to advise the Purchaser, in writing, within twenty-four (24) hours of the Vendor learning of any Material Damage to the Purchased Assets. The Purchaser shall have five (5) days, or such longer period as the Vendor in its sole and absolute discretion may agree to in writing, from delivery of such notice to advise the Vendor in writing as to its election, if any. In the event that the Purchaser fails to notify the Vendor in writing as to its election within the prescribed time period, the Vendor may terminate this Agreement immediately by providing written notice to the Purchaser and the parties hereto shall have no further rights and remedies against each other and the Deposit shall be returned to the Purchaser forthwith, without deduction, failing which, the Purchaser shall be deemed to have elected to complete the transaction in accordance with subparagraph (a) above.

13. **VENDOR'S REPRESENTATIONS AND WARRANTIES**

The Vendor represents and warrants to the Purchaser that, as at the date hereof and as of the Closing Date:

- (a) **Non-Residency**: the Vendor is not now and does not intend to become, prior to Closing, a non-resident of Canada within the meaning and purpose of Section 116 of the *Income*



Tax Act (Canada) and the Vendor is not now and does not intend to become, prior to Closing, an agent or a trustee of such non-resident;

- (b) **Court Order**: the Court Order is in full force and effect; and
- (c) **HST Registration**: The Vendor shall be registered for the purposes of the ETA prior to the Closing and shall provide its registration number to the Purchaser on or prior to the Closing.

14. **PURCHASER'S REPRESENTATIONS AND WARRANTIES**

The Purchaser represents and warrants to the Vendor that, as at the date hereof and as of the Closing Date:

- (a) **Corporate Matters Regarding Purchaser**: the Purchaser is a corporation duly incorporated, organized and validly subsisting under the laws of Ontario and has all requisite corporate power, authority and capacity to execute and deliver and to perform each of its obligations pursuant to this Agreement; neither the execution of this Agreement nor the performance (such performance shall include, without limitation, the exercise of any of the Purchaser's rights and compliance with each of the Purchaser's obligations hereunder) by the Purchaser of the transaction contemplated hereunder will violate:
 - (i) the Purchaser's articles of incorporation and by-laws;
 - (ii) any agreement to which the Purchaser is bound or is a party;
 - (iii) any judgement or order of a court of competent authority or any Government Authority; or
 - (iv) any applicable law;

and the Purchaser has duly taken, or has caused to be taken, all requisite corporate action required to be taken by it to authorize the execution and delivery of this Agreement and the performance of each of its obligations hereunder;

- (b) **Investment Canada Act (Canada)**: either (i) the Purchaser is not a "non-Canadian", as defined in the *Investment Canada Act* (Canada) ("ICA"); or (ii) if the Purchaser is a "non-Canadian", this transaction is not a reviewable transaction under the ICA, or, if applicable, the Purchaser is a non-Canadian for the purpose of the ICA and will within three (3) Business Days of the execution of this Agreement submit to Investment Canada a fully completed Application for Review with respect to the transaction contemplated in this



Agreement and will use its best efforts to obtain Investment Canada Approval within ten (10) days thereafter.

- (c) **Brokers:** The Purchaser has not engaged any broker or other agent in connection with the transaction provided for in this Agreement and, accordingly, there is no commission, fee or other remuneration payable to any broker or agent who purports or may purport to have acted for the Purchaser;
- (d) **HST Registration:** The Purchaser shall be registered for the purposes of the ETA prior to the Closing and shall provide its registration number to the Vendor on or prior to the Closing.

The Purchaser shall promptly deliver to the Vendor written notice specifying the occurrence or likely occurrence of any event which may result in any of the Purchaser's representations and warranties contained in this Agreement not continuing to be true as at Closing.

15. **CONDITIONS OF CLOSING IN FAVOUR OF THE VENDOR**

- (a) The Vendor's obligations contained in this Agreement shall be subject to the fulfilment at or prior to Closing, of each of the following conditions:
 - (i) **Representations and Warranties:** each of the Purchaser's representations and warranties contained in this Agreement shall be true at and as of the date hereof and each of such representations and warranties shall continue to be true as at Closing;
 - (ii) **Covenants/Agreements:** the Purchaser shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing;
 - (iii) **Redemption or Loss of Control:** the Vendor shall not have lost its ability to convey the Purchased Assets or any part thereof;
 - (iv) **No Legal Action:** no action or proceeding shall be pending or threatened by any person to enjoin, restrict or prohibit the completion of the transaction contemplated by this Agreement or the right of the Purchaser to own the Purchased Assets after the time of Closing and no Order restraining or prohibiting Closing shall have been made by the Court;
 - (v) **Approval and Vesting Order:** the Vendor shall have obtained the Approval and Vesting Order.



- (vi) **No Stay or Appeal:** The Approval and Vesting Order shall not have been stayed, varied or vacated and shall be in full force and effect and no appeal of the Approval and Vesting Order shall have been commenced and be outstanding; and
- (vii) **Corporate Steps and Proceedings:** all necessary corporate steps and proceedings shall have been taken by the Purchaser to permit the Purchaser's execution of this Agreement and performance of each of the Purchaser's obligations hereunder.

For greater certainty, each of the conditions contained in this Section 15(a) have been inserted for the benefit of the Vendor.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled the condition contained in Section 15(v) and the Purchaser covenants to use its reasonable commercial efforts to fulfil or cause to be fulfilled the conditions contained in Section 15 hereof prior to Closing which are under the Purchaser's control.
- (c) In the event that any of the foregoing conditions shall not be fulfilled, in whole or in part, at or prior to Closing, the Vendor may, in its absolute and unfettered discretion, terminate this Agreement by written notice to the Purchaser without penalty or liability whatsoever to the Vendor, subject to the provisions of Section 7(a) hereof with respect to the Deposit, and otherwise without cost or other compensation and each of the Vendor and the Purchaser shall be released from its obligations and liabilities hereunder.

16. **CONDITIONS OF CLOSING IN FAVOUR OF THE PURCHASER**

- (a) The Purchaser's obligations contained in this Agreement shall be subject to the fulfilment, at or prior to Closing, of each of the following conditions:
 - (i) **Representations and Warranties:** each of the Vendor's representations and warranties contained in this Agreement shall be true at and as of the date hereof and each of such representations and warranties shall continue to be true as at Closing;
 - (ii) **Covenants/Agreements:** the Vendor shall have complied with each and every covenant/agreement made by it herein and required to be completed at or prior to Closing;
 - (iii) **No Legal Action:** no action or proceeding shall be pending or threatened by any person to enjoin, restrict or prohibit the completion of the transaction contemplated by this Agreement or the right of the Purchaser to own the Purchased Assets after the time of Closing and no Order restraining or prohibiting Closing shall have been made by the Court; and



- (iv) **Approval and Vesting Order:** the Purchaser shall have obtained the Approval and Vesting Order; and
- (v) **No Stay or Appeal:** The Approval and Vesting Order shall not have been stayed, varied or vacated and shall be in full force and effect and no appeal of the Approval and Vesting Order shall have been commenced and be outstanding.

For greater certainty, each of the conditions contained in this Section 16(a) have been inserted for the benefit of the Purchaser.

- (b) The Vendor covenants to use reasonable commercial efforts to fulfil or cause to be fulfilled all of the conditions contained in section 16 which are under the Vendor's control.
- (c) In the event that any of the foregoing conditions shall not be fulfilled at or prior to Closing, the Purchaser may, in its absolute and unfettered discretion, terminate this Agreement by written notice to the Vendor without any penalty or liability whatsoever to the Purchaser, subject to the provisions of Section 7(a) hereof with respect to the Deposit, and otherwise without cost or other compensation and each of the Vendor and the Purchaser shall be released from all other obligations hereunder.

17. **VENDOR'S CLOSING DELIVERIES**

The Vendor covenants to execute, where applicable, and deliver the following to the Purchaser at Closing or on such other date expressly provided herein:

- (a) **Approval and Vesting Order:** A copy of the issued and entered Approval and Vesting Order;
- (b) **Statement of Adjustments:** a statement of adjustments prepared in accordance with Section 7 hereof, to be delivered not less than two (2) Business Days prior to Closing;
- (c) **Vendor's Certificate:** the Vendor's Certificate setting out that each of the Vendor's representations and warranties contained in this Agreement are true as of Closing and that each of the conditions in section 15 have been fulfilled, performed or waived as of the Time of Closing;
- (d) **Direction Regarding Funds:** a direction from the Vendor designating the party or parties to which the balance of the Purchase Price described in Subsection 7(b) hereof shall be paid; in the event that the Vendor designates more than one party then it shall also designate amounts payable to each of the parties;
- (e) **Keys, etc.:** all keys, security cards and access codes for the Buildings in the Vendor's possession;



- (f) **ETA Election**: the ETA Election, if applicable;
- (g) **Assignment of Contracts**: the Assignment of Contracts if applicable;
- (h) **Receiver's Certificate**: the Receiver's Certificate as provided for in the Approval and Vesting Order;
- (i) **Certificate Re: Appeals**: a certificate of the Vendor certifying that except as disclosed in the Certificate, the Vendor has not been served with any notice of appeal with respect to the Court Order or the Approval and Vesting Order, or any notice of any application, motion or proceeding seeking to set aside or vary the Court Order or Approval and Vesting Order or to enjoin, restrict or prohibit the transaction provided for in this Agreement.
- (j) **Non-Residence Certificate**: the Vendor's certificate setting out that the Vendor is not a "non-resident" of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada) and is not the agent nor trustee of a "non-resident";
- (k) **Receipt**: a receipt from the Vendor for the Purchase Price; and
- (l) **Further Documentation**: such further documentation relating to the completion of this Agreement as may be reasonably required by the Purchaser or the Purchaser's Solicitor, provided that such further documentation is in a form satisfactory to the Vendor, taking into consideration the fact that the Vendor is selling the Purchased Assets as Receiver.

18. **PURCHASER'S CLOSING DELIVERIES**

The Purchaser covenants to execute, where applicable, and deliver the following to the Vendor at or prior to Closing:

- (a) **Undertaking To Re-Adjust**: the Purchaser's undertaking to re-adjust any item on or omitted from the statement of adjustments, subject to the limitation contained in Subsection 9(a) hereof;
- (b) **Purchaser's Certificate**: the Purchaser's certificate setting out that each of the Purchaser's representations and warranties contained in this Agreement are true as at Closing and that each of the conditions in section 16 have been fulfilled, performed or waived as of the Time of Closing;
- (c) **Directors' Resolution**: a certified copy of a resolution of the board of directors of the Purchaser authorizing the execution of this Agreement and performance of each of the Purchaser's obligations hereunder;
- (d) **Property Tax Reduction**: such directions, acknowledgments and other documents as may be necessary or desirable to ensure that the benefit of any reduction in the property taxes



payable with respect to the Lands for the period prior to the Closing Date is received by the Vendor;

- (e) **Taxes**: payment or evidence of payment of applicable federal and provincial taxes or alternatively, the ETA Election, if applicable, or appropriate self-assessment or exemption documentation;
- (f) **HST Indemnity**: the indemnity provided for under Subsection 20(d) hereof;
- (g) **Certificate of Incumbency**: a certificate of incumbency setting out the names and specimen signatures of each of the directors and officers of the Purchaser;
- (h) **Environmental Indemnity**: an environmental indemnity indemnifying and holding the Vendor harmless from any and all damages, claims, actions, losses, costs, liabilities or expenses (collectively "**Damages**") suffered or incurred by the Vendor, directly or indirectly, as a result of or in connection with any of the following, and without restricting the generality of the foregoing, which include Damages incurred in addressing an administrative order by a Government Authority or in addressing a notice, investigation or other process which could reasonably be anticipated to result in such an order:
 - (i) the presence or release of any Hazardous Materials in, on or under the Lands or the threat of a release;
 - (ii) the presence of any Hazardous Materials in, on or under properties adjoining or proximate to the Lands;
 - (iii) any other environmental matters relating to the Lands;
 - (iv) the breach by the Purchaser or those for whom it is responsible at law of any Environmental Law applicable to the Lands; or,
 - (v) the release or threatened release of any Hazardous Materials owned, managed, generated, disposed of, controlled or transported by or on behalf of the Purchaser.
- (i) **Balance Due at Closing**: the balance of the Purchase Price described in Subsection 7(b) hereof;
- (j) **Assignment of Contracts**: the Assignment of Contracts if applicable; and
- (k) **Further Documentation**: any other documentation relative to the completion of this Agreement as may reasonably be required by the Vendor or the Vendor's Solicitors.



19. **PLANNING ACT (ONTARIO)**

This Agreement shall be effective to create an interest in the Lands for the Purchaser only if Part VI of the *Planning Act* (Ontario) is complied with prior to Closing.

20. **HARMONIZED GOODS AND SERVICES TAX**

- (a) **Application of HST to this Agreement:** If the transaction contemplated hereunder shall be subject to Harmonized sales tax ("HST") levied pursuant to the Act, then HST shall be in addition to and not included in the Purchase Price, shall be payable by the Purchaser and shall be collected and remitted in accordance with the Act.
- (b) **HST Registration:** The Purchaser is registered for the purposes of the Act, and its HST number is 74397 9676 RT0001, or shall be registered as of Closing.
- (c) **Self-Assessment:** If part or all of the said transaction is subject to HST then, where applicable, the Purchaser shall have the option of furnishing the Vendor with appropriate exemption certificates and/or self-assessment indemnification documentation in form satisfactory to the Vendor. If available, the Vendor agrees to execute an election pursuant to s. 167(1) of the Act to have the sale of the Purchased Assets take place without the requirement for the collection or remittance of HST to the extent possible (the "**ETA Election**"). In such case, the Purchaser agrees to file such election in accordance with the provisions of the Act.
- (d) **HST Indemnity:** The Purchaser shall indemnify and save harmless the Vendor from all claims, liabilities, penalties, interest, costs and legal and other expenses incurred, directly or indirectly, in connection with the assessment of HST payable in respect of the transaction contemplated hereunder.

21. **POSSESSION**

The Vendor shall remain in possession of the Purchased Assets until the time of Closing. Upon the completion of the transaction, the Vendor shall yield up possession of the Purchased Assets to the Purchaser and the Purchaser shall take possession of the Purchased Assets where situate. Title to the Purchased Assets shall not pass to the Purchaser until the completion of the transaction provided for herein and the Receiver's Certificate has been delivered to the Purchaser. The Vendor shall be entitled, but shall not be obligated, to remove from the Buildings any chattels, books, records, documents or other personal property situate in the Buildings which does not form part of the Purchased Assets. Any original books and records of the Debtor which remain on the Lands at Closing shall be retained by the Purchaser and made available to the Vendor for inspection for a period of six (6) years after the Date of Closing or such longer period as may be required by applicable laws.



22. **NOTICE**

Any notice given hereunder shall be in writing and delivered or communicated by facsimile or electronic transmission to:

in the case of the Purchaser to:

(a) In the case of the Purchaser:

61 Beacon Hill Dr

Brampton, ON L6X 1H7

Attention: Sukhwinder Mann Tel.:
416 617 2405

Fax: _____

Email: sam@ugofuel.com _____

and with a copy to the Purchaser's Solicitor:

1400-10 King St. E

Toronto, ON M5C 1C3

Attention: Joel Mixa _____

Tel.: 647 499 8848 _____

Fax: 844 496 7197 _____

Email: joel@mixelaw.com _____



and in the case of the Vendor to:

msi Spergel Inc., in its Capacity as
Court-Appointed Receiver of 8331707 Canada Inc.
200-505 Consumers Road
Toronto, ON M2J 4V8

Attention: Deborah Hornbostel
Email: deborah@spergel.ca
Tel. & Telecopier: (416) 498-4308

with a copy to the Vendor's Solicitors at:

Chaitons LLP
5000 Yonge St, 10th Floor
North York, ON M2N 7E9

Attention: Sam Rappos
Email: samr@chaitons.com
Tel: 416-218-1137
Telecopier: 416-222-8402

Such notice shall be deemed to have been delivered upon delivery or communicated upon transmission unless such notice is delivered or transmitted outside of usual business hours, in which event the notice shall be deemed to have been delivered or transmitted on the next Business Day. A party may change its address and/or telecopier machine number by providing notice in accordance with this Section 22.

23. **WAIVER OF CONDITIONS**

Except as otherwise provided in this Agreement, all conditions contained herein have been inserted for the benefit of either the Vendor or the Purchaser, as indicated, and are conditions of the obligations of such party to complete the transaction contemplated hereunder at Closing and are not conditions precedent of this Agreement. Any one or more of the said conditions may be waived, in writing, in whole or in part, by the benefiting party without prejudice to the benefiting party's right of termination in the event of the non-fulfilment of any other condition, and, if so waived, this Agreement shall be read exclusive of the said condition or conditions so waived. For greater certainty, the closing of the transaction contemplated hereunder by a party hereof shall be deemed to be a waiver by such party of compliance with any condition inserted for its benefit and not satisfied at Closing.



24. **SEVERABILITY**

If any provision contained in this Agreement or the application thereof to any person/entity or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement and the application of such provision to persons/entities or circumstances other than those to whom/which it is held invalid or unenforceable, shall not be affected thereby and each provision contained in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

25. **DIVISION/HEADINGS**

The division of this Agreement into Sections, Subsections, Paragraphs and Subparagraphs and the insertion of headings or captions are for convenience of reference only and shall not affect the construction or interpretation of this Agreement or any part hereof.

26. **ENTIRE AGREEMENT**

This Agreement and the schedules attached hereto constitute the entire agreement between the Vendor and the Purchaser in respect of the Purchased Assets. Each of the parties acknowledges that, except as contained in this Agreement, there is no representation, warranty, collateral agreement or condition (whether a direct or collateral condition or an express or implied condition) which induced it to enter into this Agreement.

27. **CUMULATIVE REMEDIES**

No remedy conferred upon or reserved to one or both of the parties hereto is intended to be exclusive of any other remedy, but each remedy shall be cumulative and in addition to every other remedy conferred upon or reserved hereunder, whether such remedy shall be existing or hereafter existing, and whether such remedy shall become available under common law, equity or statute.

28. **INTERPRETATION**

This Agreement shall be read with all changes of gender and number as required by the context.

29. **REFERENCES TO STATUTES**

Except as otherwise provided in this Agreement, references to any statute herein shall be deemed to be a reference to such statute and any and all regulations from time to time promulgated thereunder and to such statute and regulations as amended or re-enacted from time to time. Any reference herein to a specific section or sections, paragraph or paragraphs and/or clause or clauses of any statute or regulations promulgated thereunder shall be deemed to include a reference to any corresponding provision of future law.

30. **TIME OF ESSENCE**

Time shall in all respects be of the essence hereof provided that the time for the doing or completing of any matter referred to herein may be extended or abridged by an agreement, in writing, executed by the Vendor and the Purchaser or their respective solicitors who are hereby expressly appointed for that purpose.

31. **CANADIAN FUNDS**

All references to dollar amounts contained in this Agreement shall be deemed to refer to Canadian funds.

32. **TENDER**

Any tender of notices, documents and/or monies hereunder may be made upon the Vendor or the Purchaser or their respective solicitors. Monies may be tendered by a negotiable cheque certified by a Canadian chartered bank or by an official bank draft drawn upon one of Canada's five largest chartered banks.

33. **FURTHER ASSURANCES**

Except as otherwise expressed herein to the contrary, each party shall, without receiving additional consideration therefore, co-operate with and take such additional actions as may be requested by the other party, acting reasonably, in order to carry out the purpose and intent of this Agreement. Provided that upon the discharge of the Vendor as receiver, the Vendor's obligation under this paragraph shall be at an end and the Vendor shall have no continuing obligation under this paragraph.

34. **CONFIDENTIALITY**

The Purchaser and its agents, advisors and authorized representatives shall maintain in strict confidence, until Closing, all information and materials delivered or made available pursuant to this Agreement, except as may reasonably be disclosed by the Purchaser:

- (a) to facilitate the procurement of financing for the Purchased Assets;



- (b) to enforce any of its rights/remedies hereunder;
- (c) to enforce any of its other rights/remedies, if any, pursuant to common law, equity or statute; or
- (d) to comply with laws requiring disclosure.

In the event that the transaction contemplated in this Agreement is, for any reason whatsoever, not completed, then the Purchaser shall, upon request from the Vendor, promptly return to the Vendor all materials delivered hereunder and deliver to the Vendor all copies of materials made available hereunder.

35. **NON-BUSINESS DAYS**

In the event that any date specified or any date contemplated in this Agreement shall fall upon a day other than a Business Day, then such date shall be deemed to be the next following Business Day.

36. **DOCUMENTATION PREPARATION AND REGISTRATION**

The Purchaser shall prepare or cause to be prepared the land transfer tax affidavit to be attached to the Approval and Vesting Order. Each of the parties shall deliver draft documentation to the other not less than five (5) Business Days prior to Closing. Except as otherwise expressly provided in this Agreement, all such documentation shall be in form and have substance satisfactory to the Vendor and the Purchaser, acting reasonably. The Purchaser shall be responsible for and pay all registration costs incurred in connection with the transaction contemplated in this Agreement. Except as otherwise expressly provided in this Agreement, each of the Vendor and the Purchaser shall be responsible for and pay all legal and other professional/consultant fees and disbursements incurred by it, directly or indirectly, in connection with this Agreement.

37. **LAND TRANSFER TAXES AND SALES TAXES**

The Purchaser shall pay on or prior to Closing all applicable federal and provincial taxes exigible in connection with the transaction hereunder including, without limitation, HST and land transfer taxes (as required pursuant to the *Land Transfer Tax Act* (Ontario)).

38. **GOVERNING LAWS**

This Agreement has been executed in the Province of Ontario and, for all purposes, shall be construed in accordance with and governed by the laws in effect within the Province of Ontario and each of the parties irrevocably attains to the Courts of the Province of Ontario.

39. **ASSIGNMENT AND ENUREMENT**

The Purchaser shall not assign part or all of its interest under this Agreement without the prior written consent of the Vendor, which consent may be arbitrarily withheld. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.

40. **COMMISSION**

The Vendor has not retained an agent in regard to the sale of the Purchased Assets to the Purchaser. The Vendor agrees that in the event that it does hire an agent that it shall be responsible for paying any commission or other remuneration payable to any agent retained by the Vendor in connection with the sale of the Purchased Assets and the Vendor agrees to indemnify and save harmless the Purchaser from and against any claim for such commission or other remuneration.

41. **NON-REGISTRATION OF AGREEMENT**

The Purchaser acknowledges that this Agreement is personal to the Purchaser and that this Agreement or any monies paid hereunder do not create an interest in the Lands and the Purchaser further acknowledges that upon any breach of this Agreement by the Vendor, the Purchaser has an adequate remedy in damages. The Purchaser agrees that it will not register or cause or permit to be registered this Agreement and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Lands, and the Purchaser shall be deemed to be in default under this Agreement if it makes any registration or causes or permits any registration to be made on title to the Lands prior to the Date of Closing.

42. **VENDOR'S CAPACITY**

It is acknowledged by the Purchaser that msi Spergel Inc. is entering into this Agreement solely in its capacity as Court-appointed receiver pursuant to the Court Order and that msi Spergel Inc. shall have no personal or corporate liability under or as a result of this Agreement. Any claim against msi Spergel Inc. shall be limited to and only enforceable against the property and assets then held by or available to it in its capacity as receiver of the Debtor, and shall not apply to its personal property and other assets held by it in any other capacity. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Purchased Assets.

43. **FURTHER ASSURANCES**

Each of the parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other parties hereto



may reasonably require from time to time after Closing at the expense of the requesting party for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement. Provided that upon the discharge of the Vendor as receiver, the Vendor's obligations under this paragraph shall be at an end and neither the Vendor nor msi Spergel Inc. shall have any continuing obligation under this paragraph.

44. **WAIVER, AMENDMENT**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

45. **TIME FOR ACCEPTANCE**

The offer to purchase comprising this Agreement shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. on the 17th day of June, 2021, after which time, if not accepted and notice of such acceptance communicated to the Purchaser, then the said offer to purchase shall be null and void and of no further force and effect. This Agreement may be accepted by giving a copy thereof to the Purchaser with the Vendor's acceptance endorsed thereon personally or by facsimile or other electronic transmission. If so accepted prior to the expiration hereof, this Agreement shall constitute a binding contract between the parties to purchase and sell the Purchased Assets on the terms and conditions set forth herein and is not subject to any conditions precedent.

DATED at Brampton _____, Ontario as of the date first mentioned above.

2745810 Ontario Limited

DocuSigned by:
By: Sukhwinder Mann
Name: Sukhwinder Mann
Title: Director


I have authority to bind the Corporation.

The Vendor hereby accepts the foregoing offer to purchase and its terms and agrees with the Purchaser to duly complete the transaction contemplated thereunder.



DATED at Toronto, Ontario this 17th day of June, 2021.

msi Spergel Inc., in its capacity as Court-Appointed Receiver of the assets, undertakings and properties of 8331707 Canada Inc., and not in its personal or corporate capacity and without personal or corporate liability

By: 
Name: Deborah Hornbostel
Title: Partner

I have authority to bind the Corporation.

Schedule "A" – LEGAL DESCRIPTION

PART LOT 4 PLAN 169 AS IN RO803884

CITY OF GUELPH (PIN:71359-0141(LT))

A handwritten signature in blue ink, appearing to be 'DJ', is located in the bottom right corner of the page.

Schedule "B" – PERMITTED ENCUMBRANCES

1. Any undetermined or inchoate liens and charges incidental to the Purchased Assets.
2. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
3. The provisions of governing municipal by-laws;
4. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable;
5. Any defects or minor encroachments which might be revealed by an up to date survey of the Lands;
6. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
7. Any registered restrictions or covenants that run with the Lands provided that same have been complied with in all material respects;
8. Any easements, rights of way or right of re-entry in favour of a developer, not materially or adversely impairing the present use of the Lands;
9. Any agreements with municipal, utilities or public authorities provided that same have been complied with in all material respects;
- :
10. Specific Encumbrance: Instrument R0817533 being a site plan agreement in favour of the Corporation of the City of Guelph



Schedule "C" – PERSONAL PROPERTY

Retail Counters

Restaurant Equipment

DY

Appendix I

**MOTOR FUEL SUPPLY AGREEMENT
ESSO-BRANDED MOTOR FUELS**

This Agreement is made on MARCH 11 - 2015 (the "Effective Date")

BETWEEN:

PARKLAND INDUSTRIES LTD.
(hereinafter called "Distributor")

- and -

2011263 ONTARIO INC.
(hereinafter called "Dealer") having a
motor fuels "Marketing Premises" located at
59 Woodlawn Road W, Guelph, Ontario N1H 1G8

- and -

**BALBIR SINGH DHALIWAL, LAKHVIR S. DHALIWAL
and MANMOHN S. GREWAL**
(hereinafter called the "Guarantors")

WHEREAS Distributor is engaged in the sale and distribution of high quality petroleum products under the nationally and internationally known ESSO trade mark;

AND WHEREAS the Dealer desires to carry on the business of the sale of petroleum products in accordance with this Agreement;

AND WHEREAS the Guarantors have agreed to guarantee the obligations of the Dealer under this Agreement as consideration in part for the Distributor entering into this Agreement;

AND WHEREAS, based on its marketing strategies Imperial Oil, a partnership of Imperial Oil Limited and McColl-Frontenac Petroleum Inc. ("Imperial Oil") has established the following core values ("Core Values"), namely

- To deliver quality products that customers can trust.
- To employ friendly, helpful people.
- To provide speedy, reliable and friendly service.
- To provide clean, attractive and well maintained retail facilities.
- To be a responsible, environmentally conscious neighbour.

NOW THEREFORE the Distributor and the Dealer agree as follows:

1. Grant

Distributor, under an Esso Branded Distributor Agreement with Imperial Oil, has the right to grant to Dealer the use of certain Imperial Oil owned proprietary marks. Subject to the terms and conditions of this Agreement, Distributor grants Dealer the right to use the "Esso" mark and such other proprietary marks specified by Imperial Oil, from time to time, for use in connection with the sale of Esso-branded motor fuels ("Proprietary Marks") at the Marketing Premises. Dealer hereby accepts the use of the Proprietary Marks subject to the terms and conditions of this Agreement and agrees to conduct its

changes prescribed by government rules, regulations or orders or resulting from any plan of allocation by Imperial Oil.

- c. In each contract year, Dealer must purchase from Distributor a minimum of eighty percent (80%) of the Minimum Annual Volume for Esso-branded motor fuel. Should Dealer fail, in any contract year, to purchase the aforementioned 80% of the Minimum Annual Volume of Esso-branded motor fuel, Distributor may terminate or not renew this Agreement upon giving 60 days prior written notice to the Dealer and the Guarantor(s).

5. Dealer Payment

- a. As consideration in part for the Dealer accepting the use of the Proprietary marks as set out herein, Distributor shall pay to the Dealer a payment in the amount of **1.30 cents** per litre (plus applicable taxes) multiplied by the number of litres of the Esso-Branded motor fuels purchased by the Dealer from Distributor pursuant to this Agreement (the "Dealer Payment"). The Dealer Payment shall be calculated by Distributor based on the Distributors' records and paid by Distributor to the Dealer monthly in arrears within twenty (20) days immediately following the end of each month during the term of this Agreement.
- b. Distributor shall have the right to reduce the amount of the Dealer Payment upon sixty (60) days' prior written notice to the Dealer and the Guarantors if the Dealer fails to purchase eighty (80) percent of the Minimum Annual Volume in any contract year.
- c. It shall be a condition precedent to the payment of the Dealer Payment each month that: (i) the Dealer shall not be in default in the observance or performance of any of the covenants or agreements contained in this Agreement; and (ii) this Agreement shall not have terminated.

6. Right of First Refusal

- a. The Marketing Premises are located on those lands legally described as:

PART LOT 4 PLAN 169 AS IN R0803884; GUELPH

(hereinafter referred to as the "Lands"). The Dealer operates its Esso branded motor fuels business and other ancillary business from the Lands (hereinafter referred to as the "Business"). If at any time during the term of this Agreement the Dealer shall receive a bona fide offer (hereinafter in this Article referred to as the "Offer") from a third party with whom the Dealer is dealing at arm's length (the "Third Party") for the purchase of the Business and/or the Lands in whole or in part and the Dealer is prepared to accept the Offer, the Dealer shall, before accepting the Offer, give written notice to the Distributor within three (3) Business Days of the date the Dealer received the Offer by sending to the Distributor an executed copy of the Offer and notifying the Distributor therewith of the Dealer's desire to accept the Offer. The Distributor shall have the right to purchase on the terms and conditions of the Offer, the Business and/or the Lands referred to in the Offer. The right to purchase shall be exercised by the Distributor delivering notice in writing thereof to the Dealer within thirty (30) Business Days after receipt of a copy of the executed Offer (hereinafter in this Article referred to as the "Exercise Period").

- b. In the event the Distributor does not exercise the right to purchase the Business and/or the Lands referred to in the Offer within the Exercise Period, the Dealer shall be at liberty to complete the sale of the Business and/or the Lands referred to in the Offer to the Third Party; provided that such sale shall be completed within ninety (90) days from the expiry of the Exercise Period, failing which the Dealer's right to complete such sale shall terminate.

- c. In the event that the Distributor shall notify the Dealer in writing within the Exercise Period of its desire to purchase the Business and/or the Lands referred to in the Offer, a binding agreement of purchase and sale shall exist between the Dealer and the Distributor with respect to the Business and/or the Lands at and for a price equal to that described in the Offer and on the terms and conditions therein contained. In the event the Offer provides for financing from the Dealer to allow the Third Party to close the purchase of the Business and/or the Lands referred to in the Offer, the Distributor shall pay the principal amount of the Dealer financing in cash on closing.
- d. The Dealer covenants and agrees that the Dealer shall not:
 - (i) accept any offer for the purchase of all or any portion of the Land which will require some form of consideration, other than cash or cash equivalent in Canadian currency, to be paid, it being intended that the consideration not be of a unique nature such that the Distributor would be unable to provide the same consideration;
 - (ii) accept any offer to purchase the Business and/or the Lands from a party or parties with whom the Dealer is not dealing at arm's length;
 - (iii) accept any offer to purchase the Business and/or the Lands which is not a bona fide offer.
- e. Any purchase and sale of the Business and/or the Lands pursuant to the terms of this Agreement shall close on the thirtieth (30th) day after the expiry of the Exercise Period or on such other date as the Parties may agree upon.
- f. The Dealer covenants and agrees that as a condition precedent to the Distributor allowing the Dealer to sell the Business and/or the Lands to a third party, the Dealer will execute and deliver to the solicitor acting on the Dealer's behalf in such transaction an irrevocable authorization and direction to pay to the Distributor, out of the proceeds of the transaction, such amounts of money that are still due and owing to the Distributor by the Dealer. In the event the proceeds of the sale paid to the Distributor are insufficient to extinguish the Dealer's indebtedness to the Distributor, the Dealer shall continue to be liable to the Distributor for any remaining indebtedness to the Distributor.

7. Price and Terms of Sale

- a. The Dealer shall pay Distributor for the Esso-branded motor fuels purchased pursuant to this Agreement the price thereof in effect at the Distributors' designated loading rack at the time that the motor fuels are loaded for delivery to the Dealer, plus the cost of delivery, plus all applicable taxes. The motor fuel prices hereunder will be established daily by the Distributor and are subject to change at any time and without notice. In the event of a shortage or unavailability of the motor fuels at the Distributors' designated loading rack for any particular delivery to the Dealer the Distributor shall use its best efforts to deliver motor fuels from an alternate loading rack in order to complete the delivery and the Dealer hereby agrees to pay for any increased costs required to complete such delivery.
- b. Measurement of the volume of each delivery of the motor fuels sold and purchased hereunder will be determined as the metered volume loaded at the loading rack adjusted to a temperature of 15 degrees Celsius in accordance with normal industry practice.
- c. All purchases of the Esso-branded motor fuels shall be paid by the Dealer upon or before delivery in immediately available funds as set out herein, unless Distributor, in its sole discretion and from time to time, grants credit terms to the Dealer. If Distributor grants credit terms to the

Appendix J

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(15067)

RUN NUMBER : 173
RUN DATE : 2021/06/22
ID : 20210622140522.92

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : 8331707 CANADA INC.

FILE CURRENCY : 21JUN 2021

ENQUIRY NUMBER 20210622140522.92 CONTAINS 5 PAGE(S), 3 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

CHALTONS LLP (AC) - AMY CASELLA
5000 YONGE STREET, 10TH FLOOR
TORONTO ON M2N 7E9



(crlf5 06/2019)

CONTINUED... 2



RUN NUMBER : 173
RUN DATE : 2021/06/22
ID : 20210622140522.92

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 2
(15068)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 8331707 CANADA INC.
FILE CURRENCY : 21JUN 2021

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00	FILE NUMBER	757484595									
01	CAUTION FILING	PAGE NO. OF PAGES	TOTAL	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	PERIOD				
		001	1	2019112 1048 1532 4597	P	PPSA	05				
02	DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME						
03	BUSINESS NAME	8331707 CANADA INC.									
04	ADDRESS	34 DAPOE CRES BRAMPTON ON L6Y2L2									
05	DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME						
06	BUSINESS NAME	JIGNESHBHAI SHAI									
07	ADDRESS	567 COLLEGE AVE WEST GUELPH ON N1G2Z6									
08	SECURED PARTY / LIEN CLAIMANT	HONDA CANADA FINANCE INC.									
09	ADDRESS	180 HONDA BLVD MARKHAM ON L6C0H9									
10	COLLATERAL CLASSIFICATION	CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	INCLUDED	DATE OF MATURITY	OR	NO FIXED MATURITY DATE
		X	X	X	X	X	X	X	34578	X	05NOV2024
11	YEAR MAKE	2019 HONDA									
12	MODEL	CRV									
13	GENERAL COLLATERAL DESCRIPTION	V.I.N. 2HKRW2H90KH130564									
14	REGISTERING AGENT	D + H LIMITED PARTNERSHIP									
15	ADDRESS	2 ROBERT SPECK PARKWAY, 15TH FLOOR MISSISSAUGA ON L4Z 1H8									
16	*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***										
17	CONTINUED...										

CERTIFIED BY/CERTIFIES PAR
Sachin Parikh
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTREUR
DES SURETES MOBILIERES

113
Cj/ltu 06/2019

Ontario

RUN NUMBER : 173
RUN DATE : 2021/06/22
ID : 20210622140522.92

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 3
(15069)

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 8331707 CANADA INC.
FILE CURRENCY : 21JUN 2021

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00	FILE NUMBER	747020277									
01	CAUTION FILING	PAGE NO. OF PAGES	TOTAL	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD				
		001	001	20181220 1402 1862 9353	P	PPSA	6				
02	DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME						
03	BUSINESS NAME	8331707 CANADA INC.									
04	ADDRESS	34 DAFOE CRES BRAMPTON ON L6Y 2L2 ONTARIO CORPORATION NO. 8331707									
05	DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME						
06	BUSINESS NAME	BANK OF MONTREAL									
07	ADDRESS	6605 HURONTARIO STREET SUITE 200 MISSISSAUGA ON L5T 0A4 ONTARIO CORPORATION NO.									
08	SECURED PARTY / LIEN CLAIMANT										
09	COLLATERAL CLASSIFICATION										
10	CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	INCLUDED	AMOUNT	DATE OF MATURITY	OR	NO. FIXED
		X	X	X	X	X	X				
11	YEAR	MAKE	MODEL	V.I.N.							
12	MOTOR VEHICLE										
13	GENERAL COLLATERAL DESCRIPTION	GENERAL SECURITY AGREEMENT OVER ALL PRESENT AND AFTER ACQUIRED PERSONAL PROPERTY.									
14	REGISTERING AGENT	MANN LAW, BARRISTERS & SOLICITORS									
15	ADDRESS	920 DERRY ROAD EAST MISSISSAUGA ON L5T 2X6									
16	*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***										
17	CONTINUED... 4										

CERTIFIED BY/CERTIFIÉES PAR
Sachin Parikh
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(c) 1996 06/2019



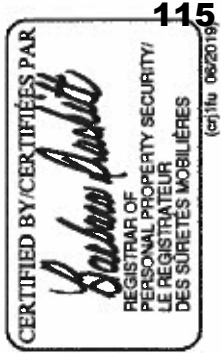
PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 173
RUN DATE : 2021/06/22
ID : 20210622140522.92

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 8331707 CANADA INC.
FILE CURRENCY : 21JUN 2021

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00	FILE NUMBER 747020592		
01	CAUTION PAGE TOTAL FILING NO. OF PAGES 001 001	MOTOR VEHICLE SCHEDULE 20181220 1408 1862 9356	REGISTERED NUMBER P PPSA 6
02	DEBTOR NAME	DATE OF BIRTH	INITIAL SURNAME
03	BUSINESS NAME	FIRST GIVEN NAME	8331707 CANADA INC.
04	ADDRESS	34 DAPOE CRES	BRAMPTON ONTARIO CORPORATION NO. 8331707 ON L6Y 2L2
05	DEBTOR NAME	DATE OF BIRTH	INITIAL SURNAME
06	BUSINESS NAME	FIRST GIVEN NAME	ONTARIO CORPORATION NO.
07	ADDRESS		
08	SECURED PARTY / LIEN CLAIMANT	BANK OF MONTREAL	
09	ADDRESS	6605 HURONTARIO STREET SUITE 200	MISSISSAUGA ON L5T 0A4
10	COLLATERAL CLASSIFICATION CONSUMER GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED	MOTOR VEHICLE AMOUNT DATE OF MATURITY OR MATURITY DATE	NO FIXED
11	YEAR MAKE	MODEL	V.I.N.
12	MOTOR VEHICLE		
13	GENERAL COLLATERAL DESCRIPTION	ASSIGNMENT OF RENTS ON FILE.	
14	REGISTERING AGENT	MANN LAW, BARRISTERS & SOLICITORS	
15	ADDRESS	920 DERRY ROAD EAST	MISSISSAUGA ON L5T 2X6
16	*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***		
17	CONTINUED... 5		



PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 5
(15071)

RUN NUMBER : 173
RUN DATE : 2021/06/22
ID : 20210622140522.92

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : 8331707 CANADA INC.
FILE CURRENCY : 21JUN 2021

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
757484595	20191112 1048 1532 4597		
747020277	20181220 1402 1862 9353		
747020592	20181220 1408 1862 9356		

3 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



Appendix K

ACCT. MANAGER: Eugene Chow

BORROWER: 8331707 CANADA INC.

INTEREST UP TO AND INCLUDING: June 22, 2021

CDN prime	US base
2.45%	3.75%

CDN \$ LOAN NO:	PRIME +	RATE	PRINCIPAL	TOTAL INT	TOTAL	PER DIEM
3858-6980-803	5.0000%	7.4500%	\$93,000.00	\$3,138.06	\$96,138.06	\$19.53
3858-6988-637	6.0000%	8.4500%	\$1,711,390.48	\$90,998.19	\$1,802,388.67	\$415.15
CEBA LOAN	FIXED	0.0000%	\$40,000.00	\$0.00	\$40,000.00	\$0.00
Legal Fees			\$0.00			
Admin Fee			\$0.00			
TOTAL CDN			\$1,844,390.48	\$94,136.25	\$1,938,526.73	\$434.69
2489-6995-560 (Receiver)	5.0000%	7.4500%	\$50,000.00	\$501.36	\$50,501.36	\$10.26

Appendix L

July 8, 2021

VIA EMAIL

msi Spergel Inc.
505 Consumers Road, Suite 200
North York, M2J 4V8

Attention: Deborah Hornbostel

Re: 8331707 Canada Inc. (the "Debtor")

Dear Ms. Hornbostel,

On April 21, 2021, the Ontario Superior Court of Justice (Commercial List) appointed msi Spergel Inc. as receiver (the "**Receiver**") over the assets, undertakings and properties of the Debtor effective as of 5:01 p.m. EST on April 30, 2021.

In your capacity as Receiver, you have requested that we review the following documents granting security (collectively, the "**Security**") by the Debtor in favour of Bank of Montreal ("**BMO**") and determine their validity and enforceability as against the Debtor:

1. Charge/Mortgage of Land granted by the Debtor in favour of BMO in the principal amount of \$1,878,000 registered against real property municipally known as 59 Woodlawn Road West, Guelph, ON and legally described as set out in **Schedule "A"** attached hereto (the "**Real Property**") registered on December 27, 2018 as instrument number WC557943 (the "**Mortgage**").
2. Security Agreement dated November 28, 2018 granted by the Debtor in favour of BMO (the "**Security Agreement**").

A. Opinion

Subject to the assumptions and qualifications hereinafter set out, we are of the opinion that:

1. The Mortgage provides BMO with a valid and enforceable registered first-ranking charge over the Real Property. The Mortgage secures payment of all present and future indebtedness owing by the Debtor to BMO.
2. There is a prior registered charge over the Real Property in the principal amount of \$53,0000 in favour of Parkland Fuel Corporation ("**Parkland**") that has been postponed in favour of the Mortgage pursuant to a postponement of interest granted by Parkland in favour of BMO and registered on December 27, 2018 as instrument number WC557946.
3. The Security Agreement creates a security interest in favour of BMO in all present and after acquired undertaking and property (other than consumer goods) of the Debtor and the proceeds thereof.
4. The Security Agreement secures the payment of all present and future indebtedness of the Debtor to BMO.
5. A Financing statement was registered by BMO against the Debtor pursuant to the *Personal Property Security Act* (Ontario) (the "**PPSA**") on December 20, 2018 as registration no. 20181220 1402 1862 9353 (file no. 747020277), perfecting BMO's security interest in the Debtor's personal property located in Ontario, other than consumer goods.

Accordingly, the Security Agreement is valid and enforceable against the Debtor.

We note that there is one subsequent registration to BMO's registration against the Debtor in favour of Honda Canada Finance Inc. over collateral classified as "consumer goods", "equipment", and "motor vehicles". The registration references a 2019 Honda CRV.

B. Searches

1. A Federal Corporation Information report obtained on June 22, 2021 from Corporations Canada indicates that the Debtor was incorporated on October 22, 2012 as "8331707 Canada Inc.." It does not appear that the Debtor has a French form of name.
2. Enquiry Response Certificate from the Ontario Personal Property Security Registration System in respect of registrations made under the PPSA against the Debtor as of June 12, 2021 reveal the registrations of the financing statement in favour of BMO as described above.
3. We conducted a subsearch against the Real Property in the Land Registry Office for the Land Titles Division of Wellington (#61) on June 22, 2021. This search only revealed those instruments listed in **Schedule "A"** hereto.
4. We also obtained an Ontario Writ Locator report with respect to the Debtor regarding outstanding writs of executions as at June 22, 2021. The search evidenced no registrations.

C. Scope of Review, Assumptions and Qualifications

Our opinion expressed herein is limited to the laws of Ontario and to the laws of Canada applicable therein. This opinion is based solely on a review of copies of the Security and our searches of the governmental records referred to above. We have not reviewed any other documentation or made any other enquiries about matters which may affect the validity and enforceability of the Security.

For the purposes of this opinion, we have assumed:

1. the Debtor is the correct name as set out in the aforementioned Corporate Profile Report and that the Debtor does not have a French form of name;
2. that the Security was duly authorized, executed and delivered by the Debtor to BMO;
3. the genuineness of all signatures (whether on originals or copies of documents), the conformity to original documents submitted to us as notarial, certified, conformed, photostatic or telecopies copies thereof and the authenticity of the originals of such documents;
4. that there are no agreements or other facts which might affect the validity or enforceability of the Security which are not apparent from a review of the Security;
5. that consideration/value was given by BMO to the Debtor;
6. that the Debtor had the capacity to borrow money in Ontario, to provide the Security to which they are a party, to execute and deliver the Security to which they are a party and to perform the covenants contained therein on their part to be performed;
7. that the chief executive offices of the Debtor was located in Ontario at all relevant times for the purposes of the PPSA;
8. that the Debtor had rights in its personal property so that attachment occurred within the meaning of the PPSA; and

9. that the indices and filing systems at the public offices where we have searched or enquired or have caused searches or enquiries to be completed were accurate, current and complete.

The opinions expressed herein are also subject to the following qualifications:

1. we express no opinion on whether the Security can be attacked under the *Bankruptcy and Insolvency Act* (Canada) or any other federal or provincial legislation as a fraudulent conveyance, preference, transaction at undervalue or otherwise;
2. we express no opinion as to the validity of any security interest in any contractual rights or Crown debts, which, by their terms, cannot be the subject of a security interest without the consent, authorization or approval of third parties;
3. any opinions with respect to the Real Property are based solely upon a review of the parcel search referenced herein;
4. enforceability of the Security may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, arrangement or winding-up laws or other similar laws affecting the enforcement of creditors' rights generally;
5. enforceability of the Security may also be limited by equitable principles including the principle that equitable remedies such as specific performance and injunction may only be granted in the discretion of a court of competent jurisdiction;
6. the PPSA imposes certain obligations on secured creditors which cannot be varied by contract. The PPSA may also affect the enforcement of certain rights and remedies contained in the Security to the extent that those rights and remedies are inconsistent with and contrary to the PPSA;
7. this opinion is not to be taken as relating to any property or assets which are located outside the Province of Ontario, or as to the validity or enforceability of the Security insofar as it relates to such property; and
8. we express no opinion as to the priority of the Mortgage with respect to:
 - (i) any defects of quality or title, encroachments or by-law infractions which might be revealed by an up-to-date survey of the Real Property;
 - (ii) any liens and related certificates of action registered against the Real Property pursuant to the *Construction Lien Act* (Ontario);
 - (iii) all limitations, reservations, provisos and conditions expressed in the original grant from the Crown;
 - (iv) liens for taxes (which includes local improvement assessments, charges, levies and rates) or utility charges (including levies or imposts for sewers and other municipal utility services) not yet due;
 - (v) zoning and building by-laws and ordinances, and municipal by-laws and regulations;
 - (vi) undetermined or inchoate liens and charges;
 - (vii) the exceptions and qualifications set forth in the *Land Titles Act* (Ontario);
 - (viii) any right of expropriation conferred by any statute of Canada or the Province of Ontario;

- (ix) any statutory liens or claims which may have or obtained priority without registration in any office of public record;
- (x) defects or irregularities in title to the Real Property which in our opinion, acting reasonably, do not and will not, either individually or in the aggregate, materially and adversely affect the Security or the priority thereof or the value or use of the Real Property;
- (xi) any unregistered development, subdivision, servicing, site plan, restrictive covenant or similar agreements concerning the Real Property entered into from time to time, but any such agreement would not have priority over the Security unless BMO (i) had actual notice of such agreement before the Security was registered or (ii) subordinated the Security to such agreement;
- (xii) minor encroachments over neighbouring lands and permitted under agreements with the owners of such lands or under possessory rights;
- (xiii) any unregistered easements or rights of way that may affect the Real Property;
- (xiv) the rights of any party under any executory agreement of purchase and sale or other executory purchase agreement; and
- (xv) the rights of any party under any lease, sublease, agreement to lease, tenancy agreement or any other occupancy agreement relating to the Real Property or a portion thereof, for which notice is not required to be registered pursuant to the provisions of the *Land Titles Act* (Ontario) or in respect of which BMO had actual notice when the Security was registered.

We trust the above is satisfactory for your purposes. Should you have any questions, please contact the undersigned.

Yours truly,
CHAITONS LLP



Sam Rappos
PARTNER

*Encl.

SCHEDULE "A"

LEGAL DESCRIPTION AND PARCEL SEARCH

59 Woodlawn Road West, Guelph, Ontario

PIN: 71359-0141 (LT)

Property Description: PART LOT 4 PLAN 169 AS IN RO803884; GUELPH

Reg. No.	Date	Instrument Type	Parties From	Parties To
R0S263642	1983/02/24	Agreement		The Corporation of the City of Guelph
R0817533	2000/11/30	Agreement	The Corporation of the City of Guelph	1295712 Ontario Ltd. Bank of Montreal
WC444864	2015/08/28	Notice	Parkland Industries Ltd.	
WC444865	2015/08/28	Charge	2011263 Ontario Inc.	Parkland Industries Ltd.
WC540290	2018/06/14	Application to Change Name	Parkland Industries Ltd.	Parkland Fuel Corporation
WC557939	2018/12/27	Transfer	2011263 Ontario Inc.	8331707 Canada Inc.
WC557941	2018/12/27	Charge	8331707 Canada Inc.	Bank of Montreal
WC557943	2018/12/27	Notice of Assignment of Rents	8331707 Canada Inc.	Bank of Montreal
WC557946	2018/12/27	Postponement	Parkland Fuel Corporation	Bank of Montreal
WC632795	2021/05/05	APL Court Order	Ontario Superior Court of Justice	msi Spergel Inc.

Appendix M

Court File No. CV-20-00653228-00CL

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

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

8331707 CANADA INC.

Respondent

**AFFIDAVIT OF DEBORAH HORNBOSTEL
(Sworn July 8, 2021)**

I, **DEBORAH HORNBOSTEL**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Partner with msi Spergel Inc. ("**Spergel**"), the Court Appointed Receiver of 8331707 Canada Inc. ("**833**") and as such have knowledge of the matters to which I hereinafter depose. Unless I indicate to the contrary, the facts herein are within my personal knowledge and are true. Where I have indicated that I have obtained facts from other sources, I believe those facts to be true.
2. By Order of the Honourable Justice Cavanagh dated April 21, 2021, Spergel was appointed as Receiver of 833.
3. In connection with the receivership of the Respondent, Spergel has incurred fees of \$89,772.00, exclusive of applicable HST, and inclusive of a courtesy discount of \$5,006.50 from

its standard rates to and including July 4, 2021, as provided for in Spergel's summary of time charges and related detailed time dockets by person, which provide a fair and accurate description of the services provided, appended hereto as **Exhibit "A"** to this my Affidavit.

4. I verily believe that the hourly rates charged for the services performed are fair and reasonable in the circumstances.

5. I make this affidavit in support of a motion for, *inter alia*, approval of the Spergel's fees incurred, as detailed herein, and for no other or improper purpose.

SWORN before me at the City of
Toronto, in the Province of Ontario
this 8th day of July, 2021.



Commissioner for Taking Affidavits

Barbara Eileen Sturge, a Commissioner, etc.,
Province of Ontario, for msi Spergel inc.
and Spergel & Associates inc.
Expires September 21, 2022.



Deborah Hornbostel CPA, CA, LIT, CIRP, CFE

Exhibit "A" of the Affidavit of
Deborah Hornbostel
Sworn before me on this 8th day of July, 2021


A Commissioner, Etc.

Barbara Eileen Sturge, a Commissioner, etc.,
Province of Ontario, for msi Spergel inc.
and Spergel & Associates inc.
Expires September 21, 2022

In The Matter Of The Receivership Of
8331707 Canada Inc.

Summary Of Time Charges Of The Receiver
To July 4, 2021

	Hours	Standard Hourly Rates	Standard Charge	Discount Applied	Fees Charged
Deborah Hornbostel, CPA, CA, CFE, CIRP, LIT	164.80	\$ 525.00	\$ 86,520.00	\$ 4,944.00	\$ 81,576.00
Mukul Manchanda, CPA, CIRP, LIT	1.60	450.00	720.00	40.00	680.00
Jeff Adiken, CIRP, LIT	0.50	375.00	187.50	7.50	180.00
Gillian Goldblatt, CPA, CA, CIRP, LIT	0.60	375.00	225.00	15.00	210.00
Frieda Kanaris	20.70	250.00	5,175.00	-	5,175.00
Eileen Sturge	0.50	250.00	125.00	-	125.00
Hinna Shaikh	0.80	120.00	96.00	-	96.00
Haran Sivanathan	4.70	150.00	705.00	-	705.00
Inga Friptuleac	8.20	125.00	1,025.00	-	1,025.00
Total	<u>202.40</u>		<u>\$ 94,778.50</u>	<u>\$ 5,006.50</u>	<u>\$ 89,772.00</u>
HST					11,670.36
Total Charge					<u>\$ 101,442.36</u>

Filters Used:

- Time Entry Date: 1/01/70 to 7/04/21
- File ID: AA8331-R: to AA8331-R:

Time Detail by File & Employee ARA

Printed on: 7/08/21

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Fri	04/30/2021	Discussions with E. Chow and T., Van Kliink re company background and issues wrt to court proceedings in January, 2021 and April 2021, planning for receivership appointments, arranging third party contractor, reviewing documents and Parkland agreements. preparing for taking possession (employment letters, door notice, key delegation letter, locksmith, operator and trust account opening arrangements (5), attend onsite to terminate employment, meet with Wisam Behno, locksmith & Vikram employee to review procedures, access systems, inspect inventory, obtain sales reports and cash, secure premises, tcs with Jignesh and Sagar to advise of the receivership, terminate employment, seek info on APS and access to safe, discuss future operating plans with Wisam (6.7)	11.70
Sat	05/01/2021	Verify safe drops, count and reconcile cash on hand for deposit, prepare deposit requisition, prepare memo to E. Chow to update on taking possession, APS status and go forward plans and funding needs, prepare and send letter to Jigneshbain Bhah demanding records, send Receivership Order to Bell insolvency	2.40
Sun	05/02/2021	Review APS and all amendments thereto, review email from E. Chow	0.50
Mon	05/03/2021	Email to E. Chow to request bank statements and insurance policy info, receipt and review thereof, email to Paul Hewitt of Parkland, review response and email to Cesar Nivar of Parkland, tc with him to discuss situation, commence ACGO application, tcs and emails to S. Anthonie, C. Boutier, C.Slater and F. Cudo to get AGCO registration processed, vm to S.Rappos re APS closing potential, review and respond to email from S.Anthonie of AGCO re status of application by 2830716 Ontario Inc., review existing Intact insurance policy provided by E.Chow, tc to Stoneridge Insurance Brokers, email to Jay Sheth of Stoneridge to request additional insured, loss payee and banking changes, tc with him re same, tc to Joel Mixa re 2803716 /5039420 Ontario APS, email request to him for deposit drafts, update BMO team and S. Rappos, email from T. Van Klink advising of deposit payment info received, tc with E.Chow to review indebtedness and BMO's position on current APS and existing bank ac freezing, arrange for website posting of materials, f/u with S.Antonia of AGCO re status of Certificate, email to Wisam to request application for Gaming Assistant with AGCO, review emails from Cesar of Parkland and historic dealings with Parkland, tc with him to discuss his unusual requests, f/u on BMO bank a/c status, tc with S. Rappos re current APS, prepare Parkland PAD, arrange for 2nd signature and submit to Cesar, update from E. Chow re bank a/c debits and freezing and funding, prepare Receiver's Certificate and email same to E. Chow with trust a/c info for funding, tc from Wisam re fuel ordering and AGCO application, review email from Bell Insolvency confirming accounts, prepare OLG Retailer Agreement application and submit to C.Stevens along with receivership order, PAD and Banking info	9.50

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Tues	05/04/2021	Review status update email from Syarifah Antonie of AGCO and then receipt of Certificate of Registration, email it to C.Stevens at OLG and review status update from her, update from E. Chow re BMO receivership funding and update him on status of existing offer wrt receivership approval, review email from Jay Sheth of Stoneridge Insurance, complete PAD form for Intact and email to Jay, review onsite mail with FK and discuss utility account set-ups, respond to text from former employee Sagar, review further update email fro Jay Seth, review and respond to email from C. Stevens of OLG re pending transfer of ownership, review emails from Sam Rappos and T. Van Kink re potential of court approval on the sale and missing deposit funds, prepare and submit CRA authorization for account access, commence drafting operating agreement, email request to Cesar for Parkland monthly sales reports, receipt and review thereof, email to Joel Mixa re deposit drafts, review responding email and forward to E. Chow, T. VanKilink and S. Rappos	2.90
Wed	05/05/2021	Review and respond to email from S.Antonie of AGCO re status of COO to purchaser, review responding email, forward Parkland pricing email to W.Behno along with status update on re-opening, review email from Koel Mixa re deposit payments, update S.Rappos and T. Van Klink, email to Joel Mixa to request his client to check on the cashing/deposit of the bank drafts from RBC and TD, review email from E.Chow re today's bank transactions and request clearance of OLG payment, update from E. Chow re funding, em to HS to confirm and request online access, tc from Jignesh requesting completion of the APS and denying receipt of the deposit drafts, complete first draft of operating agreement and email it to W.Behno for review, tc from T. Van Klink re investigating the cashing of the deposit drafts, review emails re same between S. Rappos and T. Van Kink, calls to TD and RBC to obtain email addresses for branch managers, send email requests to branch managers for cashing/endorsement information, tc from Jay of Stonebridge re Intact's advise that it cannot change bank a/c info, confirm receipt of BMO funding to E.Chow, f/u with Cesar of Parkland re status of changeover, review response and update Wisam, tc to Parkland re configuration, emails to Antec, Stry and Metrix to request appraisal quotes and timelines, tc with Wisam re commencing operations and fuel order	7.80

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Thur	05/06/2021	Review emails from Parkland re pending fuel delivery, tc w Wisam re same and his requested changes to operating agreement, make amendments and forward to him for discussion, review email and docs from S. Rappos re registration of RO on title, review his email to J. Mixa re bank drafts and APS status, review email from Ms. Rutledge of RBC re bank draft and update S. Rappos, review and summarize quotes from 4 appraisers, forward to BMO for consideration and discuss with E. Chow, negotiate with D. DeVries of Antec, application for quote from Otto & Co., finalize draft Operating Agreement and send to S.Rappos for review, email to C. Stevens at OLG to confirm transfer status, email to Jignesh for creditor listing and alarm info, confirm engagement of Metrix with John Carter, instructions to FK re alarm, mail and creditor listing, draft NOR, update from FK re break-in last week and phone line, confirmation from OLG re transfer complete, update Wisam re OLG, alarm and break-in, emails from S.Rappos re discussions with M Klaiman regarding exesiting APS and shortfall, review T.Vank Klink response, advise that appraisals being engaged and time line thereof, check on CRA online access status, correspondence to TSSA re propane license and gas station licenses , prepare deposit requisition form re BMO advance	7.30
Fri	05/07/2021	Tc from Wisam to discuss operations and Parkland issues, email him with Operating Agreement for execution and Parkland inventory listing, review bank account, review and forward Parkland pricing update to Wisam, tc with E.Chow re appraisal updated pricing and confirmation, bank a/c clearing items and property survey, review environmental and BMO appraisal reports, prepare information for appraisals and provide to John Carter-Metrix and David Devries-Antec, discussion with W.Behno re verification of the underground tank details, instructions to FK re alarm account set-up, review PPSA and finalize NOR for issuance, email to Jignesh for Honda vehicle documentation and whereabouts, tcs to MOF re Tobacco Retail Dealer's Permit, email to Christina Parker at MOF re same, approve disbursement requisitions	5.40
Sun	05/09/2021	Review and respond to email from Jignesh re Honda	0.10
Mon	05/10/2021	Review Parkland fuel invoice and forward to Wisam for approval, em and tc from E. Chow re banking transactions in the old account, and 2377863 Ontario Inc. emails with Cesar Nivard of Parkland re bank a/c issues, email to Wisam to f/u with Parkland to complete configuration, review documentation from Safe Tech re alarm monitoring assumption agreement and provide instructions to FK for f/u, prepare and fax correspondence to CRA Intake Centre, tc to Wisam re operational issues, review correspondence from M. Klaiman forwarded by S.Rappos, vm to Sam, email RO to City of Guelph and request property tax account status and billings, review and respond to emails from OLG re phone number, email to Wisam re o/s matters for his f/u, email to S.Rappos re Receiver's sales plan and inability to complete existing offer, commence preparation of sales documents, prepare and issue correspondence to Paul Rew of Rubicon Environmental requesting authorization for release and reliance letter, f/u with FK re OSB processing, review email from T. Van Klink re BMO's position on completion of the current offer	6.50

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Tues	05/11/2021	Review email from Wisam re status report and operating agreement, approve cigarette order and review invoice, email to E. Chow re banking update, email to S. Rappos re deposit funds status and 2377863 Ontario Inc. e-transfer, email from him potential for closing current offer, email to him to advise of lack of creditor knowledge and turnover of records from Jignesh, provide him with copy of demand for records correspondence and review his following email to M. Klaiman re same, draft sales documents (website posting, teaser, confidentiality agreement, confidential information memorandum, APS, terms and conditions and legal terms of use re website/data room, check on CRA access and trust account transactions, review and forward Parkland pricing update to Wisam, review em from FK re revised Safe-tek terms and respond, receipt and review of Chaitons invoice	7.50
Wed	05/12/2021	Tc with Wisam re operations, review bank transactions and send email to E.Chow for old a/c transactions, tc from Vina of Parkland to arrange for fuel payment, tc from Tina of MOF re Tobacco Permit application, complete and submit same, tc to Paul Rew of Rubicon Environmental to confirm permission to include Phase II report in sales package, f/u email to Jignesh for Honda lease and camera password, review responding message, email to Cesar to request Parkland credit application, receipt and file same, review draft sales documents and send to Sam Rappos for review, update E. Chow on HST filings, provide CRA HST filings to E. Chow, obtain incorporation info from him, reconcile trust account and prepare deposit and cheque requisitions for trust account postings, f/u call to Vina for statement of account, review emails from S.Rappos re bank drafts and potential motion to complete deal, review response from T. Van Klink re BMO position, review correspondence and newly amended assumption agreement from Safetech and respond with Court Order requirements, review searches from E. Chow on e-transfer #co	5.20
Thur	05/13/2021	Email to Michelle Rutledge of RBC re draft, em to MM to seek TD assistance for bank draft tracing, review emails with invoices from Parkland and settlement of account re fuel purchase, tc to Vina of Parkland to authorize withdrawal, prepare various trust account posting entries, review email from Wisam re Sentex invoice, commence preparation of prospective purchaser list, research for others, email from E.Chow re potential purchaser from BMO rep, update Tina Scalia of BMO on file issues, tc with S.Rappos re draft document review and status of purchaser, review emails from Paul Rew re environmental reliance approval and from Otto re appraisal requirements, update Eugene re Parkland AR collection and request transfer of funds from old BMO account, confirm with E. Chow	3.60
Fri	05/14/2021	Respond to email from S.Rappos re draft APS, send draft ad to FK to obtain newspaper placement quotes, review and seek further info and proofs, tc from Jay of Stonereidge confirming Intact's changing of insurance coverage and banking, email from Malik confirming change to account banking and contact details, review new gas order emails, verify banking transactions, email to Wisam for OLG withdrawal statements, update from MM re TD bank draft investigation, email to E.Chow, T.Van Klink and S. Rappos to provide details, work on setting up Dropbox files for CIM	1.70

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Mon	05/17/2021	Work on finalizing sales process documents, tc with Wisam re operations, tc to Jason Philips of Philips Petro re fuel tank installation, tc to TSSA for tank info and email request to public information services, prepare and send email to 90 perspective purchasers, tcs from G.Singhmalhi and Kumar, create Prospective purchaser log and update, info from MM re details on RBC bank draft of April 20'21, update to BMO and S.Rappos, review price report and invoice form Parkland, fwd to Wisam, email void cheque to Wisam,	7.30
Tues	05/18/2021	Tel calls and emails with TSSA customer service and public information to obtain fuel tank details, complete application and review info, update E. Chow and request review of his files for any tank related info, further email exchanges, discuss issue with Wisam and authorize tank inspection, update from him on his conversation with Jason Philips of Philips Petroleum, update E. Chow on that info and costs of conversion to Double Walled Fiberglass, vm and em to Paul Rew of Rubicon Environmental to advise of issuance of report in Data room and request supporting documentation re tanks in his report, em to Jignesh to request tank confirmation details, emails to John Carter (Metrix) and David Devries (Antec) to update them on current tank knowledge, amend CIM re storage tanks, review and approve disbursements and postings, em to Cesar Nivard of Parkland for tank information, tcs from 2 potential purchasers, review emails from S. Rappos and T. Van Kink, review and log 7 CAs, finalize CIM and issue 6 CIMs, f/u on incomplete PP documentation and review and approve draft newspaper ads and placements, email update to Sam Rappos re sales process status, tanks and previous deal status	5.80
Wed	05/19/2021	Review email from Cesar Nevari re tanks, fwd to Wisam, review and log 6 CAs and issue 6 CIMs, and 3 CA, respond to PP queries via tc and em, prepare and issue correspondence to Jignesh re breach of court order, review email from Jay re insurance changes, fwd to FK for future withdrawal postings, return tc from Tang re PNE account, email exchange with S. Rappos, review email from Joel Mixa re sales process, tc with Wissam re tanks, operations and PP, vm from Bill Luthra PP, arrange for mailing of CA, review and respond to emails from Tank Industries, review of daily reporting schedule via link and forward to FK	4.50
Thur	05/20/2021	Issue 1 CIM, 2 CA, tcs with 6 prospective purchasers, review and respond to emails from PPs, prepare correspondence to CRA and re-submit application for online access, arrange for website posting on Assets For Sale	2.70
Fri	05/21/2021	Review and respond to PP enquiries, issues CAs and CIMs, attend to operational issues	1.80
Sat	05/22/2021	Review and respond to emails/vm from prospective purchasers	0.60
Sun	05/23/2021	Dealings with Prospective purchasers	0.70
Mon	05/24/2021	Dealings with prospective purchasers	0.40
Tues	05/25/2021	Respond to prospective purchasers, discussions with Wissam re operations, review bank account and bills, provide all to FK for processing and approve postings, review and return vm to Chelsea Fleming of Atlantic Prepaid,	2.50

Filters Used:

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- File ID: AA8331-R: to AA8331-R:

Time Detail by File & Employee ARA

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Wed	05/26/2021	Review correspondence from J. Rose of MOF re Tobacco Permit, forward to Wisam for posting onsite, tcs and emails with prospective purchasers, arrange for site visit for PP, tc with Wisam re operations, update from Tankology re tank review, review bank a/c transactions, review and clean up PP list, review and respond to em from John Carter of Metrix, email to Wisam to contact Carter, update call with Eugene Chow, review newspaper ads, receipt of shift reports and OLG statements, fwd all to FK	2.90
Thur	05/27/2021	Review and forward to FK all shift and OLG reports, review postings to date and fuel order, tc from N.Khan re site concerns, discussions with E.Chow and W.B. re same, tc to TSSA to expedite report, email update to E.Chow, review invoice from TSSA re annual inspections, email from TSSA confirming processing of search fee, review of email from N. Khan re water, forward and discuss with WB, requisitions for TSSA expenditures	2.70
Fri	05/28/2021	Emails from WB re sign and water, attend to prospective purchaser enquiries, receipt and review of Parkland fuel invoice, fwd to WB for verification	1.20
Mon	05/31/2021	Review bank account, review and forward invoices for processing	0.20
Tues	06/01/2021	Tcs with Wissam and Naveed Khan, review and approve disbursements, review and forward emails from Parkland re pricing and Wissam re sales data, bank deposit and invoices, review and respnd to email from Haresh Patel re offer process	0.90
Wed	06/02/2021	Receipt and review of detailed report from TSSA and discussion of it with Wissam, update E. Chow re same, tc from Manjit Banwait, email him CA, prepare upload of Tank confirmation to Data room and provide email notification to all executed prospective purchasers, tc from S. luthra, review Bell accounts from Insolv and em to FK re same for f/u	3.20
Thur	06/03/2021	Provide TSSA tank report to appraisers, respond to several queries from prospective purchasers, review and fwd Parkland and inventory invoices to FK, authorize inventory purchases, prepare May sales summary and provide requested data to PP,	2.90
Fri	06/04/2021	Dealings with prospective purchasers	0.50
Mon	06/07/2021	Tel calls from prospective purchasers, issue CA to 1 pp, review email receipt of CA and respond, tel call with Jenn of Waste Connections, email to her re a/c set-up, review response, f/u email to Wisam re quote status on tanks, review Parkland a/c settlement stmt and fwd to FK, forward pricing email to Wisam, check bank balance	1.50
Tues	06/08/2021	Review and approve disbursements and postings, tc with Wisam re operations and tanks, update to E. Chow, receipt of CAs and issuance of CIMs, tc with PPs, review sales and prepare updated summary schedule for pp issuance, requisition utility payments, sign cheques, third submission to CRA for a/c access	2.80
Wed	06/09/2021	Call with prospective purchaser, review and approval of invoices and payment requisitions, review fuel order and bank a/c balance	0.50
Thur	06/10/2021	tel calls with several prospective purchasers re offer submissions, provide further information via email, emails to appraisers for status updates	1.20
Fri	06/11/2021	Calls and emails from prospective purchaser, review offer, dealings wrt deposit payments, review invoices, bank balance and sales schedule, tc with Wisam re operations	1.10

Filters Used:

- Time Entry Date: 1/01/70 to 7/04/21
- File ID: AA8331-R: to AA8331-R:

Time Detail by File & Employee ARA

Printed on: 7/08/21

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Mon	06/14/2021	Review draft appraisal from Metrix, dealings with prospective purchasers, reviewing offers received and preparing summary of offers to date, review and approve cheque requisitions and postings, email to Wisam for shift reports etc.review and respond to email from Jerry Mazor of Tanktraders	3.10
Tues	06/15/2021	Dealings with prospective purchasers, verify receipt of funds, review and summarize offers, tc with E. Chow, email offer details and recommendation to S. Rappos, draft email to prospective purchasers to request improvements by noon Thursday, update to E. Chow and T. Van Kilink, review reporting from Wisam and Parkland and fwd to FK for processing, vm to D.Devries for appraisal status, email to John Carter of Metrix for info on UST impact, forward email from N. Sapelak to S. Rappos, tc from prospective purchaser re unsubmitted offer	3.20
Wed	06/16/2021	Review email from S. Rappos and respond to N. Sapelak, tc from prospective purchaser re offer status, review email update from D. Devries and respond, review email from John Carter re UST impact and respond, update E. Chow	0.90
Thur	06/17/2021	Review and forward invoices and statements to FK for processing, check on CRA status, request f/u by FK, review and approve posting reports and cheque requisitions, tc with David Devries and others at Antec re appraisal issues, arrange for site inspection, tc from new prospective purchaser, tc with E. Chow, emails with S.Rappos re offer, review selected offer in detail, tc with W.Behno re operations, emails from E. Chow re offer approval, execute and scan accepted offer and email to purchaser and solicitors to confirm acceptance, emails with other purchasers to advise of non-acceptance and arrange for return of deposits,	3.50
Fri	06/18/2021	Tc from Haji re offer, review and forward sales reports to FK, review management and payroll invoice, emails with Wisam for corrections to it, verify bank balance and requisition payment thereof, arrange for return of drafts via courier to Haji,	1.40
Mon	06/21/2021	Review and organize all Parkland invoices, settlements and EFTs, review and reconcile bank balance, receipt and review of weekend sales reports, email to Sam Rappos to request court date and update him on CRA, commence report drafting, tc and email to W. Rueger of CRA, email from A. Haji, review new commission statement from Parkland	5.70
Tues	06/22/2021	Report drafting, email to E. Chow to request statement of account, email to S.Rappos to request security opinion, review and approve disbursements, fwd sales info to FK for processing, email to ES re Honda Canada f/u	5.50
Wed	06/23/2021	Review cash position, approve disbursements, tcs with Wisam re operations, report drafting, update on Honda Canada from ES, review VIN search, review email from Nathan Sapelek re ROFR, email to S.Rappos on the issue	3.50
Thur	06/24/2021	Fax to CRA RITKE for information, tc with Wisam to reconcile payments and operations update, review further email from Nathan Sapelak, report updating, update from S. Rappos re court date, draft affidavit of fees	1.50
Fri	06/25/2021	Tel call from Camilla of CRA to discuss account, tc from Nathan Sapelak re ROFR and closing plans, email to S. Rappos to update, report drafting	5.60

Filters Used:

- Time Entry Date: 1/01/70 to 7/04/21
- File ID: AA8331-R: to AA8331-R:

Time Detail by File & Employee ARA

Printed on: 7/08/21

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Deborah Hornbostel (DHO)			
Mon	06/28/2021	Review sales reports and bank balance, update from ES re Honda response, provide further instructions, review and respond to email from Sam Rappos re Parkland and sales process, report to court drafting	3.00
Tues	06/29/2021	Review of draft Antec appraisal, instructions to D.Devries to finalize and issue, review invoice, prepare memo on summary of appraisals for court report, redact APS for court report, review sales reports and dealer settlement from Parkland, email to FK for accounting update	3.20
Wed	06/30/2021	Review mail and statements, tc to TSSA re o/s invoice, confirm payment, email to TSSA to arrange change of address, review bank balance, review and approve postings, preparing exhibits for court report, requisition payment for Antex, commence SRD	1.50
Fri	07/02/2021	Tel Call from Inga Friptuleac re customer complaints regarding credit card display concerns, discuss with Wissam and send email to Cesar Nivard at Parkland to request change, review accounting and sales records, discussion with Wissam re HST reporting, prepare related adjustment schedule and prepare SRD as at June 30'21, commence final SRD projection, prepare pdf of confidential appendices	3.20
Deborah Hornbostel (DHO)			164.80
Eileen Sturge (EST)			
Wed	06/23/2021	Telephone call/email to Honda re location of 2019 Honda CRV	0.50
Eileen Sturge (EST)			0.50
Frieda Kanaris (FKA)			
Tues	05/04/2021	Prepare spreadsheet listing creditors and amounts owed; t/c and email with Alectra (formerly Guelph Hydro); complete online new account opening for Union Gas; t/c to Jignesh.	0.90
Thur	05/06/2021	Attend to mail redirection at post office; t/c and email with Malik (Safe Tech) re alarm monitoring; update creditor list.	1.10
Fri	05/07/2021	Print creditor labels, print and photocopy Notice of Receiver for mailing, prepare mailing to creditors; fax Notice of Receiver and Court Order to OSB	1.40
Mon	05/10/2021	Fax to OSB; email to Malik (Safe-Tech).	0.40
Tues	05/11/2021	T/c and emails re alarm monitoring.	0.30
Fri	05/14/2021	Exchange of emails with Toronto Sun and Toronto Star requesting quotes.	0.50
Mon	05/17/2021	Email exchange with Toronto Star and Sun re ads.	0.50
Tues	05/18/2021	Reconciliations of banking transactions, prepare postings for deposits and direct withdrawals; requisition payment for payables; exchange of emails with Toronto Star and Post Media (National Post and Toronto Sun) re placing ads.	1.80
Tues	05/25/2021	Reconciliation of banking transactions; prepare postings for deposits and direct withdrawals; requisition payment for payables; reconciliation of Parkland payment; t/c with CRA; email to newspapers requesting tear sheets, save in directory.	2.10
Fri	05/28/2021	Review and print sales and OLG reports.	0.50
Tues	06/01/2021	Reconciliation of banking transactions, prepare postings for direct deposits and direct withdrawals; requisition payment for payables; t/c with Bell Canada.	2.60
Fri	06/04/2021	Review and requisition payment for payables.	0.40

Filters Used:

- Time Entry Date: 1/01/70 to 7/04/21
- File ID: AA8331-R: to AA8331-R:

Time Detail by File & Employee ARA

Printed on: 7/08/21

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Frieda Kanaris (FKA)			
Wed	06/09/2021	Reconciliation of banking transactions, prepare postings for direct withdrawals and deposits; reconciliation of Parkland Settlements, prepare postings; requisition payment for payables.	2.10
Mon	06/14/2021	Requisition payment for payables.	0.80
Wed	06/16/2021	Reconciliation of banking transactions, prepare postings for direct withdrawals; prepare posting for deposits; reconciliation of Parkland PAD; requisition payment for payables.	2.20
Wed	06/23/2021	Print sales reports; reconciliation of banking transactions, prepare postings for direct deposits and withdrawals; reconciliation of Parkland withdrawal.	2.10
Wed	06/30/2021	Reconcile banking transactions, prepare postings for direct deposits and OLG withdrawals, reconciliation of Parkland settlement.	1.00
Frieda Kanaris (FKA)			20.70
Gillian Goldblatt (GGO)			
Tues	05/11/2021	review and approve disbursements.	0.20
Tues	05/25/2021	review and approve disbursement.	0.10
Wed	06/09/2021	review and approve disbursement.	0.10
Tues	06/15/2021	review and approve disbursement.	0.10
Tues	06/22/2021	review and approve disbursements.	0.10
Gillian Goldblatt (GGO)			0.60
Hinna Shaikh (HSH)			
Tues	05/04/2021	created engagement on site	0.40
Fri	05/21/2021	created asset on site	0.40
Hinna Shaikh (HSH)			0.80
Haran Sivanathan (HSI)			
Fri	04/30/2021	Pre-Authorized payment, Review Files, GIC's and Bank reconciliation/Posting cheques/Deposit	0.60
Tues	05/04/2021	General	0.60
Thur	05/13/2021	General	0.30
Fri	05/28/2021	General	0.20
Tues	06/08/2021	General	1.20
Wed	06/16/2021	General	1.20
Thur	06/17/2021	General	0.60
Haran Sivanathan (HSI)			4.70
Inga Friptuleac (IFR)			
Mon	05/03/2021	Postings	0.20
Tues	05/11/2021	Issue cheques	0.20
Mon	05/17/2021	Postings, Issue cheques	1.00
Wed	05/26/2021	Issue cheque	0.10
Mon	05/31/2021	Issue cheques, Deposit postings	1.40
Mon	06/07/2021	Issue cheques, postings	2.00
Mon	06/21/2021	Issue cheques, Postings	2.30
Fri	07/02/2021	Postings	1.00
Inga Friptuleac (IFR)			8.20
Jeff Adiken (JAD)			

Filters Used:

- Time Entry Date: 1/01/70 to 7/04/21
- File ID: AA8331-R: to AA8331-R:

Time Detail by File & Employee ARA

Printed on: 7/08/21

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File Name (ID): 8331707 Canada Inc. (AA8331-R:)

Day	Date	Memo	B-Hrs
Jeff Adiken (JAD)			
Mon	06/28/2021	April 29, 2021 - sign cheques .1 May 18, 2021 - sign cheques .1 June 9, 2021 - sign cheques .2 June 18, 2021 - sign cheques .1	0.50
Jeff Adiken (JAD)			0.50
Mukul Manchanda (MMA)			
Tues	05/11/2021	Receipt, review and approve payables.	0.10
Thur	05/13/2021	Receipt and review of an email from D. Hornbostel containing a copy of the draft and requesting it be vetted with TD. Sent an email to TD containing the copy of the draft and the receivership order and requested information regarding the draft. Receipt and review of an email from D. Hornbostel containing a copy of an RBC draft and requesting it be vetted with RBC. Sent an email to RBC containing the copy of the draft and the receivership order and requested information regarding the draft.	0.30
Fri	05/14/2021	Lengthy telephone discussion with TD regarding the draft investigation. Update D. Hornbostel regarding same.	0.50
Mon	05/17/2021	Telephone discussion with RBC regarding the draft. Provided an update to D. Hornbostel regarding same.	0.30
Tues	05/25/2021	Receipt, review and approve payable.	0.10
Tues	06/01/2021	Receipt, review and approve payable.	0.10
Wed	06/09/2021	Receipt, review and approve payables.	0.10
Tues	06/15/2021	Receipt, review and approve payables.	0.10
Mukul Manchanda (MMA)			1.60
Total for File ID AA8331-R:			202.40
Grand Total:			202.40

Appendix N

Court File No. CV-20-00653228-00CL

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

BANK OF MONTREAL

Applicant

-and-

8331707 CANADA INC.

Respondent

AFFIDAVIT OF MAYA POLIAK
(sworn July 8, 2021)

**I, MAYA POLIAK, of the City of Toronto, in the Province of Ontario MAKE OATH
AND SAY AS FOLLOWS:**

1. I am a partner with the law firm of Chaitons LLP ("**Chaitons**"), lawyers for msi Spergel Inc., as receiver and manager (the "**Receiver**") without security, of all of the assets, undertakings and properties of 8331707 Canada Inc., and as such have knowledge of the matters to which I hereinafter depose.

2. Attached hereto as the following exhibits are copies of the following accounts issued by Chaitons totalling \$5,554.94 (comprised of fees of \$4,715, disbursements of \$210.90 and HST of \$629.04) with respect to this proceeding:

- (a) **Exhibit "A"** - Account for the period up to and including April 30, 2021; and
- (b) **Exhibit "B"** - Account for the period up to and including June 30, 2021.

3. I confirm that the accounts described above accurately reflect the services provided by Chaitons in this matter and the fees and disbursements claimed by it from January 11, 2021 to June 28, 2021.

4. Attached hereto as **Exhibit "C"** is a summary of additional information with respect to Chaitons' accounts, indicating all members of Chaitons who have worked on this matter, their year of call to the bar, total time charged and hourly rates, and I hereby confirm that this list represents an accurate account of such information.

SWORN before me at the City)
 of Toronto, this 8th day of)
 July, 2021)



 A Commissioner, etc.



MAYA POLIAK

Antoinette DePinto, a Commissioner, etc.,
 Province of Ontario, for Chaitons LLP,
 Barristers and Solicitors.
 Expires November 23, 2023.

**THIS IS EXHIBIT "A" TO
THE AFFIDAVIT OF MAYA POLIAK
SWORN BEFORE ME THIS 8th
DAY OF JULY, 2021**



A Commissioner Etc.

Chaitons^{LLP}

INVOICE NUMBER: 280743

April 30, 2021

SPERGEL & ASSOCIATES INC.
505 CONSUMERS ROAD, SUITE 200
TORONTO, ON M2J 4V8

Re: RECEIVERSHIP OF 8331707 CANADA INC.
Our file: 004690-67151

FOR PROFESSIONAL SERVICES RENDERED on this matter up to and including April 30, 2021:

PROFESSIONAL FEES		
SUBJECT TO HST	\$805.00	\$805.00
SUB-TOTAL		\$104.65
HST at 13.00%		
GRAND TOTAL		\$909.65

Amount payable on the current invoice	\$909.65
Plus outstanding invoices on this matter	\$0.00
Amount Due	<u>\$909.65</u>
Trust Balance	

HST No R124110933

INVOICE NUMBER: 280743

E. & O.E. Payment due on receipt of the account. In Accordance with the Solicitor's Act, interest will be charged on any unpaid balance at the rate of 0.5% per annum commencing one month after delivery of this account.

5000 Yonge Street, 10th Floor, Toronto, ON M2N 7E9 | P: 416-222-8888

chaitons.com

Doc#5091658v1

2.

PROFESSIONAL FEES:

Jan 11, 21 SPR Reviewed and responded to e-mails regarding receivership application;
Apr 20, 21 SPR Reviewed application materials;
Apr 21, 21 SPR Reviewed and drafted e-mails regarding status of application;
Apr 30, 21 SPR Reviewed and drafted e-mails regarding receivership;

TOTAL PROFESSIONAL FEES
HST at 13.00%

\$805.00
104.65

GRAND TOTAL

\$909.65

CHAITONS LLP

per:



Sam Rappos

HST No R124110933

INVOICE NUMBER: 280743

E. & O.E. Payment due on receipt of the account. In Accordance with the Solicitor's Act, Interest will be charged on any unpaid balance at the rate of 0.5% per annum commencing one month after delivery of this account.

Doc#5091658v1

3.

LAWYERS' SUMMARY:

Lawyers and legal assistants involved	Hourly Rate	Hours Billed	Total Billed
SAM RAPPOS	\$575.00	1.40	\$805.00
Total:		1.40	\$805.00

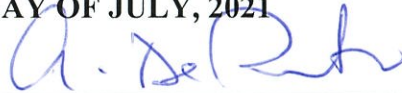
HST No R124110933

INVOICE NUMBER: 280743

E. & O.E. Payment due on receipt of the account. In Accordance with the Solicitor's Act, interest will be charged on any unpaid balance at the rate of 0.5% per annum commencing one month after delivery of this account.

Doc#5091656v1

**THIS IS EXHIBIT "B" TO
THE AFFIDAVIT OF MAYA POLIAK
SWORN BEFORE ME THIS 8th
DAY OF JULY, 2021**



A Commissioner Etc.

Chaitons^{LLP}

INVOICE NUMBER: 281395
June 30, 2021

MSI SPERGEL INC.
505 CONSUMERS ROAD, SUITE 200
TORONTO, ON M2J 4V8

Re: RECEIVERSHIP OF 8331707 CANADA INC.
Our file: 004690-67151

FOR PROFESSIONAL SERVICES RENDERED on this matter up to and including June 30, 2021:

PROFESSIONAL FEES

SUBJECT TO HST	\$3,910.00	
SUB-TOTAL		\$3,910.00

DISBURSEMENTS

NON TAXABLE	\$87.10	
SUBJECT TO HST	\$123.80	
SUB-TOTAL		\$210.90
HST at 13.00%		\$524.39

GRAND TOTAL		\$4,645.29
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Amount payable on the current invoice	\$4,645.29
Plus outstanding invoices on this matter	\$909.65
Amount Due	<u>\$5,554.94</u>
Trust Balance	

HST No R124110933

INVOICE NUMBER: 281395

E. & O.E. Payment due on receipt of the account. In Accordance with the Solicitor's Act, interest will be charged on any unpaid balance at the rate of 0.5% per annum commencing one month after delivery of this account.

PROFESSIONAL FEES:

May 3, 21	SPR	Discussed matters with client; reviewed and drafted e-mails regarding receivership; reviewed documents;
May 4, 21	SPR	Discussed matters with counsel to the debtor; reviewed and drafted e-mails regarding same;
May 5, 21	SPR	Attended to having receivership order registered on title; reviewed and drafted e-mails regarding proposal from debtor to continue with sale of property to existing purchaser;
May 6, 21	SPR	Discussed matters with counsel to debtor; reviewed and drafted correspondence regarding same; reviewed operating agreement;
May 10, 21	SPR	Reviewed letter and documents received from counsel to debtor;
May 11, 21	SPR	Drafted response to letter from counsel to the debtor; reviewed and drafted e-mails;
May 12, 21	SPR	Reviewed and drafted e-mails;
May 13, 21	SPR	Reviewed draft sale documents;
May 14, 21	SPR	Reviewed draft sale documents; reviewed and drafted e-mails regarding sale matters and matters related to proposed purchaser;
May 18, 21	SPR	Reviewed and drafted e-mails regarding request for payout;
May 19, 21	SPR	Reviewed and drafted e-mails regarding receivership matters;
May 20, 21	SPR	Reviewed and drafted e-mails regarding potential payout;
Jun 15, 21	SPR	Reviewed and drafted e-mails regarding sale process matters;
Jun 17, 21	SPR	Reviewed and drafted e-mails regarding sale process;
Jun 22, 21	SPR	Reviewed and drafted e-mails regarding security opinion, sale transaction and Court hearing for approval;
Jun 24, 21	SPR	Reviewed and drafted e-mails regarding motion for approval of sale transaction;

HST No R124110933

INVOICE NUMBER: 281395

E. & O.E. Payment due on receipt of the account. In Accordance with the Solicitor's Act, interest will be charged on any unpaid balance at the rate of 0.5% per annum commencing one month after delivery of this account.

Jun 25, 21	SPR	Reviewed and drafted e-mails regarding motion for approval of sale transaction;
Jun 28, 21	SPR	Reviewed and drafted e-mails regarding sale approval motion;

TOTAL PROFESSIONAL FEES	\$3,910.00
HST at 13.00%	508.30

DISBURSEMENTS:**Subject to HST:**

Teraview Charges Taxable	\$47.90	
Teranet Fee Taxable	\$10.90	
Teranet Electronic Registration Fee Taxable	\$65.00	
		\$123.80

Non-Taxable:

Registration/Filing Fee(s) Non-taxable	\$65.30	
Teraview Charges Non-taxable	\$21.80	
		\$87.10

TOTAL DISBURSEMENTS	\$210.90
HST at 13.00%	16.09

GRAND TOTAL	\$4,645.29
--------------------	-------------------

Chaitons^{LLP}

4.

CHAITONS LLP



per:

Sam Rappos

HST No R124110933

INVOICE NUMBER: 281395

E. & O.E. Payment due on receipt of the account. In Accordance with the Solicitor's Act, interest will be charged on any unpaid balance at the rate of 0.5% per annum commencing one month after delivery of this account.

LAWYERS' SUMMARY:

Lawyers and legal assistants involved	Hourly Rate	Hours Billed	Total Billed
SAM RAPPOS	\$575.00	6.80	\$3,910.00
Total:		6.80	\$3,910.00

THIS IS EXHIBIT "C" TO
THE AFFIDAVIT OF MAYA POLIAK
SWORN BEFORE ME THIS 8th
DAY OF JULY, 2021



A Commissioner Etc.

SUMMARY

Lawyer	Year of Call	Hours Billed	Hourly Rate	Amount Billed
Sam Rappos	2005	8.20	\$575.00	\$4,715.00
Total Hours and Amounts Billed		8.20		\$4,715.00
Average Hourly Rate			\$575.00	
Total Disbursements				\$210.90
Total Taxes (HST)				\$629.04
TOTAL				\$5,554.94

Appendix O

**In the Matter of the Receivership of
8331707 Canada Inc.
Statement of Receipts and Disbursements
As At June 30, 2021**

Receipts

Store & Fuel Sales	\$ 175,556.43
Receiver's Borrowings	50,000.00
HST Collected on Sales	23,616.59
Accounts Receivable	18,279.62
Cash On Hand	5,149.14
Cross- Lease Income	1,222.70
Utility Refund	1,062.41
Miscellaneous Income	92.69
Interest Earned	17.69
Total Receipts	274,997.27

Disbursements

Inventory Purchases	177,933.45
HST Paid on Disbursements	25,773.21
OLG Net Payouts	15,430.97
Site Management	8,617.00
Appraisal Fees	5,592.65
Advertising	3,485.65
Insurance	1,649.10
Operating Expenses	1,058.36
Utilities	670.60
Security & Lock Changes	544.90
Repairs & Maintenance	405.00
Mail Redirection	170.55
POS charges	133.36
Office Expenses	120.00
Courier & Travel	118.00
Filing, Licence, Search & Bank Fee's	72.97
Total Disbursements	241,775.77

Total Receipts less Disbursements

\$ 33,221.50

Notes:

1. Excludes deposit funds held in trust from purchaser
2. Excludes undeposited cash sales of \$2,959 and funds held by Parkland of \$13,262
3. Excludes Antec appraisal fees of \$7,385.68
4. Site management fees are paid to June 6, 2021 and site staff to May 30, 2021

BANK OF MONTREAL
Applicant

- and -

8331707 CANADA INC.
Respondent

Court File No. CV-20-00653228-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

MOTION RECORD
(re approval of sale transaction, approval of
distribution and ancillary matters, and discharge
of Receiver)
(motion returnable July 16, 2021)

CHAITONS LLP
5000 Yonge Street, 10th Floor
Toronto, ON M2N 7E9

Sam Rappos (LSO #51399S)
Tel: (416) 218-1137
E-mail: samr@chaitons.com

Lawyers for msi Spergel Inc.,
Court-appointed Receiver