

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

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

**MOTION RECORD
(returnable February 23, 2018)**

February 13, 2018

AIRD & BERLIS LLP

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Lawyers for the Receiver

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(Current as of February 9, 2018)

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9	HONDA CANADA FINANCE INC. 180 Honda Boulevard Markham ON L6C 0H9 Tel: 1 (800) 387-5399 Fax: 1 (866) 920-5586 Email: cs@honda.ca	10	COAST CAPITAL EQUIPMENT FINANCE LTD. #800 – 9900 King George Boulevard Surrey BC V3T 0K7 Tel: 1 (877) 293-0202, (604) 293-0202 Email: collections@travelersfinancial.com
11	ELEMENT FINANCIAL INC. #900 – 4 Robert Speck Parkway Mississauga ON L4Z 1S1 Gunther Boenisch Tel: (905) 366-2171 Fax: 1 (844) 402-1074 Email: gboenisch@ecncapitalcorp.com	12	VFS CANADA INC. 205 Industrial Parkway North, Unit 5 Aurora ON L4G 4C4 Tel: (905) 726-5500 Fax: (905) 726-5525 Email: infocanada@vfsc.com
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27	2394594 ONTARIO INC. O/A FAST TRACK ALLIANCE TRANSPORT 70 Alicewood Court Etobicoke, ON M9V 3Y5 Naveed Sadiq Email: accounts@ftatransport.ca	28	TAHIR MAHMOOD 3001 Finch Avenue West, Suite 213 North York ON M9M 3A9 Email: tahir78614@gmail.com Director of 2399295 Ontario Inc.
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INDEX

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

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

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TAB A

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

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

**NOTICE OF MOTION
(returnable February 23, 2018)**

msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties (collectively, the “**Property**”) of 2399295 Ontario Inc. o/a Fast Track Alliance (the “**Debtor**”), will make a motion to a judge presiding over the Commercial List on Friday, February 23, 2018 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR an Order, including, among other things:

- (a) if necessary, abridging the time for service and filing of this notice of motion and the motion record or, in the alternative, dispensing with same;

- (b) approving the Report of the Receiver dated February 13, 2018 (the “**Report**”) and approving the actions of the Receiver described therein, including, without limitation, the Receiver’s interim statement of receipts and disbursements;
- (c) approving the contract to auction between Ritchie Bros. Auctioneers (Canada) Ltd. (the “**Auctioneer**”), as auctioneer, and the Receiver dated January 23, 2018 (the “**Auction Agreement**”), and authorizing the Auctioneer to conduct an unreserved public auction as referenced in, and in accordance with the terms of, the Auction Agreement (the “**Auction**”);
- (d) vesting in each purchaser at such Auction, the Debtor’s right, title and interest in and to the Property purchased by such respective purchaser at the Auction, free and clear of any claims and encumbrances;
- (e) declaring that the Disputed Receivable (as defined in the Report) comprises Property;
- (f) approving the fees and disbursements of the Receiver and its counsel, including an accrual for fees and disbursements to be incurred to the completion of these proceedings (the “**Fee Accrual**”);
- (g) after satisfying the fees and disbursements of the Receiver and its counsel, including the Fee Accrual, authorizing and directing the Receiver to distribute to 2100331 Ontario Inc. o/a TTC & Mobile Truck Trailer Repair (“**TTC**”), without further Order of this Court, certain monies on account of, and in full and final satisfaction of, any and all amounts owing to TTC in respect of the Equipment (as defined herein);
- (h) after satisfying the fees and disbursements of the Receiver and its counsel, including the Fee Accrual, and after making the aforementioned distribution to TTC, authorizing and directing the Receiver to distribute to Royal Bank of Canada (“**RBC**”), without further Order of this Court, the remaining funds in the

Debtor's estate on account of the Debtor's secured indebtedness for principal, interest and costs owing to RBC, up to the amount owing by the Debtor to RBC;

- (i) 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 the Debtor 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 reason of, or in any way arising out of, the acts or omissions of Spergel while acting in its capacity as the Receiver; and
- (j) such further and other relief as counsel may advise and this Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) pursuant to an Order of the Honourable Mr. Justice Hailey of this Court made December 1, 2017 (the "**Receivership Order**"), Spergel was appointed as the Receiver, without security, of all the Property of the Debtor;
- (b) pursuant to the Receivership Order, the Receiver was authorized to, amongst other things:
 - (i) sell, convey, lease or assign the Property or any part or parts thereof out of the ordinary course of business, 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 \$150,000), and otherwise with the approval of this Court; and
 - (ii) 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 the Receivership Order;

- (c) the Receiver has entered into the Auction Agreement with the Auctioneer, pursuant to which the Auctioneer shall, as agent of the Receiver and subject to the approval of this Court, offer certain of the Property (being the Property defined as the “**Equipment**” in the Auction Agreement) for sale at the Auction to be held on or about March 6, 2018, pursuant to and subject to the terms of the Auction Agreement;
- (d) the Auction is to be an unreserved public auction conducted by the Auctioneer, which Auctioneer is experienced in such matters, such that the Receiver believes that the Auction will represent an appropriate canvassing of the market for the sale of the Equipment;
- (e) the Disputed Receivable has been paid to the Receiver by one of the Debtor’s customers, and the purported competing claimant to the Disputed Receivable is a company run by the Debtor’s former bookkeeper/accountant who has failed to provide evidentiary entitlement to the Disputed Receivable;
- (f) the Equipment is subject to liens totalling \$25,622.97 in favour of TTC under the *Repair and Storage Liens Act* (Ontario), as further set out in the Report;
- (g) the Debtor is indebted to and has provided security (including the Equipment) in favour of RBC, and the Receiver has obtained an independent legal opinion from its counsel, Aird & Berlis LLP, confirming the validity and enforceability of the security granted by the Debtor in favour of RBC;
- (h) the Receiver has filed with the Court its Report outlining, amongst others things:
 - (i) the actions of the Receiver since its appointment pursuant to the Receivership Order; (ii) the status of the secured claims against the Debtor’s estate; (iii) the Receiver’s proposed scheme of distribution; and (iv) the professional fees and disbursements of the Receiver and its counsel;

- (i) the Receiver and its counsel, Aird & Berlis LLP, have accrued fees and expenses in their capacity as the Receiver and counsel thereto, respectively, which fees and expenses require the approval of this Court pursuant to the Receivership Order;
- (j) the Receivership Order authorizes the Receiver to pass its accounts from time to time, and to include any necessary solicitor fees and disbursements in the passing of the accounts;
- (k) the administration of the receivership of the Debtor will come to an end once the Auction is completed and the proceeds realized by the Receiver to date are distributed;
- (l) the other grounds set out in the Report;
- (m) section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (n) section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (o) rules 1.04, 2.03, 3.02, 37 and 41.06 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (p) such further and other grounds as counsel may advise and this Court may permit.

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

- (a) the Report;
- (b) the fee affidavit of Mukul Manchanda sworn February 12, 2018;
- (c) the fee affidavit of Ian Aversa sworn February 13, 2018; and
- (d) such further and other material as counsel may submit and this Court may permit.

Date: February 13, 2018

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Lawyers for the Receiver

TO: ATTACHED SERVICE LIST

ROYAL BANK OF CANADA

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

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

Proceedings commenced at Toronto

**NOTICE OF MOTION
(returnable February 23, 2018)**

AIRD & BERLIS LLP
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Lawyers for the Receiver

TAB B

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

THE HONOURABLE) FRIDAY, THE 23RD DAY
)
JUSTICE) OF FEBRUARY, 2018

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the “**Debtor**”), for an Order, amongst other things: (i) approving the contract to auction between Ritchie Bros. Auctioneers (Canada) Ltd. (the “**Auctioneer**”), as auctioneer, and the Receiver dated January 23, 2018 (the “**Auction Agreement**”), a copy of which is attached to the Report of the Receiver dated February 13, 2018 (the “**Report**”); (ii) authorizing the Auctioneer to conduct an

unreserved public auction, and, if necessary, one or more re-auction, as referenced in, and in accordance with the terms of, the Auction Agreement (collectively, the “**Auction**”); and (iii) vesting in each purchaser at such Auction (each, a “**Purchaser**”) the Debtor’s right, title and interest in and to the Property purchased by such respective Purchaser at the Auction (in each case, the “**Purchased Assets**”), free and clear of any claims and encumbrances, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and appendices thereto, and on hearing the submissions of counsel for the Receiver, counsel for Royal Bank of Canada and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Susy Moniz, sworn February 13, 2018, filed,

1. **THIS COURT ORDERS AND DECLARES** that the Auction is hereby approved, and the execution of the Auction Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Auction.

2. **THIS COURT ORDERS AND DECLARES** that upon the Auctioneer completing a sale to a Purchaser at the Auction of or more Purchased Assets, upon receipt by the Auctioneer from such Purchaser of the purchase price determined at the Auction and upon delivery by the Auctioneer to such Purchaser of a bill of sale or similar evidence of purchase and sale (each, a “**Purchaser Bill of Sale**”), all the Debtor’s right, title and interest in and to the Purchased Assets purchased by such Purchaser at the Auction and described in such Purchaser’s Bill of Sale shall vest absolutely in such Purchaser, free and clear of and from any and all security interests

(whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Hainey made December 1, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) all charges, security interests or claims pursuant to the *Repair and Storage Liens Act* (Ontario), and, for greater certainty, this Court orders that all the Claims affecting or relating to such Purchased Assets are hereby expunged and discharged as against such Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets at the Auction shall stand in the place and stead of the Purchased Assets sold at the Auction, and that from and after the delivery of a Purchaser’s Bill of Sale all Claims shall attach to the net proceeds from the sale of the Purchased Assets sold at the Auction and described in such Purchaser’s Bill of Sale with the same priority as they had with respect to such Purchased Assets immediately prior to their sale at the Auction, as if such Purchased Assets had not been sold at the Auction and remained in the possession or control of the person having that possession or control immediately prior to their sale at the Auction.

4. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor,

the vesting of each of the Purchased Assets in its respective Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that is now or that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

5. **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.

ROYAL BANK OF CANADA

Applicant

- and -

Respondent

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Court File No. CV-17-587514-00CL

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

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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Lawyers for the Receiver

TAB C

Revised: January 21, 2014

Court File No. CV-17-587514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE _____) FRIDAY, THE 23RD DAY

_____)

JUSTICE _____) OF FEBRUARY, 2018

THE HONOURABLE _____) _____ DAY, THE _____ DAY
JUSTICE _____) OF _____, 20____

~~BETWEEN:-~~

~~PLAINTIFF~~

Plaintiff

ROYAL BANK OF CANADA

Applicant

- and - _____

~~DEFENDANT~~

Defendant

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

APPROVAL AND VESTING ORDER

THIS MOTION, made by [RECEIVER'S NAME]msi Spergel inc. ("**Spergel**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**"), without security, of all the undertaking, property and assets of [DEBTOR] (the "assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the "**Debtor**"), for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Order, amongst other things: (i) approving the contract to auction between Ritchie Bros. Auctioneers (Canada) Ltd. (the "**Auctioneer**"), as auctioneer, and the Receiver dated January 23, 2018 (the "**Auction Agreement**"), a copy of which is attached to the Report of the Receiver dated February 13, 2018 (the "**Report**"); (ii) authorizing the Auctioneer to conduct an unreserved public auction, and, if necessary, one or more re-auction, as referenced in, and in accordance with the terms of, the Auction Agreement (collectively, the "**Auction**"); and (iii) vesting in each purchaser at such Auction (each, a "**Purchaser**") the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), Property purchased by such respective Purchaser at the Auction (in each case, the "**Purchased Assets**"), free and clear of any claims and encumbrances, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and appendices thereto, and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING]counsel for Royal Bank of Canada and such other counsel as were present, no one appearing for any other person

on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Susy Moniz, sworn ~~[DATE]~~ February 13, 2018, filed¹.

1. **THIS COURT ORDERS AND DECLARES** that the ~~Transaetion~~ Auction is hereby approved,² and the execution of the ~~Sale~~ Auction Agreement by the Receiver³ is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized ~~and directed~~ to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the ~~Transaetion and~~ for the conveyance of the Purchased Assets to the Purchaser Auction.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver's~~ certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "~~Receiver's Certificate~~"), ~~all of~~ Auctioneer completing a sale to a Purchaser at the Auction of or more Purchased Assets, upon receipt by the Auctioneer from such Purchaser of the purchase price determined at the Auction and upon delivery by the Auctioneer to such Purchaser of a bill of sale or similar evidence of purchase and sale (each, a "Purchaser Bill of Sale"), ~~all the~~ Debtor's¹ right, title and interest in and to the Purchased Assets purchased by such Purchaser at the Auction and described in the Sale Agreement [and listed on Schedule B hereto]⁴ such Purchaser's Bill of Sale shall vest absolutely in the such Purchaser, free and clear of and from any

¹ This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

³ In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

⁴ To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice [NAME] dated [DATE] Hainey made December 1, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) ~~those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~ all charges, security interests or claims pursuant to the *Repair and Storage Liens Act* (Ontario), and, for greater certainty, this Court orders that all of the ~~Encumbrances~~ Claims affecting or relating to ~~the~~ such Purchased Assets are hereby expunged and discharged as against ~~the~~ such Purchased Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

⁵ The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

3. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets at the Auction shall stand in the place and stead of the Purchased Assets sold at the Auction, and that from and after the delivery of the ~~Receiver's Certificate~~ Purchaser's Bill of Sale all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets sold at the Auction and described in such Purchaser's Bill of Sale with the same priority as they had with respect to ~~thesuch~~ Purchased Assets immediately prior to ~~thetheir~~ sale⁸ at the Auction, as if ~~thesuch~~ Purchased Assets had not been sold at the Auction and remained in the possession or control of the person having that possession or control immediately prior to ~~thetheir sale~~ at the Auction.

~~5.~~ ~~THIS COURT ORDERS AND DIRECTS~~ the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

~~6.~~ ~~THIS COURT ORDERS~~ that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "●" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

4. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

(a) ~~(a)~~ the pendency of these proceedings;

⁷ The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

⁸ This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

(b) ~~(b)~~ any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

(e) ~~(c)~~ any assignment in bankruptcy made in respect of the Debtor;

the vesting of each of the Purchased Assets in ~~the~~ its respective Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that is now or that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

5. **9. 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.

Schedule A—Form of Receiver's Certificate

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:-

PLAINTIFF

Plaintiff

—and—

DEFENDANT

Defendant

RECEIVER'S CERTIFICATE

RECITALS

A. — Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor").

B. — Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section —

of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. — Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. — The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. — The conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. — The Transaction has been completed to the satisfaction of the Receiver.
4. — This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

[NAME OF RECEIVER], in its capacity as Receiver of the undertaking, property and assets of [DEBTOR], and not in its personal capacity

Per: _____

Name:-

Title:-

Schedule B — Purchased Assets

~~Schedule C — Claims to be deleted and expunged from title to Real Property~~

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property~~

~~(unaffected by the Vesting Order)~~

24921184.1

ROYAL BANK OF CANADA

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
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Lawyers for the Receiver

Document comparison by Workshare Compare on February-12-18 3:30:49 PM

Input:	
Document 1 ID	interwovenSite://AB-WS1/CM/31678116/1
Description	#31678116v1<CM> - Model Approval and Vesting Order (amended January 21/14)
Document 2 ID	interwovenSite://AB-WS1/CM/31677317/3
Description	#31677317v3<CM> - Approval and Vesting Order (FastTrack)
Rendering set	standard

Legend:	
<u>Insertion</u>	
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<u>Moved deletion</u>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	85
Deletions	106
Moved from	0

TAB D

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

THE HONOURABLE)	FRIDAY, THE 23RD DAY
)	
JUSTICE)	OF FEBRUARY, 2018

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

DISCHARGE ORDER

THIS MOTION, made by msi Spergel inc. (“**Spergel**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the “**Debtor**”), for an Order, *inter alia*: (i) approving the Report of the Receiver dated February 13, 2018 (the “**Report**”) and the actions of the Receiver described therein; (ii) approving the fees and disbursements of the Receiver and its counsel, including an accrual for fees and disbursements to be incurred to the completion of these proceedings; (iii) authorizing and directing the Receiver to distribute monies from the Debtor’s estate; (iv) discharging Spergel as the Receiver of the assets,

undertakings and properties of the Debtor effective upon the filing of a certificate by the Receiver certifying that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, in substantially the form attached hereto as Schedule “A” (the “**Discharge Certificate**”); and (v) releasing Spergel from any and all liability, as set out in paragraph 9 of this Order, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and appendices thereto, including the fee affidavit of Mukul Manchanda sworn February 12, 2018 (the “**Receiver’s Affidavit**”) and the fee affidavit of Ian Aversa sworn February 13, 2018 (together with the Receiver’s Affidavit, the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver, counsel for Royal Bank of Canada (“**RBC**”) and such other counsel as were present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Susy Moniz sworn February 13, 2018, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and is hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the Report and the actions of the Receiver described therein be and are hereby approved, including, without limitation, the Receiver’s interim statement of receipts and disbursements appended thereto.
3. **THIS COURT DECLARES** that the Disputed Receivable (as defined in the Report) be and is Property (as defined in the Order appointing the Receiver of the Honourable Mr. Justice Hainey made December 1, 2017).

4. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as described in the Report and as set out in the Fee Affidavits, be and are hereby approved.

5. **THIS COURT ORDERS** that the Fee Accrual (as defined in the Report) be and is hereby approved.

6. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved by paragraphs 4 and 5 of this Order, the Receiver be and is hereby authorized and directed to distribute to 2100331 Ontario Inc. o/a TTC & Mobile Truck Trailer Repair (“**TTC**”), without further Order of this Court, on account of, and in full and final satisfaction of, any and all amounts owing to TTC in respect of the Equipment (as defined in the contract to auction (the “**Auction Agreement**”) between the Ritchie Bros. Auctioneers (Canada) Ltd. and the Receiver dated January 23, 2018), the following amounts:

- (a) the lesser of \$10,642.45 and the net proceeds realized by the Receiver from the Auction Agreement in respect of a 2017 Freightliner Cascadia bearing vehicle identification number 1FUJGLDR2HLHV7658;
- (b) the lesser of \$9,750.88 and the net proceeds realized by the Receiver from the Auction Agreement in respect of a 2017 Freightliner Cascadia bearing vehicle identification number 1FUJGLDR2HLHR9991; and
- (c) the lesser of \$5,229.64 and the net proceeds realized by the Receiver from the Auction Agreement in respect of a 2017 Freightliner Cascadia bearing vehicle identification number 3AKJGLDR5HSJA8966.

7. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved by paragraphs 4 and 5 of this Order, and after making the distributions to TTC herein approved by paragraph 6 of this Order, the Receiver be and is hereby authorized and directed to distribute the balance of any and all funds available to RBC, without further Order of this Court, on account of the Debtor's secured indebtedness owing to RBC for principal, interest and costs up to the amount of the Debtor's secured indebtedness owing to RBC.

8. **THIS COURT ORDERS** that, upon the Receiver filing the Discharge Certificate, the Receiver shall be discharged as Receiver of the assets, undertakings and properties of the Debtor, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Spergel, in its capacity as the Receiver.

9. **THIS COURT ORDERS AND DECLARES** that, upon the Receiver filing the Discharge Certificate, Spergel is hereby released and discharged from any and all liability that Spergel now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Spergel while acting in its capacity as the Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Spergel is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

10. **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.

SCHEDULE “A”

Court File No. CV-17-587514-00CL

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

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

RECEIVER’S DISCHARGE CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made December 1, 2017, msi Spergel inc. (“**Spergel**”) was appointed as receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the “**Debtor**”).

(B) Pursuant to an Order of the Court made February 23, 2018 (the “**Discharge Order**”), Spergel was discharged as the Receiver of all the assets, undertakings and properties of the Debtor to be effective upon the filing by the Receiver with the Court of a certificate confirming that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, provided, however, that notwithstanding its

discharge: (a) the Receiver will remain the Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership; and (b) the Receiver will continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Spergel, in its capacity as the Receiver.

(C) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE RECEIVER CERTIFIES the following:

1. all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver; and
2. this Certificate was filed by the Receiver with the Court on the ____ day of _____, 2018.

MSI SPERGEL INC., solely in its capacity as the Court-appointed receiver of all the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance, and not in its personal capacity

Per: _____
Name:
Title:

ROYAL BANK OF CANADA

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

	<p>ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)</p> <p>Proceedings commenced at Toronto</p>
	<p>DISCHARGE ORDER</p>
	<p>AIRD & BERLIS LLP Barristers and Solicitors Brookfield Place 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p>Ian Aversa (LSUC # 55449N) Tel: (416) 865-3082 Fax: (416) 863-1515 Email: iaversa@airdberlis.com</p> <p>Jeremy Nemers (LSUC # 66410Q) Tel: (416) 865-7724 Fax: (416) 863-1515 Email: jnemers@airdberlis.com</p> <p><i>Lawyers for the Receiver</i></p>

TAB E

Revised: May 11, 2010

Court File No. ——— CV-17-587514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE _____)	WEEKDAY, THE #
)	
JUSTICE _____)	DAY OF MONTH, 20YR

~~B E T W E E N:—~~

PLAINTIFF

Plaintiff

THE HONOURABLE _____)	FRIDAY, THE 23RD DAY
_____)	
JUSTICE _____)	OF FEBRUARY, 2018

ROYAL BANK OF CANADA

Applicant

- and ———

DEFENDANT

Defendant

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

DISCHARGE ORDER

THIS MOTION, made by [RECEIVER'S NAME]msi Spergel inc. ("**Spergel**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**"), without security, of all the undertaking, property and assets of [DEBTOR], undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the "**Debtor**"), for an order: 1. Order, *inter alia*: (i) approving the activities of the Receiver as set out in the report~~Report~~ of the Receiver dated [DATE]February 13, 2018 (the "Report"); 2. "**Report**" and the actions of the Receiver described therein; (ii) approving the fees and disbursements of the Receiver and its counsel;~~3.~~ — approving the distribution of the remaining proceeds available in the estate of the Debtor; ~~{and}, including an accrual for fees and disbursements to be incurred to the completion of these proceedings;~~ (iii) authorizing and directing the Receiver to distribute monies from the Debtor's estate; (iv) 4. discharging [RECEIVER'S NAME]Spergel as the Receiver of the undertaking, property and assets of the Debtor~~;~~ and 5. — assets, undertakings and properties of the Debtor effective upon the filing of a certificate by the Receiver certifying that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, in substantially the form attached hereto as Schedule "A" (the "**Discharge Certificate**"); and (v) releasing [RECEIVER'S NAME]Spergel from any and all liability, as set out in paragraph 59 of this Order}[†], was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report, ~~the affidavits of the Receiver and its counsel as to fees (the "Fee Affidavits" and appendices thereto, including the fee affidavit of Mukul Manchanda sworn~~

[†] If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.

February 12, 2018 (the “Receiver’s Affidavit”) and the fee affidavit of Ian Aversa sworn February 13, 2018 (together with the Receiver’s Affidavit, the “Fee Affidavits”), and on hearing the submissions of counsel for the Receiver, counsel for Royal Bank of Canada (“RBC”) and such other counsel as were present, no one else appearing for any other person on the service list, although properly served as evidenced by appears from the Affidavit affidavit of {NAME} Susy Moniz sworn {DATE}, February 13, 2018, filed²;.

1. **THIS COURT ORDERS** that the activities of the Receiver, as set out in the Report, are hereby approved. time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and is hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the Report and the actions of the Receiver described therein be and are hereby approved, including, without limitation, the Receiver’s interim statement of receipts and disbursements appended thereto.

3. **THIS COURT DECLARES** that the Disputed Receivable (as defined in the Report) be and is Property (as defined in the Order appointing the Receiver of the Honourable Mr. Justice Hailey made December 1, 2017).

4. ~~2.~~ **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out described in the Report and as set out in the Fee Affidavits, be and are hereby approved.

5. **THIS COURT ORDERS** that the Fee Accrual (as defined in the Report) be and is hereby approved.

² This model order assumes that the time for service does not need to be abridged.

6. ~~3.-THIS COURT ORDERS~~ that, after payment of the fees and disbursements herein approved by paragraphs 4 and 5 of this Order, the Receiver shall ~~pay the monies remaining in its hands to [NAME OF PARTY]³.~~ be and is hereby authorized and directed to distribute to 2100331 Ontario Inc. o/a TTC & Mobile Truck Trailer Repair ("TTC"), without further Order of this Court, on account of, and in full and final satisfaction of, any and all amounts owing to TTC in respect of the Equipment (as defined in the contract to auction (the "Auction Agreement") between the Ritchie Bros. Auctioneers (Canada) Ltd. and the Receiver dated January 23, 2018), the following amounts:

- (a) the lesser of \$10,642.45 and the net proceeds realized by the Receiver from the Auction Agreement in respect of a 2017 Freightliner Cascadia bearing vehicle identification number 1FUJGLDR2HLHV7658;
- (b) the lesser of \$9,750.88 and the net proceeds realized by the Receiver from the Auction Agreement in respect of a 2017 Freightliner Cascadia bearing vehicle identification number 1FUJGLDR2HLHR9991; and
- (c) the lesser of \$5,229.64 and the net proceeds realized by the Receiver from the Auction Agreement in respect of a 2017 Freightliner Cascadia bearing vehicle identification number 3AKJGLDR5HSJA8966.

7. ~~4.-THIS COURT ORDERS~~ that ~~upon payment of the amounts set out in paragraph 3 hereof~~ and, after payment of the fees and disbursements herein approved by paragraphs 4 and 5 of this Order, and after making the distributions to TTC herein approved by paragraph 6 of this Order, the Receiver be and is hereby authorized and directed to distribute the balance of any and

³-This model order assumes that the material filed supports a distribution to a specific secured creditor or other party-

all funds available to RBC, without further Order of this Court, on account of the Debtor's secured indebtedness owing to RBC for principal, interest and costs up to the amount of the Debtor's secured indebtedness owing to RBC.

8. **THIS COURT ORDERS** that, upon the Receiver filing ~~a certificate certifying that it has completed the other activities described in the Report~~the Discharge Certificate, the Receiver shall be discharged as Receiver of the ~~undertaking, property and assets, undertakings and properties~~ of the Debtor, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of ~~[RECEIVER'S NAME]~~Spergel, in its capacity as the Receiver.

9. ~~5.~~ **THIS COURT ORDERS AND DECLARES** that ~~[RECEIVER'S NAME]~~, upon the Receiver filing the Discharge Certificate, Spergel is hereby released and discharged from any and all liability that ~~[RECEIVER'S NAME]~~Spergel now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of ~~[RECEIVER'S NAME]~~Spergel while acting in its capacity as the Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, ~~[RECEIVER'S NAME]~~Spergel is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within

receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.⁴

10. 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.

⁴ The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.

SCHEDULE "A"

Court File No. CV-17-587514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the "Court") made December 1, 2017, msi Spergel inc. ("Spergel") was appointed as receiver (in such capacity, the "Receiver"), without security, of all of the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the "Debtor").

(B) Pursuant to an Order of the Court made February 23, 2018 (the "Discharge Order"). Spergel was discharged as the Receiver of all the assets, undertakings and properties of the Debtor to be effective upon the filing by the Receiver with the Court of a certificate confirming that all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver, provided, however, that notwithstanding its

discharge: (a) the Receiver will remain the Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership; and (b) the Receiver will continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Spergel, in its capacity as the Receiver.

(C) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE RECEIVER CERTIFIES the following:

1. all matters to be attended to in connection with the receivership of the Debtor have been completed to the satisfaction of the Receiver; and
2. this Certificate was filed by the Receiver with the Court on the _____ day of _____, 2018.

MSI SPERGEL INC., solely in its capacity as the Court-appointed receiver of all the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance, and not in its personal capacity

Per:

Name:

Title:

ROYAL BANK OF CANADA

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced at Toronto

DISCHARGE ORDER

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Barristers and Solicitors
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Lawyers for the Receiver

Document comparison by Workshare Compare on February-12-18 3:32:22 PM

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Document 2 ID	interwovenSite://AB-WS1/CM/31676775/2
Description	#31676775v2<CM> - Discharge Order (FastTrack)
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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

**REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER OF
2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE**

February 13, 2018

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APPENDICES

1. Receivership Order of the Honourable Justice Hainey dated December 1, 2018 and Certificate of Appointment (Bankruptcy) dated December 7, 2018
2. Email exchanges between the Receiver and Naveed Sadiq
3. Email correspondence regarding the Equipment with lessor's counsel
4. Letter to CIBC (without enclosures) dated January 31, 2018
5. Auction Agreement dated January 23, 2018
6. Fee Affidavit of Mukul Manchanda, sworn February 12, 2018
7. Fee Affidavit of Ian Aversa, sworn February 13, 2018
8. Receiver's Interim Statement of Receipts and Disbursements as at February 12, 2018
9. Email exchanges with TTC's counsel and TTC Invoices
10. Decision of the Divisional Court regarding storage fees

1.0 APPOINTMENT AND BACKGROUND

- 1.0.1 This report (this “**Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of 2399295 Ontario Inc. o/a Fast Track Alliance (“**Fast Track**” or the “**Company**”). Fast Track was a Canadian owned, private corporation carrying on business as a transporter of goods. Fast Track operated from an office space located at 2001 Drew Road, Unit 5, in Mississauga, Ontario (the “**Premises**”).
- 1.0.2 Spergel was appointed as the Receiver of all the assets, undertakings and properties of Fast Track (collectively, the “**Property**”) by Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made December 1, 2017 (the “**Receivership Order**”). The Receivership Order was made upon the application of Fast Track’s general secured creditor, Royal Bank of Canada (“**RBC**”).
- 1.0.3 On December 7, 2017, in accordance with its powers under the Receivership Order, and in view of possible reviewable transactions identified in RBC’s receivership application materials, the Receiver assigned Fast Track into bankruptcy, and, on such date, the Office of the Superintendent of Bankruptcy issued a certificate of appointment naming Spergel as the trustee in bankruptcy of Fast Track’s estate (the “**Bankruptcy Certificate**”).
- 1.0.4 Attached collectively as **Appendix “1”** to this Report are copies of the Receivership Order and the Bankruptcy Certificate.

2.0 PURPOSE OF THIS REPORT AND DISCLAIMER

- 2.0.1 The purpose of this Report is to advise the Court as to the steps taken by the Receiver in these proceedings and to seek Orders from this Court:
- (a) approving this Report and the actions of the Receiver described herein, including, without limitation, the Receiver’s interim statement of receipts and disbursements as at February 12, 2018 (the “**Interim R&D**”);

- (b) approving the contract to auction between Ritchie Bros. Auctioneers (Canada) Ltd. (the “**Auctioneer**”), as auctioneer, and the Receiver dated January 23, 2018 (the “**Auction Agreement**”), and authorizing the Auctioneer to conduct an unreserved public auction (and, if applicable, re-auction) as referenced in, and in accordance with the terms of, the Auction Agreement (the “**Auction**”);
- (c) vesting in each purchaser at such Auction the Company’s right, title and interest in and to the Property purchased by such respective purchaser at the Auction, free and clear of claims and encumbrances;
- (d) declaring that the Disputed Receivable (as defined herein) comprises Property;
- (e) approving the fees and disbursements of the Receiver and its independent legal counsel, Aird & Berlis LLP (the “**Receiver’s Counsel**”), including an estimated accrual for fees and disbursements to be incurred to the completion of these proceedings;
- (f) authorizing and directing the Receiver to make the distributions proposed in this Report; and
- (g) 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 Fast Track have been completed to the satisfaction of the Receiver, discharging Spergel as the Receiver and granting certain ancillary relief in relation thereto.

2.0.2 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.

2.0.3 In preparing this Report, the Receiver has relied upon certain information provided to it by Fast Track’s former management. Unless otherwise stated herein, 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.

- 2.0.4 All references to dollars in this Report are in Canadian currency unless otherwise noted.

3.0 ACTIONS OF THE RECEIVER UPON APPOINTMENT

- 3.0.1 A copy of the Receivership Order was provided to the Company by RBC's counsel and by the Receiver. In addition, the Receiver prepared its statutory Notice and Statement of the Receiver in accordance with sections 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) and mailed a copy to all creditors of the Company known to the Receiver.
- 3.0.2 On December 1, 2017, the Receiver attended at the Premises and met with one of Fast Track's principals, Tahir Mahmood ("**Tahir**"). The Receiver did not occupy or otherwise take possession of the Premises.
- 3.0.3 The Receiver was advised by RBC prior to its appointment that the Company's accounting server and computers were in the possession of Net-Xs Inc. IT Solutions ("**Net-Xs**") as a result of non-payment of outstanding invoices. The Receiver immediately made contact with Ajay Sharma ("**Ajay**") of Net-Xs and took possession of the accounting server and client computers.

Accounts Receivable

- 3.0.4 After taking possession of the accounting server and client computers, the Receiver extracted an accounts receivable listing from the server and took steps to realize on Fast Track's outstanding accounts receivable. In this regard, the Receiver issued demand letters on December 5, 2017 to all customers listed in the Company's books and records. As at the date of this Report, the Receiver has collected \$48,746.08 in respect of Fast Track's accounts receivable.
- 3.0.5 As part of the accounts receivable collection process, the Receiver received a sum of \$7,150.00 (the "**Disputed Receivable**") from ITS Logistics Inc. (the

“Customer”). On or about January 18, 2018 the Receiver was contacted by Mr. Naveed Sadiq (**“Naveed”**), the former bookkeeper / accountant of Fast Track, who claimed he had spoken with the Customer’s representative, Donna, and that the Disputed Receivable had been forwarded to the Receiver in error. Naveed claimed that the Disputed Receivable was a receivable of his company, 2394594 Ontario Inc. o/a Fast Track Alliance Transport (**“FTA Transport”**).

- 3.0.6 The Receiver noted that FTA Transport’s operating name was similar to the operating name of Fast Track. In addition, the load confirmation documents provided by Naveed indicated that they were sent to an email address operated by Fast Track and to the attention of the personnel of Fast Track. On January 31, 2018 the Receiver spoke with Donna from the Customer’s office regarding the Disputed Receivable, and she advised that she was not aware that Fast Track and FTA Transport were separate companies, as the people she dealt with were the same and the operating names of the two companies were also similar.
- 3.0.7 On January 31, 2018 the Receiver sent an email to Naveed of FTA Transport, asking him to provide proof of ownership of the trucks and trailers that were used in generating the Disputed Receivable. As at the date of this Report, the Receiver has not received such requested materials. Copies of email exchanges between the Receiver and Naveed are attached hereto as **Appendix “2”**.
- 3.0.8 In addition, the Receiver spoke with Tahir, the principal of Fast Track, who has confirmed that the trucks and trailers used in generating the Disputed Receivable were those of Fast Track and that, to his knowledge, FTA Transport never owned any vehicles.
- 3.0.9 In light of the above, the Receiver is requesting that this Court make an order declaring that the Disputed Receivable constitutes Property.

Canada Revenue Agency (“CRA”)

- 3.0.10 On January 3, 2018, a CRA trust examiner attended at the Receiver’s office to conduct a trust exam of the Company.

3.0.11 CRA has since advised the Receiver that the Company is in a refund position regarding Harmonized Sales Tax ("**HST**"). CRA has not yet confirmed the Company's source deduction position to the Receiver; however, Tahir has advised the Receiver that the Company only had one employee (as further reflected in the Company's books and records), such that there should be no liability for source deductions.

Trucks and Trailers

3.0.12 During the Receiver's meeting with Tahir, he advised that certain trucks leased by the Company were in possession of a repair shop, namely, 2100331 Ontario Inc. o/a TTC & Mobile Truck Trailer Repair ("**TTC**"). The Receiver attended at TTC's premises located at 7505 Kimbel Street in Mississauga, Ontario ("**TTC's Premises**") and took inventory of the trucks parked at TTC's Premises. Subsequently, the Receiver was advised that certain trailers leased by the Company were parked at 305 Claireport Crescent in Etobicoke, Ontario, and the Receiver also attended at this location and took inventory of the trailers.

3.0.13 The Receiver noted dozens of motor vehicle registrations against Fast Track by lessors under the *Personal Property Security Act* ("**PPSA**"). Given the foregoing and the location of certain vehicles at TTC's Premises, the Receiver decided not to take possession of the trucks and trailers until a review of the security held by the respective lessors was undertaken. In this regard, the Receiver sent letters to all the lessors with one or more PPSA registration (provided that the underlying motor vehicle had been located), advising of the Receiver's appointment and asking for the delivery of lease/security documents and payout statements.

3.0.14 Provided that such materials were in order, the Receiver indicated that it would not object to the respective lessor retrieving its corresponding vehicle(s), provided that it forward to the Receiver any excess proceeds, if any, in the vehicle(s) after satisfying the lessor's debt and reasonable costs of disposition.

3.0.15 The Receiver, in consultation with the Receiver's Counsel, was not satisfied with the perfection of a lessor's security interest in the three trucks listed in Schedule

“A” of the Auction Agreement (the “**Equipment**”). The Receiver’s Counsel advised this lessor’s counsel accordingly, and further advised that the Receiver would take possession of the Equipment and arrange to realize on same. The lessor did not challenge the Receiver’s position. Attached hereto as **Appendix “3”** are copies of the email correspondence between the Receiver’s Counsel and the lessor’s counsel in regards to the Equipment.

Other Potential Property

3.0.16 On or about January 31, 2018 the Receiver became aware that Fast Track may be operating a bank account with Canadian Imperial Bank of Commerce (“**CIBC**”). Subsequently, the Receiver’s Counsel sent a letter to CIBC (the “**CIBC Letter**”) requesting, amongst other things, that all funds in any and all of the Company’s accounts with CIBC be delivered to the Receiver forthwith. A copy of the CIBC Letter (without enclosures) is attached hereto as **Appendix “4”**. As at the date of this Report, the Receiver has not received a response from CIBC.

3.0.17 As of the date of this Report, the Receiver has not been able to locate any other Property.

4.0 AUCTION AGREEMENT

4.0.1 The Receiver has entered into the Auction Agreement for the sale of the Equipment by the Auctioneer at the proposed Auction. The Auction Agreement remains subject to the approval of this Court. A copy of the Auction Agreement is attached hereto as **Appendix “5”**.

4.0.2 The Receiver believes that the rates and commissions provided in the Auction Agreement are fair and reasonable. Further, the Receiver believes that a public auction is a commercially reasonable method for disposing of the Equipment, given, amongst other things, the disadvantageous economies of scale that would result if the Receiver were to conduct its own sale process for the three pieces of Equipment.

4.0.3 The Auction is scheduled to take place on March 7, 2018. The net proceeds of sale from the Auction would be held by the Receiver and distributed subject to the proposed distribution protocol recommended in this Report. In the event any of the Equipment is not sold, the Auction Agreement provides that such Equipment would be offered for sale at a subsequent Auction.

5.0 FEES AND DISBURSEMENTS OF THE RECEIVER

5.0.1 Attached hereto as **Appendix “6”** is the Affidavit of Mukul Manchanda, sworn February 12, 2018, which incorporates by reference a copy of the Receiver’s time dockets pertaining to the receivership, for the period to and including February 11, 2018 in the amount of \$35,785.45 inclusive of disbursements and HST. This represents a total of 114.34 hours at an average rate of \$276.78 per hour.

6.0 FEES AND DISBURSEMENTS OF RECEIVER’S COUNSEL

6.0.1 Attached hereto as **Appendix “7”** is the Affidavit of Ian Aversa, sworn February 13, 2018, which incorporates by reference a copy of the accounts rendered by the Receiver’s Counsel to the Receiver for the period to and including February 12, 2018 in the amount of \$39,090.20 inclusive of disbursements and HST.

6.0.2 The Receiver has reviewed the accounts of Receiver’s Counsel and, given the Receiver’s involvement in this matter, the Receiver is of the view that all the work set out in the accounts of the Receiver’s Counsel was carried out and was necessary. The hourly rates of the lawyers who worked on this matter were reasonable in light of the services required, and the services were carried out by lawyers with the appropriate level of experience.

7.0 ESTIMATED FEES AND DISBURSEMENTS TO COMPLETE

7.0.1 Provided that there is no opposition to the relief sought in this Report, the Receiver estimates that the additional fees and disbursements for itself and the Receiver’s

Counsel necessary to complete these proceedings will be \$15,000.00, excluding disbursements and HST (collectively, the “**Fee Accrual**”).

8.0 RECEIVER’S INTERIM R&D

8.0.1 Attached hereto as **Appendix “8”** is a copy of the Receiver’s Interim R&D.

9.0 PROPOSED DISTRIBUTIONS

TTC

9.0.1 The three-pieces of Equipment were retrieved by the Receiver from TTC on January 4, 2018 (the “**Delivery Date**”) on the agreement that any lien rights that TTC may have had in the Equipment would not be prejudiced as a result of the Equipment’s delivery to the Receiver. On or about this date, and in support of such possible lien rights, TTC provided three sets of invoices to the Receiver (one set per vehicle) totalling \$37,826.97 (collectively, the “**TTC Invoices**”). The Receiver also paid \$630 plus HST to TTC following the Delivery Date (\$210 per vehicle plus HST) in exchange for TTC making certain necessary repairs to the Equipment to facilitate the Equipment’s delivery to the Receiver.

9.0.2 Upon receipt from TTC, the Receiver in turn delivered the Equipment to the Auctioneer, as set out in the Auction Agreement.

9.0.3 On February 2, 2018, the Receiver’s Counsel wrote to TTC’s counsel and requested that TTC confirm, for each of the three pieces of Equipment: (i) what quantum TTC is claiming under the *Repair and Storage Liens Act* (the “**RSLA**”); and (ii) whether TTC is relying on any documents other than the TTC Invoices. The Receiver’s Counsel further noted in this communication of February 2, 2018 that certain signature blocks in the TTC Invoices were missing or unsigned by the Company or its representative, and asked TTC’s counsel for signed copies.

9.0.4 On February 6, 2018, TTC’s counsel confirmed that TTC was basing its claim on the TTC Invoices (offering to resend them by fax the next day) and that the total amount being claimed was \$37,826.97 “excluding lien charges” (the meaning of which was not indicated). The Receiver’s Counsel replied by asking TTC’s

counsel to fax any documents upon which TTC is relying to the Receiver's Counsel the next day and to confirm that TTC was seeking an all-inclusive total of \$37,826.97. After another follow-up by the Receiver's Counsel on February 7, 2018, TTC's counsel resent the TTC Invoices on February 12, 2018 (in which all signature blocks were now visible but certain signatures still missing) and confirmed the requested quantum of \$37,826.97. Attached hereto as **Appendix "9"** are copies of email correspondence amongst the Receiver, the Receiver's Counsel, TTC and TTC's Counsel, together with the complete TTC Invoices sent on February 12, 2018.

- 9.0.5 Based on the TTC Invoices, \$17,486.97 appears to be in respect of repair services and \$20,340.00 appears to be in respect of storage fees.
- 9.0.6 None of the TTC Invoices in respect of storage fees is signed (while all but one of the TTC Invoices in respect of repair services are signed). The Receiver understands that the Ontario Superior Court of Justice (Divisional Court) held in 2016 that \$60 per day is a reasonable storage amount in the Toronto area, a copy of which decision is attached hereto as **Appendix "10"**.¹ In contrast, the storage fees in the unsigned TTC Invoices appear to be calculated at a rate of \$150 per day for 40 days for three vehicles, plus HST.
- 9.0.7 Given the RSLA requirement that storage liens apply in respect of an agreed upon amount, or, if no amount has been agreed upon, the fair value of the storage, and given that TTC has not provided evidence of an agreed upon storage amount, the Receiver believes that the daily rate of \$60 per vehicle, and not \$150, is the reasonable storage amount that should be applied.
- 9.0.8 Accordingly, the Receiver is of the view that the maximum amount TTC should be entitled to receive is \$25,622.97 (inclusive of HST), and not \$37,826.97, as amongst the Equipment as follows:

¹ See the discussion beginning at paragraph 58 of that decision, entitled "*What are Reasonable Storage Rates?*"

	Repair amounts reflected in the TTC Invoices (inclusive of HST)	Storage amounts (at \$60 per day for 40 days, inclusive of HST)	Total
2017 Freightliner Cascadia bearing VIN 1FUJGLDR2HLHV7658 (the " First Vehicle ")	\$7,930.45	\$2,712.00	\$10,642.45
2017 Freightliner Cascadia bearing VIN 1FUJGLDR2HLHR9991 (the " Second Vehicle ")	\$7,038.88	\$2,712.00	\$9,750.88
2017 Freightliner Cascadia bearing VIN 3AKJGLDR5HSJA8966 (the " Third Vehicle ")	\$2,517.64	\$2,712.00	\$5,229.64
Total Equipment	\$17,486.97	\$8,136.00	\$25,622.97

9.0.9 Therefore, after payment of the fees and disbursements of the Receiver and the Receiver's Counsel, including the holdback for the Fee Accrual, the Receiver recommends that it be authorized and directed to distribute to TTC the following amounts:

- a. the lesser of \$10,642.45 and the net proceeds realized by the Receiver from the Auction Agreement in respect of the First Vehicle;
- b. the lesser of \$9,750.88 and the net proceeds realized by the Receiver from the Auction Agreement in respect of the Second Vehicle; and
- c. the lesser of \$5,229.64 and the net proceeds realized by the Receiver from the Auction Agreement in respect of the Third Vehicle.

RBC

9.0.10 RBC holds certain security over the Company, including a general security agreement dated June 15, 2017, granted in connection with a letter credit agreement dated June 9, 2017 (collectively, "**RBC's Security**").

9.0.11 The Receiver's Counsel has reviewed RBC's Security, and, subject to the usual assumptions and qualifications of an opinion of such nature, has opined that RBC's Security is validly perfected and enforceable in accordance with its terms.

9.0.12 On February 9, 2018 RBC provided details of the amounts due by the Company to RBC, including legal expenses billed to February 9, 2018, which together total \$1,592,172.41 (plus further amounts for the continued accrual of interest and recovery expenses).

9.0.13 Accordingly the Receiver recommends that, after payment of the fees and disbursements of the Receiver and the Receiver's Counsel, including the holdback for the Fee Accrual, and after the distribution proposed above to TTC, the Receiver be authorized and directed to pay the balance of any and all funds available in the Company's estate to RBC, on account of the Company's secured indebtedness owing to RBC for principal, interest and costs up to the amount of the Company's secured indebtedness owing to RBC.

10.0 DISCHARGE OF THE RECEIVER

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

- (a) ancillary matters regarding the Auction, including the collection of the Auction's net proceeds from the Auctioneer;
- (b) the payment of distributions as identified above;
- (c) other residual and/or administrative matters in connection with Spergel's appointment as the Receiver, including the possible collection of further accounts receivable and recovery from the accounts referenced in the CIBC Letter; and
- (d) filing of the final Receiver's certificate of discharge.

11.0 RECOMMENDATIONS

11.0.1 The Receiver respectfully requests that this Honourable Court grant the relief sought in this Report.

msi Spergel inc.,
solely in its capacity as Receiver of
2399295 Ontario Inc. o/a Fast Track Alliance
and not in its personal or corporate capacity

Per:



Mukul Manchanda, CIRP, LIT
Principal

31713635.5

31748733.2

TAB 1

Court File No. CV-17-587514-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

JUSTICE HAINEY

BETWEEN:

)
)
)

FRIDAY, THE 1st

DAY OF DECEMBER, 2017

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

**ORDER
(appointing Receiver)**

THIS MOTION made by Royal Bank of Canada ("RBC") for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing msi Spergel inc. ("**Spergel**") as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, 8th Floor, Toronto, Ontario.

ON READING the Affidavit of Kevin Leung sworn November 30, 2017 and the Exhibits thereto, the Affidavit of Kenneth L. Kallish sworn November 30, 2017 and the Exhibit thereto, and on hearing the submissions of counsel for RBC, no one appearing for the Debtor although duly served as appears from the affidavit of service of Pauline

Leitgeb sworn November 30, 2017 and on reading the consent of Spergel to act as the Receiver, and the consent of the Debtor,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application is hereby abridged and validated 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, Spergel 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**").

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 \$50,000.00, provided that the aggregate consideration for all such transactions does not exceed \$150,000.00; 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* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (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;
- (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;
- (r) to make an assignment in bankruptcy on behalf of the Debtor; and
- (s) 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. For greater certainty, Net-Xs Inc. shall provide the Receiver immediate access to the Debtor's computers and server in its possession as described in the Affidavit of Kenneth L. Kallish sworn November 30, 2017.

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 \$100,000.00 (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 "A" 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. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL 'www.spergel.ca/fasttrack'.

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.

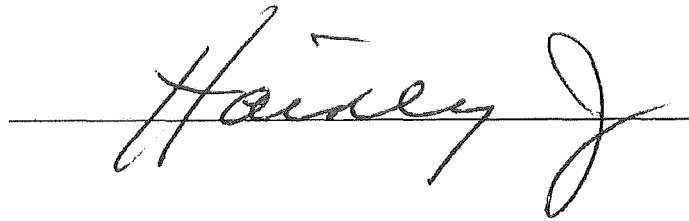
29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, 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.

A handwritten signature in cursive script, appearing to read "Hainey J", is written over a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

DEC 01 2017

PER / PAR:

A small, stylized handwritten signature or initials, possibly "ML", is written next to the "PER / PAR:" label.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that msi Spergel inc., the receiver (the "**Receiver**") of the assets, undertakings and properties 2399295 Ontario Inc. o/a Fast Track Alliance acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 8th day of December, 2017 (the "**Order**") made in an action having Court file number CV-17-587514-00CL, 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 \$ _____ 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 [daily][monthly not in advance on the _____ 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 _____ 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:

BETWEEN

ROYAL BANK OF CANADA
Applicant

-and-

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE
Respondent
Court File No. CV-17-587514-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

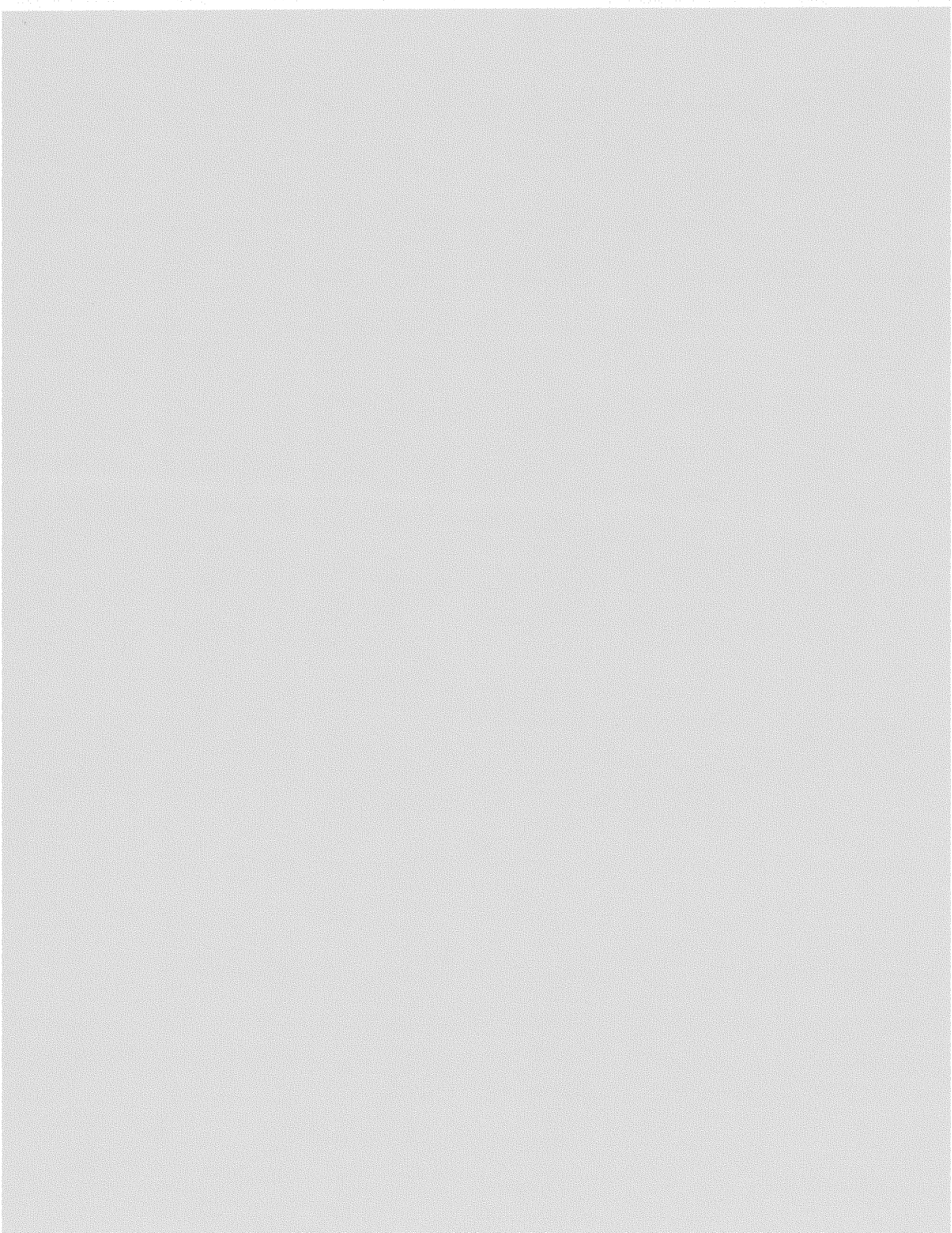
MINDEN GROSS LLP
Barristers and Solicitors
2200 - 145 King Street West
Toronto, ON M5H 4G2

Rachel Moses (LSUC# 42081V)
rmoses@mindengross.com

Tel: 416-369-4115
Fax: 416-864-9223

Lawyers for the Applicant

(File No. 4108204)





Industry Canada

Office of the Superintendent
of Bankruptcy Canada

Industrie Canada

Bureau du surintendant
des faillites Canada

District of: Ontario
Division No.: 09 - Mississauga
Court No.: 32-2323201
Estate No.: 32-2323201

In the Matter of the Bankruptcy of:

2399295 ONTARIO INC.

Debtor

MSI SPERGEL INC

Licensed Insolvency Trustee

Ordinary Administration

Date and time of bankruptcy:	December 07, 2017, 09:09	Security:	\$0.00
Date of trustee appointment:	December 07, 2017		
Meeting of creditors:	December 28, 2017, 10:00 505 Consumers Rd, Suite 200 Toronto, Ontario Canada,		
Chair:	Trustee		

CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor filed an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy;
and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: December 07, 2017, 09:11

E-File/Dépôt Electronique

Official Receiver

Federal Building - Hamilton, 55 Bay Street N, 9th Floor, Hamilton, Ontario, Canada, L8R3P7, (877)376-9902

Canada

TAB 2

Mukul Manchanda

From: FTA Transport <accounts@ftatransport.ca>
Sent: January 18, 2018 3:42 PM
To: Mukul Manchanda
Subject: Invoice No. 5424/896642 and 5744/908007 I.T.S
Attachments: Load # 896642.pdf; Load # 908007.pdf

Hi Mukul,

Just talked to Donna from I.T.S and knew that you have received CAD\$3575 for invoice no. 5744 load no. 908007 and CAD\$3575 for invoice no. 5424 load no. 896642. These should be paid to 2394594 Ontario Inc. Fast Track Alliance Transport. Can you please send us the payment you received from I.T.S. Attached is the copy of invoice for reference.

thanks,

Naveed

2394594 Ontario Inc Fast Track Alliance Transport

70 Alicewood Court
Etobicoke ON M9V 3Y5
TEL:416-613-9500 FAX:
accounts@ftatransport.ca

Invoice

Bill To: I.T.S. LOGISTICS
107 BELLEVUE DRIVE, BOX: 1450
Belleville ON K8N 5J1

Tel:
Fax:

Invoice #: 5424
Invoice Date: 09/29/17
Ship Date: 09/22/17
Delivery Date: 09/24/17
Cust. Order #: 896642
Amount(CAD): \$3,575.00
Terms: Net 30
Ref #:

Note: _____

Rate Method Truck # Trailer # Driver
Flat T7071 5339 MARIO URIAS

Shipper	Ship Date	Consignee	Delivery Date	Amount
AUTOSYSTEMS - 345 345 UNIVERSITY AVENUE Belleville ON K8N5T7	09/22/17	AUTOSYSTEMS AMERICA INC 46600 PORT STREET Plymouth MI 48170 DECONFINEMEX 30351 BUSINESS 77 San Benito TX 78586	09/24/2017	3,575.00

Invoice Total (CAD): 3,575.00

Balance Due: 3,575.00



I.T.S. Logistics
107 Bellevue Drive, Box 1450
Belleville, Ontario K8N 5J1
LOAD CONFIRMATION

5424 / # 6464

Load Number: 7071/538
896642 Maio

CARRIER INFORMATION		REFERENCE NUMBERS
Carrier: FAST TRACK ALLIANCE TRANSPORT	MC Number: 939500	
Phone: 905-487-6601		
Email: dispatch@fasttrackalliance.ca		
Fax:		
Contact: Irfan or Abid		

EQUIPMENT REQUIREMENTS
VAN

STOP INFORMATION	Pieces	Weight
Load At AUTOSYSTEMS 345 UNIVERSITY AVENUE Belleville, ON K8N5T7 Contact: Phone: Instructions: Dimensions: L: 0 W: 0 H: 0 Commodity: UNKNOWN Open: 9/22/2017 9:00:00 AM Close: 9/22/2017 9:00:00 AM		

COMPLETED
0 PCS

Deliver To AUTOSYSTEMS AMERICA INC 46600 port street Plymouth, MI 48170 Contact: Robert Schimeck Phone: 248-986-3823 Instructions: Dimensions: L: 0 W: 0 H: 0 Commodity: AUTO PARTS Open: 9/22/2017 3:00:00 PM Close: 9/22/2017 3:00:00 PM	Pickup Time: 9/22/2017 9:00:00 AM Delivery Time: 9/22/2017 3:00:00 PM
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Deliver To DECONFINEMEX 30351 E BUSINESS 77 San Benito, TX 78586 Contact: Phone: 956-547-5613 Instructions: Dimensions: L: 0 W: 0 H: 0 Commodity: AUTO PARTS Open: 9/24/2017 9:00:00 AM Close: 9/24/2017 9:00:00 AM	Delivery Time: 9/24/2017 9:00:00 AM
---	--

CUSTOMS BROKER
UNK -

PAY INFORMATION - I.T.S. Load Number must appear on invoice to ensure payment: 896642				
Description	Quantity	Rate	Unit	Amount
Load Br CDN Line Haul	1	\$3,500.00	FLT	\$3,500.00
Load Br Accessorial	1	\$75.00	FLT	\$75.00
Total Pay:				\$3,575.00
Initials				



I.T.S. Logistics
107 Bellevue Drive, Box 1450
Belleville, Ontario K8N 5J1
LOAD CONFIRMATION

Load Number:
896642

REMARKS

TEAM SHIPMENT



I.T.S. Logistics
107 Bellevue Drive, Box 1450
Belleville, Ontario K8N 5J1
LOAD CONFIRMATION

Load Number:
896642

Confirmation of Shipment Contract Carrier Verbal Rate Agreement

CARRIER agrees to transport each covered by this rate confirmation for the following rates and charges.

This confirms that CARRIER (FAST TRACK ALLIANCE TRANSPORT) has agreed to transport the following shipment for the account of I.T.S. Logistics on the following terms and conditions. Accepting this shipment from I.T.S. Logistics, is acceptance of and agreement to all the terms and conditions stated in this Load Confirmation and Signed Transportation Agreement. I.T.S. Logistics, is sometimes referred to as 'I.T.S. Logistics' or 'BROKER' in this load confirmation.

ALL CARRIERS MUST ID AS I.T.S. LOGISTICS.

ALL CARRIERS MUST INCLUDE OUR I.T.S. LOAD # WITH INVOICE TO ENSURE PAYMENT.

**ALL INVOICES MUST BE ACCOMPANIED BY PROOF OF DELIVERY AND STAMPED CUSTOMS DOCUMENTS.
ANY EXTRA CHARGES PERTAINING TO THIS ORDER MUST BE CONFIRMED IN WRITING BY I.T.S. LOGISTICS.**

WAITING TIME WILL NOT BE AUTHORIZED AS A RESULT OF MISSED APPOINTMENTS.

CARRIER ASSUMES COMPLETE RESPONSIBILITY FOR LOAD SAFETY AND ALL ASSURANCES.

DOUBLE BROKERING WILL RESULT IN NON-PAYMENT OF INVOICE.

FAILURE TO PICKUP OR DELIVER ON TIME RESULTS IN A MINIMUM CHARGEBACK OF \$50 PER DAY.

Submit Freight Bill To:

I.T.S. Logistics
Box 1450
Belleville, Ontario
K8N 5J1
invoicing@itsinc.on.ca

This Load Shall Not be Double Brokered, or agreement is **VOID**. No additional charges not listed above may be added by carrier.

DRIVER MUST MAKE SURE THAT TRAILER IS LOADED PROPERLY WITH NO SPACES BETWEEN PALLETS,
SUFFICIENTLY BRACED AND BLOCKED TO PREVENT DAMAGE

Driver Name:		Truck Number:	
Driver Cell:		Trailer Number:	

FAST TRACK ALLIANCE TRANSPORT

I.T.S. LOGISTICS

Signature and date

Signature and date

Printed name and title

Printed name and title

2394594 Ontario Inc Fast Track Alliance Transport

70 Alicewood Court
Etobicoke ON M9V 3Y5
TEL:416-613-9500 FAX:
accounts@ftatransport.ca

Invoice

Bill To: I.T.S. LOGISTICS
107 BELLEVUE DRIVE, BOX: 1450
Belleville ON K8N 5J1

Tel:
Fax:

Invoice #: 5744
Invoice Date: 10/26/17
Ship Date: 10/18/17
Delivery Date: 10/20/17
Cust. Order #: 908007
Amount(CAD): \$3,575.00
Terms: Net 30
Ref #:

Note:

Rate Method	Truck #	Trailer #	Driver
Flat	T7075	5345	MUBASHER AZEEM, YASIR HAFEEZ

Shipper	Ship Date	Consignee	Delivery Date	Amount
AUTOSYSTEMS - 345 345 UNIVERSITY AVENUE Belleville ON K8N5T7	10/18/17	DECONFINEMEX 30351 BUSINESS 77 San Benito TX 78586 AUTOSYSTEMS AMERICA INC 46600 PORT STREET Plymouth MI 48170	10/20/2017	3,575.00

Invoice Total (CAD): 3,575.00

Balance Due: 3,575.00



107 Bellevue Drive, Box 1450
Belleville, Ontario K8N 5J1

LOAD CONFIRMATION

5345/7075 5744/6874
Yasir Mubashir
Load Number:
908007

CARRIER INFORMATION	
Carrier: FAST TRACK ALLIANCE TRANSPORT	MC Number: 939500
Phone: 905-487-6601	
Email: dispatch@fasttrackalliance.ca	
Fax:	
Contact: Irfan or Abid	

REFERENCE NUMBERS

EQUIPMENT REQUIREMENTS
VAN

STOP INFORMATION	Pieces	Weight
Load At AUTOSYSTEMS 345 UNIVERSITY AVENUE Belleville, ON K8N5T7 Contact: Phone: Instructions: Dimensions: L: 0 W: 0 H: 0 Commodity: AUTO PARTS Open: 10/18/2017 9:00:00 AM Close: 10/18/2017 9:00:00 AM	0 PCS	

COMPLETED

Deliver To AUTOSYSTEMS AMERICA INC 48600 port street Plymouth, MI 48170 Contact: Robert Schimeck Phone: 248-986-3823 Instructions: Dimensions: L: 0 W: 0 H: 0 Commodity: UNKNOWN Open: 10/18/2017 8:00:00 PM Close: 10/18/2017 8:00:00 PM	Delivery Time: 10/18/2017 8:00:00 PM
---	---

Deliver To DECONFINEMEX 30351 E BUSINESS 77 San Benito, TX 78586 Contact: Phone: 956-547-5613 Instructions: Dimensions: L: 0 W: 0 H: 0 Commodity: UNKNOWN Open: 10/20/2017 9:00:00 AM Close: 10/20/2017 9:00:00 AM	Delivery Time: 10/20/2017 9:00:00 AM
--	---

CUSTOMS BROKER
UNK -

PAY INFORMATION - I.T.S. Load Number must appear on invoice to ensure payment: 908007				
Description	Quantity	Rate	Unit	Amount
Load Br CDN Line Haul	1	\$3,500.00	FLT	\$3,500.00
Load Br Accessorial	1	\$75.00	FLT	\$75.00
Total Pay:				\$3,575.00
Initials				



ITS Logistics
107 Bellevue Drive, Box 1450
Belleville, Ontario K8N 5J1
LOAD CONFIRMATION

Load Number:
908007

REMARKS

TEAM SHIPMENT



I.T.S. Logistics
107 Bellevue Drive, Box 1450
Belleville, Ontario K8N 5J1
LOAD CONFIRMATION

Load Number:
908007

Confirmation of Shipment Contract Carrier Verbal Rate Agreement

CARRIER agrees to transport each covered by this rate confirmation for the following rates and charges.

This confirms that CARRIER (FAST TRACK ALLIANCE TRANSPORT) has agreed to transport the following shipment for the account of I.T.S. Logistics on the following terms and conditions. Accepting this shipment from I.T.S. Logistics, is acceptance of and agreement to all the terms and conditions stated in this Load Confirmation and Signed Transportation Agreement. I.T.S. Logistics, is sometimes referred to as 'I.T.S. Logistics' or 'BROKER' in this load confirmation.

ALL CARRIERS MUST ID AS I.T.S. LOGISTICS.

ALL CARRIERS MUST INCLUDE OUR I.T.S. LOAD # WITH INVOICE TO ENSURE PAYMENT.

**ALL INVOICES MUST BE ACCOMPANIED BY PROOF OF DELIVERY AND STAMPED CUSTOMS DOCUMENTS.
ANY EXTRA CHARGES PERTAINING TO THIS ORDER MUST BE CONFIRMED IN WRITING BY I.T.S. LOGISTICS.**

WAITING TIME WILL NOT BE AUTHORIZED AS A RESULT OF MISSED APPOINTMENTS.

CARRIER ASSUMES COMPLETE RESPONSIBILITY FOR LOAD SAFETY AND ALL ASSURANCES.

DOUBLE BROKERING WILL RESULT IN NON-PAYMENT OF INVOICE.

FAILURE TO PICKUP OR DELIVER ON TIME RESULTS IN A MINIMUM CHARGEBACK OF \$50 PER DAY.

Submit Freight Bill To:

I.T.S. Logistics
Box 1450
Belleville, Ontario
K8N 5J1
KSinvoicing@itsinc.on.ca

This Load Shall Not be Double Brokered, or agreement is VOID. No additional charges not listed above may be added by carrier.

DRIVER MUST MAKE SURE THAT TRAILER IS LOADED PROPERLY WITH NO SPACES BETWEEN PALLETS,
SUFFICIENTLY BRACED AND BLOCKED TO PREVENT DAMAGE

Driver Name:		Truck Number:	
Driver Cell:		Trailer Number:	

FAST TRACK ALLIANCE TRANSPORT

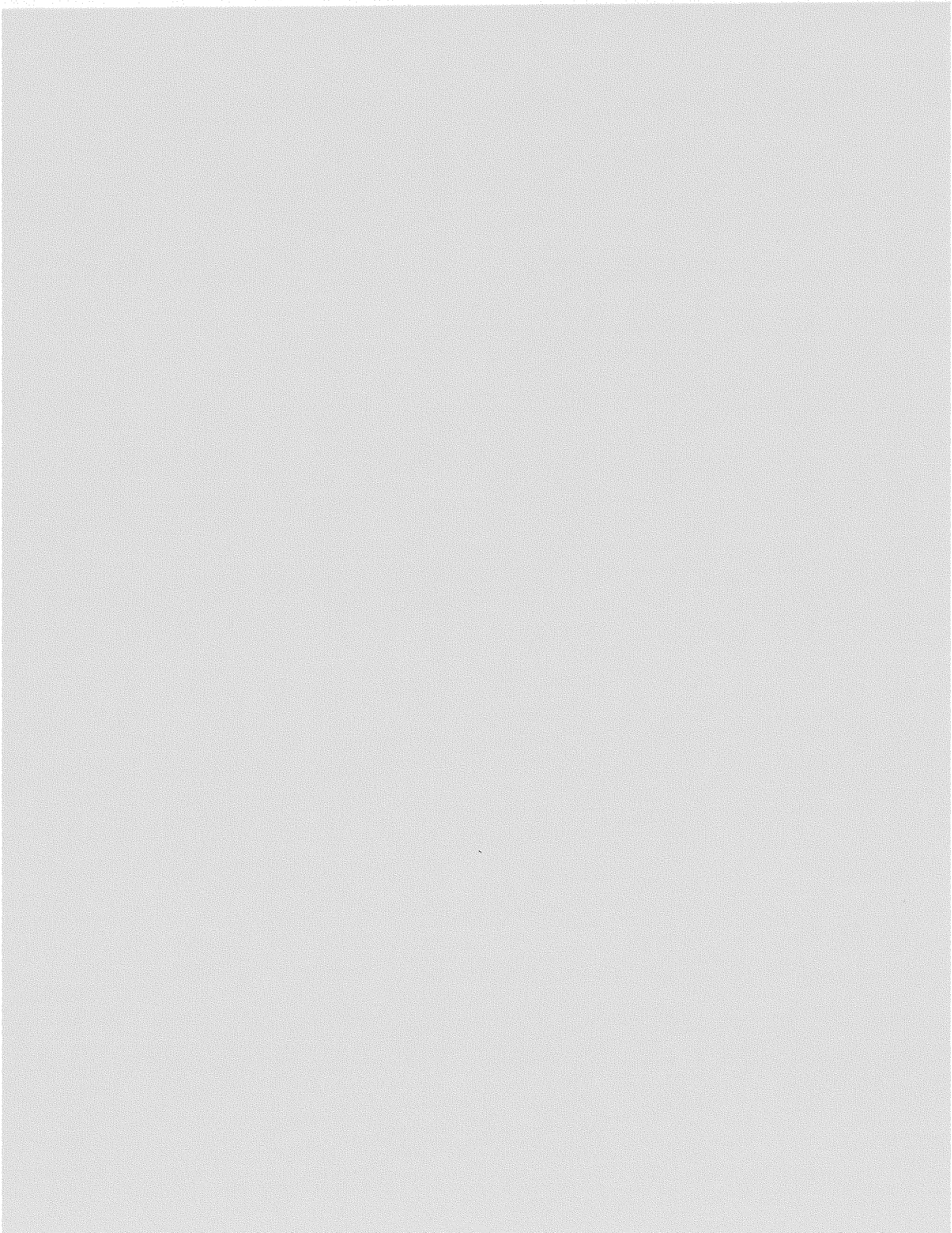
I.T.S. LOGISTICS

Signature and date

Signature and date

Printed name and title

Printed name and title



Mukul Manchanda

From: FTA Transport <accounts@ftatransport.ca>
Sent: January 31, 2018 3:30 PM
To: Mukul Manchanda
Subject: Re: Invoice No. 5424/896642 and 5744/908007 I.T.S





sure

From: Mukul Manchanda <mmanchanda@spergel.ca>
Sent: January 31, 2018 2:26:47 PM
To: FTA Transport
Subject: RE: Invoice No. 5424/896642 and 5744/908007 I.T.S

I have this information already. Can you provide ownership documents of the trucks and trailers indicating that your company is the legal owner of the vehicles used in delivery of these loads?

Regards,
Mukul Manchanda, B.Comm, CP, CIRP, LIT | Principal

 **msi Spergel inc.**, Licensed Insolvency Trustees
505 Consumers Road, Suite 200, Toronto, Ontario, M2J 4V8
T 416-498-4314 | F 416-494-7199 | C 416-454-4246
SPERGEL mmanchanda@spergel.ca | www.spergel.ca

 **ICIN** Member of the Independent
Canadian Insolvency Network   

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From: FTA Transport [mailto:accounts@ftatransport.ca]
Sent: January 31, 2018 3:25 PM
To: Mukul Manchanda
Subject: Re: Invoice No. 5424/896642 and 5744/908007 I.T.S

attached are the images that you can see the truck no. and the name of the company who carried these loads.

From: FTA Transport
Sent: January 31, 2018 2:16:44 PM
To: Mukul Manchanda
Subject: Re: Invoice No. 5424/896642 and 5744/908007 I.T.S

Hello,

If you can see the invoice the truck no. T7071, T7075 mentioned on the invoice are owned by 2394594 Ontario Inc. Fast Track Alliance Transport. Further you can see the load confirmation both the used trucks are also mentioned.

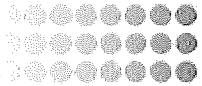
From: Mukul Manchanda <mmanchanda@spergel.ca>
Sent: January 31, 2018 1:38:32 PM
To: FTA Transport
Subject: RE: Invoice No. 5424/896642 and 5744/908007 I.T.S

Hi Naveed,

I have spoken with Donna of ITS regarding this matter. I have noted on the ITS load confirmation sheet that the email address used was of 2399295 Ontario Inc. o/a Fast Track Alliance (the "Company") and contact persons mentioned were Irfan and Abid who were principals of the Company. You have produced an invoice under your company however it is unclear who provided the services. Please provide proof that the trucks and trailers used in these loads were owned by your company and not by 2399295 Ontario Inc. Upon receipt of the documents confirming that the freight was serviced by the vehicles owned by your company we will determine the entitlement of the funds received by the Receiver.

Should you have any questions or concerns please do not hesitate to contact me.

Regards,
Mukul Manchanda, B.Comm, CP, CIRP, LIT | Principal

 **msi Spergel inc., Licensed Insolvency Trustees**
505 Consumers Road, Suite 200, Toronto, Ontario, M2J 4V8
T 416-498-4314 | F 416-494-7199 | C 416-454-4246
SPERGEL mmanchanda@spergel.ca | www.spergel.ca



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From: FTA Transport [<mailto:accounts@ftatransport.ca>]
Sent: January 18, 2018 3:42 PM
To: Mukul Manchanda
Subject: Invoice No. 5424/896642 and 5744/908007 I.T.S

Hi Mukul,

Just talked to Donna from I.T.S and knew that you have received CAD\$3575 for invoice no. 5744 load no. 908007 and CAD\$3575 for invoice no. 5424 load no. 896642. These should be paid to 2394594 Ontario Inc. Fast Track Alliance Transport. Can you please send us the payment you received from I.T.S. Attached is the copy of invoice for reference.

thanks,

Naveed

TAB 3

Mukul Manchanda

From: Jeremy Nemers <jnemers@airdberlis.com>
Sent: December 22, 2017 4:57 PM
To: 'egray@mcleankerr.com'
Cc: Ian Aversa; Mukul Manchanda; Nunes, Mildred
Subject: RE: RBC v. 2399295 Ontario Inc. - Fast Track

Hi Elaine,

Thanks for your email.

The Receiver is satisfied with the perfection and priority of your client's security interest as against the DTF Unit referenced in paragraph 6. The Receiver has neither located nor taken possession of this collateral. Please advise the Receiver if your client locates the whereabouts of this collateral.

As to your enquiry regarding RBC's loan documentation and the indebtedness thereunder, please see the materials in RBC's application record as we do not have any materials in addition to that.

Thanks,

Jeremy

From: Gray, Elaine [<mailto:egray@mcleankerr.com>]
Sent: December-22-17 3:27 PM
To: Jeremy Nemers <jnemers@airdberlis.com>; Ian Aversa <iaversa@airdberlis.com>; john.f.otoole@daimler.com
Cc: Nunes, Mildred <mnunes@mcleankerr.com>
Subject: Fw: RBC v. 2399295 Ontario Inc. - Fast Track

Jeremy:

My client will make arrangements to recover possession of the DTF Units referenced in paragraphs 2 and 5 below. We will provide an accounting as requested. In the unlikely event that there are surplus proceeds after sale of these units, we will remit such surplus proceeds to the Receiver.

With respect to the DTF Unit referenced in paragraph 6 below, we ask that you confirm as soon as possible that DTF has good PMSI security on this unit so that we may recover the unit without delay should we locate it. You have had sufficient time to make this determination.

We request copies of all of the Bank's loan documentation and the current amounts outstanding on these loans.

Thanks,

Elaine

Elaine M. Gray
Partner
McLean & Kerr LLP
130 Adelaide St. West | Suite 2800
Toronto | M5H 3P5 | Canada
Tel: 416.369.6627
Fax: 416.366.8571
egray@mcleankerr.com
www.mcleankerr.com

Due to the volume of emails received, please ensure to copy my assistant Mildred Nunes at mnunes@mcleankerr.com on all file related emails. Thank you.

Ranked by Canadian Lawyer magazine as one of Canada's Top Five Commercial Real Estate Boutiques.

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Please consider the environment. Please don't print this email unless you really need to.

From: Jeremy Nemers <jnemers@airdberlis.com>

Sent: Thursday, December 21, 2017 5:57 PM

To: Gray, Elaine

Cc: Ian Aversa; 'Mukul Manchanda'; Nunes, Mildred

Subject: RE: RBC v. 2399295 Ontario Inc. - Fast Track

Hi Elaine,

Further to the below, we have reviewed your client's security, and can advise as follows (the collateral appearing in the same order of presentation as in your below email):

1. **2017 Freightliner Cascadia, VIN #1FUJGLDR2HLHV7658** – The PPSA registration file on which your client relies (734556483) was registered after the Receivership Order came into effect on December 1, 2017, being approximately six months after the general blanket PPSA registration file in favour of Royal Bank of Canada ("RBC") (728608968) was registered on June 9, 2017. The PPSA registration file on which your client relies also provides in the general collateral description that it is a re-registration of registration file number 715859991, which had already been discharged when RBC made its general blanket registration. Accordingly, it appears that your client's security interest as against this collateral is not effective as against RBC, which acquired rights in the collateral during the interim period when your client's security interest was unperfected (PPSA, s. 30(6)). The Receiver has not yet taken possession of this collateral, but reserves its right to do so depending on, amongst other things, the quantum demanded by the RSLA lien holder.
2. **2016 Freightliner Cascadia, VIN #1FUJGLD52GLGY9616** – The Receiver is satisfied with the perfection and priority of your client's security interest as against this collateral. The Receiver has not taken, and does not intend to take, possession of this collateral. If your client decides to take possession of this collateral, kindly provide an accounting of any and all proceeds realized therefrom, and kindly ensure that any surplus amounts are paid to the Receiver.
3. **2017 Freightliner Cascadia, VIN #1FUJGLDR2HLHR9991** – The PPSA registration file on which your client relies (734556159) was registered after the Receivership Order came into effect on December 1, 2017, being approximately six months after the general blanket PPSA registration file in favour of RBC (728608968) was registered on June 9, 2017. The PPSA registration file on which your client relies also provides in the general collateral description that it is a re-registration of registration file number 716890257, which had already been discharged when RBC made its general blanket registration. Accordingly, it appears that your client's security interest as against this collateral is not effective as against RBC, which acquired rights in the collateral during the interim period when your client's security interest was unperfected (PPSA, s. 30(6)). The Receiver has not yet taken possession of this collateral, but reserves its right to do so depending on, amongst other things, the quantum demanded by the RSLA lien holder.
4. **2017 Freightliner Cascadia, VIN #3AKJGLDR5HSJA8966** – The PPSA registration file on which your client relies (734555889) was registered after the Receivership Order came into effect on December 1, 2017, being approximately six months after the general blanket PPSA registration file in favour of RBC (728608968) was registered on June 9, 2017. The PPSA registration file on which your client relies also provides in the general collateral description that it is a re-registration of registration file number 717228666, which had already been discharged when RBC made its general blanket registration. Accordingly, it appears that your client's security interest as against this collateral is not effective as against RBC, which acquired rights in the collateral during the interim period when your client's security interest was unperfected (PPSA, s. 30(6)). The Receiver has not yet taken possession of this collateral, but reserves its right to do so depending on, amongst other things, the quantum demanded by the RSLA lien holder.
5. **2018 Freightliner Cascadia, VIN #3AKJHHDR4JSJD9934** – The Receiver is satisfied with the perfection and priority of your client's security interest as against this collateral. The Receiver has not taken, and does not intend to take, possession of this collateral. If your client decides to take

possession of this collateral, kindly provide an accounting of any and all proceeds realized therefrom, and kindly ensure that any surplus amounts are paid to the Receiver.

6. **2018 Freightliner Cascadia, VIN #3AKJHHDR8JSJM0475** – As neither the Receiver nor your client appears to be able to locate this collateral, the Receiver has not undertaken a review of your client's corresponding security interest at this time. Please advise the Receiver if your client locates the whereabouts of this collateral. Similarly, the Receiver will advise you if it locates the whereabouts of this collateral.

Thank you,

Jeremy Nemers
Aird & Berlis LLP

T 416.865.7724
E jnemers@airdberlis.com

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From: Ian Aversa
Sent: December-07-17 5:28 PM
To: 'Gray, Elaine' <egray@mcleankerr.com>
Cc: john.f.otoole@daimler.com; Jeremy Nemers <jnemers@airdberlis.com>
Subject: RE: RBC v. 2399295 Ontario Inc. - Fast Track

Thanks, Elaine. We'll review.

Ian Aversa

T 416.865.3082
F 416.863.1515
E iaversa@airdberlis.com

Aird & Berlis LLP | Lawyers
Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Canada M5J 2T9 | airdberlis.com



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From: Gray, Elaine [<mailto:egray@mcleankerr.com>]
Sent: December-07-17 5:12 PM
To: Ian Aversa <iaversa@airdberlis.com>
Cc: john.f.otoole@daimler.com
Subject: RBC v. 2399295 Ontario Inc. - Fast Track

Ian:

Further to our discussion Tuesday evening, the following is a list of my client's documents. Copies of the same are attached at the Tabs noted below:

1. Conditional Sale Contract-Security Agreement made and entered into on April 14, 2016 between Metro Freightliner Hamilton Inc. and 8075654 Canada Inc. ("**8075654**") and assigned to Daimler Truck Financial, a business unit of Mercedes-Benz Financial Services Canada Corporation ("**DTF**") by assignment forming part of the contract, which was transferred to 2399295 Ontario Inc. o/a Fast Track Transport ("**2399295**") by Transfer of Interest in a Motor Vehicle Subject to a Security Interest dated March 12, 2017 with respect to a 2017 Freightliner Cascadia, VIN #1FUJGLDR2HLHV7658. [**TAB 1**]
2. Lease Agreement (Open End) made and entered into on April 20, 2016 between 2399295 and DTF with respect to a 2016 Freightliner Cascadia, VIN #1FUJGLD52GLGY9616. [**TAB 2**]
3. Lease Agreement (Open End) made and entered into on May 23, 2016 between H&H Motor Freight Inc. ("**H&H**") and DTF and transferred to 2399295 by Transfer of Interest and Assumption of Obligations Under a Motor Vehicle Lease Agreement dated February 13, 2017 with respect to a 2017 Freightliner Cascadia, VIN #1FUJGLDR2HLHR9991. [**TAB 3**]

4. Conditional Sale Contract-Security Agreement made and entered into on May 26, 2016 between Metro Freightliner Hamilton Inc. and 8075654 and assigned to DTF by assignment forming part of the contract, which was transferred to 2399295 by Transfer of Interest in a Motor Vehicle Subject to a Security Interest dated March 12, 2017 with respect to a 2017 Freightliner Cascadia, VIN #3AKJGLDR5HSJA8966. **[TAB 4]**
5. Lease Agreement (Open End) made and entered into on June 30, 2017 between 2399295 and DTF with respect to a 2018 Freightliner Cascadia, VIN #3AKJHHDR4JSJD9934. **[TAB 5]**
6. Lease Agreement (Open End) made and entered into on July 31, 2017 between 2399295 and DTF with respect to a 2018 Freightliner Cascadia, VIN #3AKJHHDR8JSJM0475. **[TAB 6]**

I am waiting for precise information as the whereabouts of the various units. As mentioned in our call, I understand that five of the six units are in repair shops.

Thanks,

Elaine

Elaine M. Gray
Partner

**McLean
& Kerr^{LLP}**

130 Adelaide St. West | Suite 2800

Toronto | M5H 3P5 | Canada

Tel: 416.369.6627
Fax: 416.366.8571
egray@mcleankerr.com

www.mcleankerr.com

Due to the volume of emails received, please ensure to copy my assistant Mildred Nunes at mnunes@mcleankerr.com on all file related emails. Thank you.

Ranked by Canadian Lawyer magazine as one of Canada's Top Five Commercial Real Estate Boutiques.

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TAB 4

AIRD BERLIS

Ian Aversa
Direct: 416.865.3082
Email: iaversa@airdberlis.com

January 31, 2018

BY FACSIMILE (416-304-4573) AND COURIER

Canadian Imperial Bank of Commerce

199 Bay Street, 11th Floor
Toronto, Ontario
M5L 1A2

Attention: Legal Department

Dear Sir/Madame:

**Re: Royal Bank of Canada v. 2399295 Ontario Inc.
(Court File No. CV-17-587514-00CL)**

**And re: In the Matter of the Bankruptcy of 2399295 Ontario Inc.
(Court No. and Estate No. 32-2323201)**

We are the lawyers for msi Spergel inc. ("**Spergel**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") of all the assets, undertakings and properties (collectively, the "**Property**") of 2399295 Ontario Inc. (the "**Debtor**"). Spergel was appointed as the Receiver pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) made December 1, 2017 (the "**Appointment Order**"). A copy of the Appointment Order is enclosed, and is also available on the Receiver's website at <http://www.spergelcorporate.ca/active-files-list/2399295-ontario-inc-oa-fast-track-alliance/>.

We are also the lawyers for Spergel, in its capacity as the bankruptcy trustee (in such capacity, the "**Trustee**") of the Debtor's estate. The Debtor was assigned into bankruptcy, and Spergel was appointed as the Trustee, on December 7, 2017, as reflected in the enclosed certificate of appointment from the Office of the Superintendent of Bankruptcy Canada.

The Appointment Order empowers and authorizes the Receiver to, amongst other things, "*take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property*" and "*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.*" The Appointment Order also, amongst other things:

- a) provides that the Receiver is "*exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined [in the Appointment Order]), including the Debtor, and without interference from any other Person;*"
- b) requires that all Persons "*shall forthwith advise the Receiver of the existence of any Property in such Persons' 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;*" and

- c) requires 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 ... (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 ..."

The powers of the Receiver set out in the Appointment Order are further supplemented by, amongst other things, the statutory powers of the Trustee set out in the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), including, without limitation, the vesting of the Property in the Trustee, such that "a bankrupt ceases to have any capacity to dispose of or otherwise deal with their [sic] property."

The Receiver and the Trustee understand that the Debtor has at least one account at Canadian Imperial Bank of Commerce ("**CIBC**"). In accordance with the terms of the Appointment Order and the provisions of the BIA, the Receiver and the Trustee require that: (i) all funds in all the Debtor's accounts at CIBC be delivered to the Receiver forthwith; (ii) all banking statements and other applicable Records pertaining to such accounts be delivered to the Receiver forthwith; and (iii) prior to such funds and Records being delivered to the Receiver, CIBC take steps to ensure that no other party – including the Debtor – is given any access to such funds or Records.


The funds, banking statements and other applicable Records referenced above can be delivered to Mukul Manchanda, the licenced insolvency trustee at Spergel with carriage of these matters, at the following address:

Mukul Manchanda
msi Spergel inc.
505 Consumers Road, Suite 200, Toronto, Ontario, M2J 4V8
Tel: 416.498.4314 / Fax: 416.494.7199
mmanchanda@spergel.ca

Thank you in advance for your attention and cooperation.

Yours truly,

AIRD & BERLIS LLP



Ian Aversa
IA/jn

cc: Mukul Manchanda, msi Spergel inc.

Encls.

31641970.1

AIRD BERLIS

TAB 5



CONTRACT TO AUCTION

DATED this 23rd day of January, 2018.

BETWEEN:

RITCHIE BROS. AUCTIONEERS (CANADA) LTD., having its head office at 9500 Glenlyon Parkway, in the City of Burnaby, in the Province of British Columbia, V5J 0C6

Attention: Eva Smoluch
Telephone No.: 647-824-2080
E-Mail Address: esmoluch@ritchiebros.com

(the "Auctioneer")

OF THE FIRST PART

AND:

MSI SPERGEL INC., having an office at 505 Consumers Road, Suite 200, in the City of Toronto, in the Province of Ontario, M2J 4V8, in its capacity as the Court-appointed receiver of all the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance

Attention: Mukul Manchanda
Telephone No.: 416-498-4314
E-Mail Address: mmmanchanda@spergel.ca

(in such capacity, the "Receiver")

OF THE SECOND PART

For valuable consideration, and subject to the Court (as defined herein) granting the Auction Order (as defined herein), the above parties enter into this contract (the "Contract") which sets out their respective rights, obligations and undertakings regarding the sale by unreserved public auction of all those items described on Schedule "A" attached hereto (the "Equipment").

SECTION 1: AUCTIONEER'S OBLIGATIONS AND RESPONSIBILITIES

- 1.01 Equipment Delivery and Sale Date – The Auctioneer acknowledges that the Receiver has delivered the Equipment to the Sale Site (as defined herein) and that the Auctioneer shall, as agent of Receiver, offer the Equipment for sale at an unreserved public auction on or about the sixth day of March, 2018, at the City of Bolton, in the Province of Ontario.

- 1.02 Payment – The Auctioneer shall wire transfer to the Receiver, within 21 calendar days after the auction, the amount due and owing to the Receiver from monies collected from the sale of the Equipment after making all deductions permitted under this Contract (collectively, the "Receiver's Payment").
- 1.03 Commission – The Auctioneer shall be entitled, at the time of the auction, to a commission based on the gross sale price of the Equipment or any part thereof, as follows:
- (a) 12% for any lot realizing more than \$2,500.00; and
 - (b) the greater of \$100 and 25% for any lot realizing \$2,500.00 or less.
- 1.04 Other – The Auctioneer shall:
- (a) allow the Receiver access to records concerning the sale of the Equipment at the auction;
 - (b) supervise the preparation and organization of the auction;
 - (c) provide and pay for auctioneers and accountants required for an auction of this type;
 - (d) provide listing catalogues of the lots offered for sale to potential buyers at the auction;
 - (e) supply fuel, batteries and tire repair as the Auctioneer determines necessary for the demonstration and sale of the Equipment, the costs of which shall be at the expense of and paid by the Receiver, provided that such costs do not exceed \$TBD in the aggregate;
 - (f) use its best efforts to maximize the proceeds of sale from the Equipment and the amount payable to the Receiver; and,
 - (g) collect and remit any and all federal and provincial sales tax arising upon the sale of the Equipment at the auction.
- 1.05 Sale Site – The Auctioneer shall provide, at no cost to Receiver, a suitable site for conduct of the auction at 3 Manchester Ct., Bolton, Ontario, L7E 2Y1 (the "Sale Site").
- 1.06 Other – The Auctioneer shall:
- (a) comply with all legislation, regulations, or requirements of any authority of competent jurisdiction relating to the sale of the Equipment; and
 - (b) be responsible for the payment of any tax or duty whatsoever that may legally be construed as being the responsibility of Receiver from the auction proceeds.

SECTION 2: RECEIVER'S REPRESENTATIONS AND WARRANTIES

2.01 Title and Condition

The Receiver represents and warrants that:

Initials

- (a) the Receiver is not and will not on the date of the auction be a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
- (b) the Receiver has been appointed as the Court-appointed Receiver of all the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "Court") made December 1, 2018; and
- (c) the Receiver shall seek a further Order from the Court prior to the auction authorizing the Receiver to enter into this Contract and the Auctioneer to conduct the auction in accordance with the terms of this Contract (the "Auction Order").

2.02 As Is, Where Is – The Auctioneer acknowledges that the Receiver is providing and the Auctioneer is auctioning the Equipment on an "as is, where is" and "without recourse" basis, including, without limitation, whatever defects, conditions, impediments, hazardous materials or deficiencies may exist with respect to the Equipment, whether patent or latent. The Auctioneer further acknowledges and agrees that it has entered into this Contract on the basis that the Receiver has not guaranteed and will not guarantee title to or marketability, use or quality of the Equipment, that the Auctioneer has conducted such inspections of the condition and title to the Equipment as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Equipment, or the right to sell, assign, convey or transfer same, save and except as expressly provided in this Contract. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act*, R.S.O. 1990, c. S.1, do not apply hereto and/or have been waived by the Auctioneer. The description of the Equipment contained in this Contract is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

SECTION 3: RECEIVER'S OBLIGATIONS AND RESPONSIBILITIES

3.01 The Receiver shall:

- (a) reimburse the Auctioneer for the cost of fuel, batteries and tire repair as the Auctioneer deems necessary for demonstration and sale of the Equipment, provided that such costs do not exceed \$TBD in the aggregate;
- (b) provide to the Auctioneer a copy of the Auction Order; and
- (c) provide copies of any documents in the Receiver's possession or control relating to the ownership of the Equipment, if requested by the Auctioneer and determined by the Auctioneer to facilitate the Auction.

3.02 Power of Attorney – The Receiver hereby assigns Power of Attorney to the Auctioneer for the sole and limited purpose of executing on the Receiver's behalf all documents required to transfer title to, and permit registration of, any part of the Equipment by the purchaser thereof.

Initials



3.03 Risk of Loss, Insurance –

- (a) The Receiver shall be responsible for loss or damage to the Equipment (other than loss or damage arising as a result of the negligence of the Auctioneer, its agents or employees) unless:
 - i. the Equipment that is lost or damaged has been removed from the Sale Site by the purchaser (regardless of whether such Equipment was lost or damaged before, during or after its removal from the Sale Site by the purchaser); or
 - ii. the Receiver has received the Receiver's Payment in respect of the Equipment that is lost or damaged (regardless of whether such Equipment was lost or damaged before, during or after the Receiver's receipt of the Receiver's Payment for such Equipment); and
- (b) The Receiver shall insure the Equipment, with the Auctioneer as additional insured, to its fair market value against all perils so that in the event of damage to, or destruction of, the Equipment or any part thereof, all insurance proceeds shall be credited to the gross proceeds of the auction and payment made to the Auctioneer forthwith for all deductions permitted by this Contract.

3.04 No Buybacks, Unreserved Auction Sale – The Receiver shall not bid, directly or indirectly, nor allow any other person to bid on the Receiver's behalf or for the Receiver's benefit, by agency or otherwise, on the Equipment or any part thereof at the auction. The Receiver further acknowledges the auction is unreserved and the Auctioneer shall have no obligation or duty to withdraw the Equipment or any part thereof from the auction sale or to cancel the auction. The Equipment shall be sold to the highest bidder on the date of the auction.

3.05 No Guarantee – The Receiver acknowledges that there is no guarantee whatsoever as to the gross proceeds to be realized from the sale of the Equipment at auction.

SECTION 4: MUTUAL AGREEMENTS

It is mutually agreed and understood between the parties hereto that:

- 4.01 Timeliness** – Time is of the essence of this Contract.
- 4.02 Waiver** – A waiver by either party of any breach of any of the provisions herein shall be limited to such particular instance and shall not operate as a waiver of, or be deemed to waive, any other or future breaches of the same or any other provisions hereof.
- 4.03 Legal Costs** – Should either party be required to participate in any action or proceeding in respect of this Contract, the prevailing party shall be entitled to recover all costs, including attorney's fees, incurred as a result thereof.
- 4.04 Prohibition of Pre-Sale** – Neither the Auctioneer nor the Receiver shall sell or offer for sale any part of the Equipment prior to the auction without the written permission of the other.

Initials

- 4.05 Default by Receiver – If the Receiver's representations and warranties set out in Section 2 hereof are not true, complete and correct in all respects then the Receiver will upon demand, reimburse the Auctioneer for all out-of-pocket expenses incurred in preparation for the auction.
- 4.06 Use of Equipment – The Receiver authorizes the Auctioneer to utilize the Equipment in setting up the auction.
- 4.07 Lots – Subject to the terms of this Contract, the Auctioneer shall divide the Equipment into such lots as it may in its absolute discretion deem desirable for sale at the auction.
- 4.08 Collection of Proceeds – The Auctioneer shall collect the full proceeds from the sale of the Equipment and Receiver assigns to the Auctioneer:
- (a) the amount required to discharge and satisfy all federal and provincial sales taxes eligible on the sale of the Equipment; and
 - (b) all amounts payable to the Auctioneer hereunder, including commission, and any advances, together with interest thereon which shall be repayable at the time of the sale.
- 4.09 Uncollected Proceeds – The Auctioneer may, as it deems necessary, re-auction any part of the Equipment not sold or paid for at the auction and the Receiver acknowledges that, in such case, no monies shall be payable by the Auctioneer to the Receiver for any part of the unsold or unpaid for Equipment until it has been sold by the Auctioneer and paid for in full by the purchaser thereof.
- 4.10 Other Consignments – The Auctioneer may sell equipment provided by other receivers at the auction.
- 4.11 Receiver's Name – The Receiver authorizes the Auctioneer to use the Receiver's name, trademark and logo in advertising the auction, but not in connection with any equipment other than the Equipment.
- 4.12 Entire Agreement – This Contract:
- (a) constitutes the entire agreement between the parties and supersedes and takes the place of all prior contracts, understandings, representations or warranties;
 - (b) may not be amended except in writing. There are no understandings, agreements, promises, terms, conditions, or warranties expressed or implied, whether orally or by law, statute or trade usage, other than as specifically stated herein; and
 - (c) shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.
- 4.13 Force Majeure – Neither the Auctioneer nor the Receiver shall be liable for damages caused by failure to perform their respective obligations under this Contract due to fires, strikes, floods, adverse weather which may injure persons or damage property, acts of God or lawful acts of public authorities.

Initials

- 4.14 Jurisdiction – This Contract is subject to, and any dispute arising hereof will be determined by, a Judge of the Ontario Superior Court of Justice sitting on the Commercial List in Toronto, and under the laws of the Province of Ontario.
- 4.15 Notice – Any notice given hereunder shall be either delivered, sent by email or by prepaid registered mail to the parties hereto at the address set out on page 1.
- 4.16 Headings – All headings in this Contract are for reference purposes only and this Contract shall be interpreted without reference to such headings.
- 4.17 Email – Receipt by the Auctioneer via email of a signed copy of this Contract shall, upon acceptance by the Auctioneer, be effective and binding on both parties.
- 4.18 Privacy – Information provided in this Contract will be retained by the Auctioneer in accordance with its formal Privacy Statement, provided on the Auctioneer's website at www.rbauction.com.
- 4.19 Payment of Funds by Auctioneer – All funds due and owing to the Receiver hereunder shall be paid by way of certified cheque, money order or wire payable to the order of msi Spergel inc. in Trust.
- 4.20 Capacity and Independent Legal Advice – It is acknowledged by the Auctioneer that the Receiver is entering into this Contract solely in its capacity as the Court-appointed Receiver of the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance and that the Receiver shall have absolutely no personal or corporate liability under or as a result of this Contract in any respect. Each of the parties further acknowledges and declares that: (i) it has had an adequate opportunity to read and consider this Contract and to obtain such advice in regard to it as it considers advisable, including, without limitation, independent legal advice; (ii) it fully understands the nature and effect of this Contract; and (iii) this Contract has been duly executed voluntarily.


Initials

IN WITNESS WHEREOF this Contract has been executed by the parties hereto as of the date first above written.

(If the Receiver is a Corporation)

MSI SPERGEL INC., IN ITS CAPACITY AS THE COURT-APPOINTED
RECEIVER OF 2399295 ONTARIO INC. O/A FAST TRACK ALLIANCE, AND
NOT IN ITS PERSONAL OR CORPORATE CAPACITY

Per: 
(Signature)
MUKUL MANCHANDA, LITIGANT
(Print Name of person signing)

(If Receiver is not a Corporation)

SIGNED & DELIVERED

By Receiver in the presence of:

(Signature of Witness)

(Print Name of Witness)

Address


Occupation

(Signature of Receiver)

(Print Name of Receiver)

Cust. #:

RITCHIE BROS. AUCTIONEERS (CANADA) LTD.

Per: 
(Signature)
A. MACDONALD
(Print Name)

31539623.3

Initials  



Ritchie Bros. Auctioneers (Canada) Ltd.
Head Office: 9500 Glenlyon Parkway, Burnaby BC V5J 0C6

778.331.5500 / rbauction.com

SCHEDULE A Part of a Contract to Auction

Owner's Name:

msl Spengel Inc in Trust

Auction Site	Auction Location
Toronto, ON, CAN - Mar 6, 2018	Bolton, Ontario

#	Item Description	Encumbrance Holder (If none, state 'nil')	Amount Owed on Encumbrance
1	Year: 2017 Manufacturer: Freightliner Model: Cascadia Machine Type: Truck Tractor (T/A) S/N: 1RUGLDR2HLHV7658	nil	
2	Year: 2017 Manufacturer: Freightliner Model: Cascadia Machine Type: Truck Tractor (T/A) S/N: 1RUGLDR2HLHR9991		
3	Year: 2017 Manufacturer: Freightliner Model: Cascadia Machine Type: Truck Tractor (T/A) S/N: 3AKGLDR5HSJA8966		

Owner Initials	

TAB 6

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

AFFIDAVIT OF MUKUL MANCHANDA
(Sworn February 12, 2018)

I, **MUKUL MANCHANDA**, of the City of Brampton, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Licensed Insolvency Trustee with msi Spergel Inc. ("**Spergel**"), the Court-Appointed Receiver (the "**Receiver**") of 2399295 Ontario Inc. o/a Fast Track Alliance (the "**Debtor**"), and as such have knowledge of the matters to be deposed herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. The Receiver was appointed, without security, of certain of the assets, undertakings and properties of the Debtor by Order of the Honourable Justice Hainey dated December 1, 2017.
3. In connection with the receivership for the period from December 1, 2017 to February 11, 2018 fees of \$35,785.45 inclusive of HST and disbursements charged by Spergel as detailed in the


billing summary and time dockets attached hereto as Exhibit "1" to this, my Affidavit. This represents 114.34 hours at an effective rate of \$276.78 per hour.

4. The hourly billing rates detailed in this Affidavit are comparable to the hourly rates charged by Spergel for services rendered in relation to similar proceedings.

5. This Affidavit is made in support of a motion to, *inter alia*, approve the interim receipts and disbursement of the Receiver and its accounts.

6. I make this Affidavit for no improper purpose.

SWORN before me at the City of
Toronto, in the Province of Ontario
this 12 day of February, 2018.



Commissioner for Taking Affidavits


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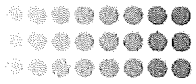
Mukul Manchanda

Gillian Lauren Goldblatt, a Commissioner, etc.
Province of Ontario, for msl Spergel Inc.
Expires September 21, 2019.

**This is Exhibit "1" of the Affidavit of
Mukul Manchanda
Sworn before me on this 12th day of February, 2018**


Gillian Lauren Goldblatt, a Commissioner, etc.
Province of Ontario, for msl Spergel Inc
Expires September 21, 2019.

A Commissioner, Etc.



SPERGEL

January 02, 2018

Invoice #: 11421

2399295 Ontario Inc. o/a Fast Track Alliance

Invoice

RE: 2399295 Ontario Inc. o/a Fast Track Alliance

FOR PROFESSIONAL SERVICES RENDERED in the period November 30, 2017 to December 31, 2017, including review and analysis of financial information, taking possession and realization of assets and correspondence with management.

	Hours	Hourly Rate	Total
Phillip H. Gennis, LL.B., CIRP, Trustee	4.05	\$445.00	\$1,802.25
Eileen Sturge	1.90	195.00	370.50
Frieda Kanaris	9.00	195.00	1,755.00
Mukul Manchanda, CIRP, Trustee	49.40	290.00	14,326.00
Total Professional fees	64.35	\$283.66	\$18,253.75
HST			2,372.99
Reimbursable Expenses			
PPSA Search			\$22.20
Total Reimbursable expenses			\$22.20
HST on expenses			\$1.85
Total			\$20,650.79

HST Registration #R103478103

(AAFAST-R)

msi Spergel inc. Licensed Insolvency Trustees 505 Consumers Road, Suite 200, Toronto, ON M2J 4V8 • Tel 416 497 1660 • Fax 416 494 7199

• Barrie 705 722 5090 • Hamilton 905 527 2227 • Mississauga 905 602 4143 • Oshawa 905 721 8251 • Toronto-Central 416 778 8813
• Brampton 905 874 4905 • London 519 902 2772 • Peterborough 705 748 3333 • Scarborough 416 642 1363 • Saskatchewan 306 341 1660

Member **CAIRP** Canadian Association of Insolvency
and Restructuring Practitioners

www.spergel.ca

Member **ICIN** The Independent Canadian Insolvency Network

Filters Used:

- Time Entry Date: 1/01/70 to 12/31/17
- File ID: AAFast-R: to AAFast-R:
- Time Entry Bill Status: Un-Billed to Un-Billed
- Time Entry Bill Status: Un-Billed to Un-Billed

MSGG - Detailed Time Dockets

Printed on: 1/02/18

Page 1 of 6

File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Eileen Sturge (EST)					
Mon	12/04/2017	Create estate in Ascend; order and install license; request opening of B/A; review PPSA to identify known vehicles/trailers	0.60	\$195.00	\$117.00
Tues	12/05/2017	Prepare letters for leasing companies; email/fax same to leasing companies	1.30	\$195.00	\$253.50
Eileen Sturge (EST)			1.90		\$370.50
Frieda Kanaris (FKA)					
Mon	12/04/2017	Attend to mail redirection; prepare and mail first demand letters to Accounts Receivable debtors; review PPSA and prepare schedule of secured creditors.	1.60	\$195.00	\$312.00
Tues	12/05/2017	Review new A/R schedule and prepare and mail demand letter to additional account debtors, mail; prepare Notice of Receiver and schedule of creditors, file with Official Receiver.	2.60	\$195.00	\$507.00
Wed	12/13/2017	Photocopy and scan returned cheques, prepare schedule of returned cheques from Royal Canadian Supply; complete RC59 form and HST10 form, prepare letter to CRA and fax request to open RT0002 account.	1.30	\$195.00	\$253.50
Mon	12/18/2017	Prepare draft second demand letter, forward to Mukul for review; prepare schedule of outstanding Accounts Receivable.	0.40	\$195.00	\$78.00
Wed	12/20/2017	Review and deposit Accounts receivable cheques; merge, print and mail second demand letters; review and deposit cheque received from Mann Truck Sales.	1.10	\$195.00	\$214.50
Fri	12/22/2017	Prepare labels and folders for estate files.	0.40	\$195.00	\$78.00
Wed	12/27/2017	Complete insurance survey form re freightliners, t/c to FCA, discussion with Mukul re same.	0.40	\$195.00	\$78.00
Thur	12/28/2017	Follow-up t/c to FCA.	0.10	\$195.00	\$19.50
Fri	12/29/2017	Print and fax/email/ and mail second letter to leasing companies; complete and print insurance survey form and forward to FCA re freightliners stored at repair shop.	1.10	\$195.00	\$214.50
Frieda Kanaris (FKA)			9.00		\$1,755.00
Mukul Manchanda (MMA)					
Thur	11/30/2017	Telephone conversations with K. Leung regarding the upcoming receivership. Prepared consent to act as receiver and emailed same to R. Moses. Telephone discussion with R. Moses and K. Kallish regarding K. Kallish's affidavit related to the books and records situated on the company's server. Receipt and review of an email from R. Moses containing the section of the K. Kallish's affidavit related to the need to secure the server on an urgent basis. Receipt and review of an email from K. Leung containing the company's 2016 f/s, a/r, a/p and list of trucks and trailers. Receipt and review of an email from R. Moses to A. Sharma in relation to the data stored on the server. Requested PPSA and Corporate profile searches. Receipt and review of same. Receipt and review of draft receivership order.	1.60	\$290.00	\$464.00

Filters Used:

- Time Entry Date: 1/01/70 to 12/31/17
- File ID: AAFAS-T-R: to AAFAS-T-R:
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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Fri	12/01/2017	Receipt and review of the issued and entered receivership order. Meeting with K. Leung, reviewed recent transactions that were made through the RBC account. Telephone call to U. Tahir and T. Mahmood to arrange a visit at the debtors premises. Travel to the premises located at 2001 Drew Road, Mississauga. Met with T. Mahmood - he provided access to the premises - noted that everything was removed from the premises. Took pictures of the premises. T. Mahmood gave me a cheque related to the payment of receivable, secured same. Travel to 7505 Kimbel Street, Mississauga noted that certain of the debtor's truck were parked in the yard of a repair shop. Made inventory of the trucks and advised the repair shop owner of our appointment. He indicated that he has a possessory lien on the trucks for the unpaid repairs done on the trucks. I asked him to provide me all of the invoices related to his claim. Discussions with the owner surrounding other assets of the company, T. Mahmood advised that certain trailers owned by the debtor are parked at 305 Claireport Crescent, Etobicoke. Visit the yard and identified the trailers parked at the yard. Discussions with T. Mahmood, discovered that all of the trucks and trailers are leased, gathered all of the available lease documents. Removed all of the available books and records from the premises. Telephone conversations with A. Sharma in relation to the recovery of the lost data and possession of the server and the desktops. Arranged to pickup the server and the desktop and obtained the admin password to the server from A. Sharma. Receipt and review of a/r listing and copies of the ownership and plate information of the trucks and trailers. Email exchanges and telephone call with I. Aversa - updated him as to our appointment and the course of action the receiver is planning to take. Review of email exchanges between I. Aversa, R. Moses and K. Kallish. Email exchanges with F. Kanaris, instructed her to do the mail forwarding, open bank account and prepare demand letter to collect a/r. Receipt and review of email from K. Leung containing the bank statements. Downloaded same on our server. Telephone conversation with Pav of Mann's Truck Sales and Leasing, advised him of our appointment and asked him to remit any monies owed to the debtor by Mann Truck to the Receiver as they relate to the sale of certain trailers. He advised that as per his understanding there is nothing outstanding to Deast Track. I advised him that i will be sending him a detailed email asking for further documents related to the sale of the trailers. Drafted and sent the email to Pav containing the court order and asking him to provide all information related to the sale of the trailers. Arranged to have the case website setup.	9.00	\$290.00	\$2,610.00
Sat	12/02/2017	Recover the windows on the accounting server. Retrieved the password for same. Noted that data is deleted but sql server database was intact. Engaged A. Sharma's services to conduct a backup of the files available on the cloud.	3.50	\$290.00	\$1,015.00

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Mon	12/04/2017	Email exchanges and telephone conversations with A. Sharma regarding obtaining the backup data. Arranged for a courier to pickup the backup device. Telephone conversation with K. Leung regarding activity in the company's bank account prior to the appointment of the receiver. Receipt and review of an email from K. Leung containing copies of certain drafts and certified cheques that were drawn in the month of November 2017 and appear to be unrelated to the business of the company. Created a network to connect the company's server and client computer in an attempt to recover the accounting software. Instructed E. Struge to create a list of trucks and trailers that the receiver identified at certain locations on December 1, 2017. Reviewed and edited letter to lessors advising them of the appointment of the receiver and asking them to provide copies of leases and a payout statement. Arranged to have the case website activated. Instructed F. Kanaris to do the mail redirection. Telephone conversations with U. Tahir, he advised me of certain receivables that may not be on the books of the company. Receipt and review of emails from U. Tahir containing further information regarding the receivables. Review of demand letter related to receivables. Signed the demand letters. Telephone calls and email exchanges with U. Tahir regarding passwords to various softwares. Review of email exchanges between R. Moses and E. Gray regarding the appointment of the receiver. Receipt and review of an email from A. Sharma containing an invoice for backing up the data from the cloud. Dealt with various telephone inquiries from vendors, customers and creditors. Transported books and records of the company to the office.	6.80	\$290.00	\$1,972.00
Tues	12/05/2017	Setup a network to access the domain controller and client computers. Successfully logged into the server and changed passwords for the client computers. Connected a client computer to access the dispatch and accounting software. Various telephone conversations with N. Sadliq, T. Mohammad and U. Tahir to recover password for the accounting software. Extracted accounts receivable and payable listing from the accounting software and instructed F. Kanaris to issue demand letters to customers and prepare the notice and statement of the receiver. Email exchanges with I. Aversa regarding communication with leasing companies. Receipt and review of the notice and statement of the receiver. Provided edits to F. Kanaris. Email exchanges with A. Sharma regarding resetting certain passwords. Drafted letter to leasing companies requested copies of lease agreements and payout statements. sent an email to Kul of Manns Truck and Sales asking him to provide the accounting for the proceeds from the sale of the trailers and remit the surplus to the receiver. Receipt and review of email exchanges between I. Aversa and E. Gray regarding leased trucks and trailers. Review of PPSA searches conducted on the debtor. Review of leasing documents and payout statements received from certain leasing companies. Email exchanges with T. Mohammad regarding location of certain trailers.	5.60	\$290.00	\$1,624.00

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Wed	12/06/2017	Communication with Ministry of Finance in relation to their claim. Receipt and review of an email from J. Nemers containing his analysis of the approach the receiver should take when dealing with leasing companies. Telephone call from P. Dhaliwal regarding the companies premises. Advised that the Receiver does not intend to take possession of the premises and agreed to send same in an email. Sent an email to P. Dhaliwal confirming same. Reviewed and signed demand letters. Telephone conversations with U. Tahir regarding monies drawn by I. Haq and the amount outstanding by the sub tenant. Issued demand letters regarding same. Receipt and review of invoice from A. Sharma, forwarded same for processing.	1.90	\$290.00	\$551.00
Thur	12/07/2017	Email exchanges and telephone calls with various customers regarding outstanding amounts. Email exchanges and telephone conversations with leasing companies regarding the process to be followed to obtain the receiver's consent as it relates to the receiver's interest in the leased property.	0.80	\$290.00	\$232.00
Fri	12/08/2017	Receipt and review of an email from J. Nemers containing a draft agreement to be signed by the leasing companies. Receipt and review of incoming mail. Telephone conversations with T. Mohammad regarding the missing equipments and calls from certain leasing companies. Telephone conversations and email exchanges with customers regarding outstanding amounts.	0.80	\$290.00	\$232.00
Mon	12/11/2017	Receipt and review of an email from J. Climie asking for copies of invoices supporting the outstanding receivable. Telephone call and email exchanges with Sonny of T-Pine regarding leased trailers. Receipt and review of an email from K. Mann providing an accounting of proceeds from the sale of certain trailers. Sent an email to K. Mann asking him to send the surplus cheque to us.	1.60	\$290.00	\$464.00
Tues	12/12/2017	Receipt and review of an email from K. Leung advising of certain deposits made in RBC account. Telephone calls and email exchanges with various customers regarding accounts receivables.	0.80	\$290.00	\$232.00
Wed	12/13/2017	Receipt and review of an email from J. Climie asking for copies of invoices and statement of account. Extracted the requested information from the server and emailed same to J. Climie. Receipt and review of an email from K. Leung in relation to deposits in RBC's bank account. Sent an email to K. Leung advising him of the cheques that we received so far. Receipt and review of an email from M. Goldboulton asking for copies of invoices. Extracted invoices from the server and emailed same to M. Goldboulton. Telephone conversations with customers regarding outstanding amounts. Telephone conversations with lessors regarding the equipment owned by the company. Reviewed the files on the server to obtain the company's business number. Reviewed and signed RC59 form to be sent to CRA. Reviewed NSF cheques. Instructed F. Kanaris to prepare a listing of the NSF cheques. Email exchanges with I. Aversa regarding review of security documents received from certain lessors.	2.80	\$290.00	\$812.00
Thur	12/14/2017	Email exchanges and telephone conversations with various customers, provided copies of invoices and answers queries regarding the receivership and the powers of the receiver. Telephone calls and email exchanges with leasing companies regarding leased equipment. Receipt and review of an email from I. Aversa providing opinion regarding the security position of Daimler.	1.90	\$290.00	\$551.00

Filters Used:

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Fri	12/15/2017	Email exchanges with K. Leung regarding RBC's non-neg file. Email exchanges with I. Aversa regarding information required from RBC to determine security position. Receipt and review of an email from K. Leung containing the non neg file, forwarded same to I. Aversa.	0.50	\$290.00	\$145.00
Sat	12/16/2017	Receipt and review of an email from T. Mahmood containing documents related to sale of a trailer after the date of the receivership. Telephone conversation with T. Mahmood regarding same. Forwarded the information to I. Aversa and instructed him to contact Daimler to obtain information regarding the transaction.	1.00	\$290.00	\$290.00
Mon	12/18/2017	Email exchanges with Sonny of Tpine regarding release of the trailers. Email exchanges with F. Kanaris regarding outstanding accounts receivable. Receipt and review of documents provided by Daimler. Email exchanges with I. Aversa regarding Daimler's security. Telephone conversation with I. Aversa and J. Nemers regarding go forward strategy for lease companies who did not reply to the receiver's request for providing security documents. Receipt and review of an email from J. Nemers containing a draft letter to be sent to the leasing companies. Receipt and review of an email from J. Nemers to E. Brady asking to provide information on the truck that was sold after the date of the receivership. Receipt and review of an email from I. Aversa advising he made contact with R. Moses in order to obtain RBC's security file. Receipt and review of an email from E. Brady regarding the sale of the truck after receivership.	1.40	\$290.00	\$406.00
Tues	12/19/2017	Reviewed and signed second demand letters. Receipt and review of various emails from K. Leung containing information relevant to the companies assets and corporate structure including various shareholder agreements, transfer of assets and revenue etc. Review of email exchanges between J. Nemers and E. Brady. Receipt and review of an email from L. Cerqueira containing security documents. Forwarded same to J. Nemers for review. Receipt and review of an email from E. Brady providing an update regarding the truck that was transferred after the receivership.	2.30	\$290.00	\$667.00
Wed	12/20/2017	Receipt and review of the cheque from Mann's trucking. Instructed F. Kanaris to deposit same. Receipt and review of an email from J. Nemers regarding security review of Mercado's documents. Receipt and review of email exchanges between E. Brady and J. Nemers. Email exchanges with J. Nemers regarding security review of Somerville. Provided an executed copy of the release.	0.60	\$290.00	\$174.00
Thur	12/21/2017	Email exchanges with J. Nemers regarding Mercado and Daimler. Receipt and review of email exchanges between K. Kallish and I. Aversa regarding ppsa registration of RBC. Email exchanges with J. Nemers regarding release of assets subject to Somerville security. Further email exchanges and telephone conversations with I. Aversa regarding outstanding items. Email exchanges with Mercado regarding security documents.	1.20	\$290.00	\$348.00
Fri	12/22/2017	Receipt and review of documents from Mercado, forwarded same to J. Nemers. Email exchanges with E. Brady regarding location of the truck. Email exchanges with G. Black regarding outstanding accounts. Email exchanges with J. Nemers regarding Daimler's security. Email exchanges with I. Aversa regarding faking possession of trucks where Daimler's security position was in question.	0.80	\$290.00	\$232.00

Filters Used:

- Time Entry Date: 1/01/70 to 12/31/17
- File ID: AAFASST-R: to AAFASST-R:
- Time Entry Bill Status: Un-Billed to Un-Billed
- Time Entry Bill Status: Un-Billed to Un-Billed

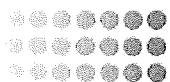
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Printed on: 1/02/18

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Wed	12/27/2017	Telephone call from CRA. Discussed the status of the books and records of the company. Agreed that we will schedule a trust exam and provide books and records that are available to the receiver. The agent advised that CRA will not be attending the meeting of creditors scheduled for tomorrow. Receipt and review of an email from E. Brady regarding lien and storage fees as it relates to the property subject to Somerville's security. Drafted a response and forwarded same to J. Nemers and I. Aversa for comments. Receipt and review of comments from J. Nemers. Sent an email to E. Brady replying to her query. Telephone conversation with J. Nemers regarding taking possession of trucks in which Daimler's security was not perfected or RBC's security position was ahead of Daimler's. Agreed that we will request copies of invoices from TTC regarding repair and storage liens on these trucks. Telephone conversation with B. Tiwana of TTC Repair regarding repair and storage liens on certain trucks. He provided me with total amount outstanding and mileage on each truck. He further agreed to email me copies of invoices. Receipt and review of invoices from B. Tiwana. Forwarded same to J. Nemers for review.	1.60	\$290.00	\$464.00
Thur	12/28/2017	Various telephone conversations with B. Tiwana regarding the release of certain trucks. He advised that he is consulting with his counsel who has advised that he is on vacation till January 2, 2018. I advised B. Tiwana that we have to deal with this matter urgently as the storage costs are accruing daily. He asked me to provide him with a copy of the court order. Sent an email to B. Tiwana containing the receiver's order and asking him to release the trucks to the receiver. Telephone conversation with J. Nemers regarding possessory lien rights of B. Tiwana. Telephone conversations and email exchanges with various customers regarding outstanding amounts.	1.20	\$290.00	\$348.00
Fri	12/29/2017	Telephone conversation with B. Tiwana regarding release of three trucks. Sent an email to J. Nemers asking him to draft a letter to TTC Truck Repair asking to release the truck. Receipt and review of a letter to the repairers counsel. Telephone call with J. Nemers to finalize the letter. Review of letter to leasing companies regarding requirement to provide lease documents. Prepared a signed copy of same to be delivered to leasing companies that have not responded to the receiver's request. Telephone conversation with CRA regarding the trust exam.	1.70	\$290.00	\$493.00
Mukul Manchanda (MMA)			49.40		\$14,326.00
Phillip H. Gennis (PGE)					
Tues	11/28/2017	All matters preliminary to engagement including review of draft order; receipt and review of motion record; email exchanges with Counsel for RBC and debtors.	1.25	\$445.00	\$556.25
Fri	12/01/2017	Site attendance to help secure books and records.	2.00	\$445.00	\$890.00
Fri	12/08/2017	Review release to holders of valid PPSA registrations prepared by Counsel.	0.50	\$445.00	\$222.50
Sat	12/09/2017	Review email regarding trailers sold by debtor.	0.20	\$445.00	\$89.00
Thur	12/14/2017	Review payables.	0.10	\$445.00	\$44.50
Phillip H. Gennis (PGE)			4.05		\$1,802.25
Total for File ID AAFASST-R:			64.35		\$18,253.75
Grand Total:			64.35		\$18,253.75



SPERGEL

February 12, 2018

Invoice #: 11447

2399295 Ontario Inc. o/a Fast Track Alliance

Invoice

RE: 2399295 Ontario Inc. o/a Fast Track Alliance

FOR PROFESSIONAL SERVICES RENDERED in the period December 31, 2017 to February 11, 2018, including review and analysis of financial information, taking possession and realization of assets and correspondence with management.

	Hours	Hourly Rate	Total
Alan Spergel, CPA, CA, FCIRP, CFE, Trustee	0.20	\$445.00	\$89.00
Philip H. Gennis, LL.B., CIRP, Trustee	0.10	445.00	44.50
Eileen Sturge	0.50	195.00	97.50
Frieda Kanaris	8.10	195.00	1,579.50
Mukul Manchanda, CIRP, Trustee	39.70	290.00	11,513.00
Others	1.40	50.00	70.00
Total Professional fees	50.00	\$267.87	\$13,393.50
HST			1,741.16
Total			\$15,134.66

HST Registration #R103478103

(AFAST-R)

msi Spergel inc. Licensed Insolvency Trustees 505 Consumers Road, Suite 200, Toronto, ON M2J 4V8 • Tel 416 497 1660 • Fax 416 494 7199

• Barrie 705 722 5090 • Hamilton 905 527 2227 • Mississauga 905 602 4143 • Oshawa 905 721 8251 • Toronto-Central 416 778 8813
• Brampton 905 874 4905 • London 519 902 2772 • Peterborough 705 748 3333 • Scarborough 416 642 1363 • Saskatchewan 306 341 1660

Member **CAIRP** Canadian Association of Insolvency
and Restructuring Practitioners

www.spergel.ca

Member **ICIN** The Independent Canadian Insolvency Network

Filters Used:

- Time Entry Date: 1/01/70 to 2/11/18
- File ID: AAFast-R: to AAFast-R:
- Time Entry Bill Status: Un-Billed to Un-Billed
- Time Entry Bill Status: Un-Billed to Un-Billed

MSGG - Detailed Time Dockets

Printed on: 2/12/18

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Alan Spergel (ASP)					
Fri	01/12/2018	Review/sign cheques (2)	0.20	\$445.00	\$89.00
		Alan Spergel (ASP)	0.20		\$89.00
Eileen Sturge (EST)					
Tues	01/02/2018	Prepare interim invoice	0.50	\$195.00	\$97.50
		Eileen Sturge (EST)	0.50		\$97.50
Frieda Kanaris (FKA)					
Wed	01/03/2018	Print bank statements for CRA auditor's review; print outstanding A/R list and review with Mukul; t/c to CRA; requisition payment of invoice.	0.80	\$195.00	\$156.00
Thur	01/04/2018	Review emails, print 2016 bank statements; t/c to CRA; review and deposit A/R cheque; review bank statements and cancelled cheques for US account for 2017, prepare schedule of payments > \$5,000.	3.20	\$195.00	\$624.00
Wed	01/10/2018	Requisition payment for TTC repair; attempt to contact CRA.	0.10	\$195.00	\$19.50
Thur	01/11/2018	T/c with CRA, confired RT0002 account opened and obtain access code; continue review of bank statements and cancelled cheques for Canadian account.	2.10	\$195.00	\$409.50
Mon	01/15/2018	T/c with CRA.	0.10	\$195.00	\$19.50
Tues	01/23/2018	Finalize review of bank statements and cancelled cheques.	0.70	\$195.00	\$136.50
Tues	01/30/2018	T/c's with account debtors, forward copies of demand letters and court order, discussion with Mukul re same.	0.80	\$195.00	\$156.00
Wed	01/31/2018	Forward copies of o/s invoices to Scotlynn Commodities.	0.20	\$195.00	\$39.00
Tues	02/06/2018	Requisition payment for insurance premium.	0.10	\$195.00	\$19.50
		Frieda Kanaris (FKA)	8.10		\$1,579.50
Inga Friptuleac (IFR)					
Tues	01/02/2018	issue cheques, Deposit	0.60	\$50.00	\$30.00
Mon	01/08/2018	Issue cheques; Term Investment	0.60	\$50.00	\$30.00
Mon	02/05/2018	issue cheque	0.20	\$50.00	\$10.00
		Inga Friptuleac (IFR)	1.40		\$70.00
Mukul Manchanda (MMA)					
Tues	01/02/2018	Telephone conversation with B. Tiwana regarding release of three trucks. Sent an email to J. Nemers asking him to coordinate with TTC's counsel to arrange for release of the trucks. Telephone conversation with J. Nemers - agreed that he will give TTC's counsel a call to discuss the release of the trucks. Telephone communication with E. Smoluch of Ritchie Brothers regarding auctioning the trucks. Sent an email to E. Smoluch with the make model and VIN of the trucks. Discussions with J. Nemers and B. Tiwana regarding the release of the trucks. Email exchanges with A. Coluccio regarding insurance of the estate assets. Telephone conversation with K. Leung regarding sale process to be followed to sell the trucks. Receipt and review of an email from E. Smoluch containing the auction services agreement and estimated realization values of the trucks. Sent an email to E. Smoluch advising that I will review the contract and get back to her with my comments. Conference call with J. Nemers, S. Mandalagiri and B. Tiwana regarding release of the trucks. B. Tiwana agreed to release the trucks. Coordinated with E. Smoluch and R. Ruiters to arrange for pickup of the trucks. Confirmed to B. Tiwana via email that the trucks will be picked by 1:00pm tomorrow. Receipt and review of email from L. Thai containing Bodkin's leasing documents.	2.80	\$290.00	\$812.00

Filters Used:

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Wed	01/03/2018	Telephone conversation with R. Ruiter regarding location of the trucks. Telephone conversation with B. Tiwana regarding boosting the trucks in order to move them. He advised that he will charge \$150 per truck for boosting. I advised him to invoice me for the same. We agreed to pickup the trucks tomorrow. Meeting with Brankica of CRA regarding the company's trust audit. Made a list of information that she requires. Extracted information from accounting software and books and records of the company and provided same to Brankica. Further discussions with Brankica regarding certain transactions that took place in the company's bank account. Agreed to provide her with bank statements for the year 2016 provided I can obtain same from RBC. Email exchanges with K. Leung of RBC regarding bank statements. Receipt and review of bank statements from K. Leung. Forwarded same to F. Kanaris to print for CRA. Email exchanges with L. Thai regarding documents required to complete the security review. Email exchanges with R. Power regarding outstanding amounts. Receipt and review of an email from G. Black regarding demand letter.	2.80	\$290.00	\$812.00
Thur	01/04/2018	Telephone conversation with B. Tiwana regarding the removal of trucks. B. Tiwana advised that he provided diesel for each of the trucks. We agreed on a price for the diesel. Receipt and review of an email from K. Leung asking to provide the Receiver's WIP. Extracted the information and emailed same to K. Leung. Email exchanges with F. Kanaris regarding the information requested by CRA for the trust audit. Receipt and review of an email containing the signed release from Mercado. Prepared a fully executed copy and emailed same to Mercado.	0.50	\$290.00	\$145.00
Fri	01/05/2018	Email exchanges with L. Cerqueira regarding release letter. Receipt and review of an email from L. Gagnon regarding outstanding amounts. Sent an email to L. Gagnon advising that we will review our records and advise of the invoices that remain outstanding. Telephone conversation with the Bailiff representing Mercado, provided him with the location of the truck. Telephone conversation with B. Tiwana regarding release of truck to Mercado. Extracted various invoices from the accounting software to be sent to customers. Email exchanges with Riordan regarding taking possession of a trailer. Email exchanges with L. PhaoThai regarding further information about delivery of the truck by Bodkin. Reviewed and approved disbursement voucher.	1.90	\$290.00	\$551.00
Mon	01/08/2018	Telephone conversation with P. Tugnait regarding copies of lease agreements and payout statements. Receipt and review of an email from P. Tugnait containing the lease agreements and payout statement. Forwarded same to J. Nemers. Email exchanges with E. Smoluch regarding location of the trucks. Updated A. Coluccio with the new location.	0.50	\$290.00	\$145.00
Tues	01/09/2018	Conference call with I. Aversa and J. Nemers regarding status of the receivership and go forward strategy. Receipt and review of an email from I. Aversa to K. Kallish in relation to Daimler's security on certain trucks.	0.50	\$290.00	\$145.00

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MSGG - Detailed Time Dockets

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Wed	01/10/2018	Sent an email to G. Black asking to advise when the outstanding amounts will be paid. Receipt and review of an email from G. Black advising that he is going through his month end and will have a response to me as soon as possible. Email exchanges with F. Kanari regarding the year end of Fast Track. Provided instructions to F. Kanaris regarding information we require from CRA. Telephone conversation with B. Tiwana regarding a notice sent by Mercado. I advised him to forward me a copy of the notice. Receipt and review of an email containing the notice. Telephone call with B. Tiwana advised him to consult with his counsel regarding his rights in the proceedings.	0.60	\$290.00	\$174.00
Thur	01/11/2018	Sent an email to J. Nemers asking him to advise the status of the review of Traveller's leasing documents. Telephoen conversation with P. Tugnait regarding same. Receipt and review of additional documents from L. Thai regarding Bodkin's security. Forwarded same to J. Nemers for review. Email exchanges with J. Nemers regarding additional information required from Travellers and regarding status of Bodkin's security. Sent an email to P. Tugnait asking for additional information. Telephone conversation with P. Tugnait regarding same. Receipt and review of requested information and forwarded same to J. Nemers. Prepared and forwarded the release to Bodkin.	1.30	\$290.00	\$377.00
Fri	01/12/2018	Receipt and review of an email from J. Nemers advising his findings regarding the security of Travellers. Sent an email to P. Tugnait advising that the receiver is satisfied with Traveller's security and providing a release form.	0.20	\$290.00	\$58.00
Mon	01/15/2018	Receipt and review of an email from M. Pagniello of CLE leasing containing security documents. Forwarded same to J. Nemers for review.	0.30	\$290.00	\$87.00
Tues	01/16/2018	Telephone call to CRA to obtain web filing code for RT1 account. Prepared and filed all RT1 and RT2 outstanding returns. Receipt and review of multiple emails from G. Boenisch of ECN providing security documents. Forwarded same to J. Nemeres for review. Receipt and review of an email from J. Nemers regarding security review of CLE. Sent an email to M. Pagniello asking him to advise the delivery dates of the vehicles.	1.30	\$290.00	\$377.00
Wed	01/17/2018	Receipt and review of an email from M. Pagniello containing the payment authorization documents. Forwarded same to J. Nemers. Receipt and review of an email from J. Nemers regarding CLE's security. Telephone conversation with B. Tiwana regarding moving trucks from storage.	0.40	\$290.00	\$116.00
Thur	01/18/2018	Receipt and review of the Ritchie Bros contract. Sent an email to J. Nemeres asking him to review same.	0.30	\$290.00	\$87.00
Fri	01/19/2018	Email exchanges with G. Black regarding outstanding amounts. Receipt and review of an email from M. Pagniello regarding update on the release. Review CLE's release letter and emailed same to M. Pagniello for execution. Receipt and review of an email from P. Tugnait containing the signed copy of the release. Telephone conversation with J. Nemers regarding Ritchie Bros auction agreement. Agreed that we will use a template from a prior receivership proceedings. Receipt and review of an email from J. Nemers containing the auction agreement.	1.20	\$290.00	\$348.00

Filters Used:

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MSGG - Detailed Time Dockets

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Mon	01/22/2018	Sent an email to J. Nemers advising him that Ritchie Bros contract looks good and asking him to have a call to discuss the NTD's. Telephone conversation with J. Nemers regarding the contract. Receipt and review of the final copy of the draft. Forwarded same to E. Smoluch. Receipt and review of an email from L. PhaoThai containing the release form. Executed same and provided the location of the trucks and trailers to L. PhaoThai.	1.10	\$290.00	\$319.00
Tues	01/23/2018	Telephone conversation with M. Pagnello regarding the release letter and contact person at the location where the trucks are located. Receipt and review of an email from M. Pagnello containing the signed release. Prepared a fully executed copy of same and emailed it to M. Pagnello along with the contact details of B. Tiwana.	0.40	\$290.00	\$116.00
Wed	01/24/2018	Receipt and review of the auction contract. Prepared an executed copy of the contract. Telephone conversation with J. Nemers regarding the auction contract and setting up a court date to get approval for same.	0.50	\$290.00	\$145.00
Thur	01/25/2018	Prepared a release regarding the ECN trailer and emailed same to G. Boenisch. Emailed the signed copy of the auction agreement to E. Smoluch.	0.30	\$290.00	\$87.00
Fri	01/26/2018	Receipt and review of emails from J. Nemers containing RBC's security opinion and draft notice of motion for the upcoming hearing. Email exchanges with E. Smoluch regarding the auction and the transfer of vehicles free and clear of liens.	1.00	\$290.00	\$290.00
Mon	01/29/2018	Review of incoming mail. Reviewed outstanding accounts receivable. Telephone exchanges with customers, extracted invoices as requested from the server and provided same to the customers.	1.30	\$290.00	\$377.00
Tues	01/30/2018	Telephone conversation with K. Leung regarding the upcoming court date. Discussed the discharge of the receiver. Telephone call from K. Leung regarding possibility of funds available in another bank account. Receipt and review of an email regarding same.	0.30	\$290.00	\$87.00
Wed	01/31/2018	Reviewed the outstanding receivables with F. Kanaris. She advised that Scotlynn, Royal Canadian and another customer has requested copies of invoices prior to making payments. Connected and configured the accounting server. Reconfigured the accounting software and extracted the required invoices and provided same to F. Kanaris to be forwarded to the customers. Telephone conversation with K. Leung regarding notifying CIBC of our appointment. Telephone conversation with I. Aversa regarding same, instructed him to write a letter to CIBC asking them to hand over the funds if any in the accounts held by the company. Telephone conversation with Donna of ITS regarding a dispute of payment made by ITS to the Receiver. Sent an email to Naveed asking to provide additional documents to in support of his claim for entitlement of the funds received from ITS.	3.50	\$290.00	\$1,015.00
Thur	02/01/2018	Draft first report to court.	2.00	\$290.00	\$580.00
Fri	02/02/2018	Email exchanges with E. Smoluch regarding expenses to repair the trucks. Telephone conversation with R. Moses regarding the upcoming court hearing. Telephone conversation with I. Aversa regarding changing the hearing date. Email exchanges with J. Nemers regarding the RSLA claimant. Started drafting the first report to court.	1.40	\$290.00	\$406.00
Mon	02/05/2018	Review of voicemail from CRA regarding issuing a statement of account and deemed trust claim. Draft first report of the receiver	1.50	\$290.00	\$435.00

Filters Used:

- Time Entry Date: 1/01/70 to 2/11/18
- File ID: AAFast-R: to AAFast-R:
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MSGG - Detailed Time Dockets

Printed on: 2/12/18

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File Name (ID): 2399295 Ontario Inc. o/a Fast Track Alliance (AAFAST-R:)

Day	Date	Memo	B-Hrs	B-Rate	Amount
Mukul Manchanda (MMA)					
Tues	02/06/2018	Receipt and review of insurance invoice. Approved the disbursement for same. Sent an email to E. Smoluch asking for a fully executed copy of the auction services agreement. Receipt and review of an email from J. Nemers containing the draft approval and vesting order, discharge order and the notice of motion. Continue drafting the report of the receiver. Receipt and review of email exchanges between J. Nemers and S. Mandalagiri regarding TTC's claim. Receipt and review of an email from J. Nemers evaluating TTC's RSLA claim and including the decision of a Divisional court in support of the proposed recommendation for distribution to TTC. Email exchanges with I. Aversa regarding setting up a call to discuss the draft materials.	3.20	\$290.00	\$928.00
Wed	02/07/2018	Draft First Report to Court. Telephone conversation with I. Aversa and J. Nemers regarding matters relevant to the upcoming court attendance of the Receiver. Email exchanges with E. Smoluch and A. MacDonald regarding fully executed copies of the auction services agreement. Receipt and review of an email from J. Nemers requesting contact information of CRA trust examiner, Ritchie's contact person and N. Sadia. Receipt and review of an email from J. Nemers to S. Mandalagiri advising that he has not received the documents that S. Mandalagiri promised to fax.	4.50	\$290.00	\$1,305.00
Thur	02/08/2018	Finalize the draft report and emailed same to I. Aversa and J. Nemers. Email exchanges with I. Aversa regarding a potential deemed trust claim of CRA. Meeting with K. Leung regarding the potential of CRA assessing certain individuals to be employees of the company.	3.00	\$290.00	\$870.00
Fri	02/09/2018	Telephone conversation with I. Aversa regarding source deduction claim if any. Receipt and review of an email from R. Stevenson containing certain intercompany letters to be signed by the Receiver. Sent an email to R. Stevenson advising that the Receiver will be obtaining a vesting order to sell the vehicles as such there is no need to sign intercompany letters or notify the secured creditors as they all will be served with the Receiver's motion record. Receipt and review of an email from K. Leung containing the amounts outstanding to RBC. Receipt and review of an email from R. Stevenson asking for contact information of the RBC account manager to send lien release documents.	0.60	\$290.00	\$174.00
Sun	02/11/2018	Receipt and review of an email from J. Nemers containing his comments regarding the first report of the receiver. Sent an email to P. Gennis containing the draft report for his review and comments.	0.50	\$290.00	\$145.00
Mukul Manchanda (MMA)			39.70		\$11,513.00
Philip H. Gennis (PGE)					
Mon	01/08/2018	Review and approve payables.	0.10	\$445.00	\$44.50
Philip H. Gennis (PGE)			0.10		\$44.50
Total for File ID AAFast-R:			50.00		\$13,393.50
Grand Total:			50.00		\$13,393.50

ROYAL BANK OF CANADA

-and-

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

AFFIDAVIT OF MUKUL MANCHANDA
(sworn February 12, 2018)

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Ian Aversa (LSUC # 55449N)

Tel: (416) 865-3082

Fax: (416) 863-1515

Email: iaversa@airdberlis.com

Jeremy Nemers (LSUC # 66410Q)

Tel: (416) 865-7724

Fax: (416) 863-1515

Email: jnemers@airdberlis.com

Lawyers for the Receiver

TAB 7

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Respondent

**AFFIDAVIT OF IAN AVERSA
(sworn February 13, 2018)**

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

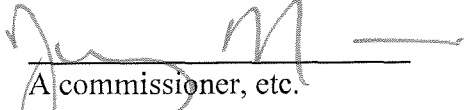
1. I am a lawyer at Aird & Berlis LLP and, as such, I have knowledge of the matters to which I hereinafter depose. Aird & Berlis LLP is acting as counsel for msi Spergel inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of 2399295 Ontario Inc. o/a Fast Track Alliance.
2. Aird & Berlis LLP has prepared statements of account in connection with its mandate as counsel to the Receiver, detailing its services rendered and disbursements incurred, namely:
 - (a) an account dated December 22, 2017 in the amount of \$11,395.42 in respect of the period from November 30, 2017 to December 19, 2017;

- (b) an account dated January 29, 2018 in the amount of \$17,619.42 in respect of the period from December 20, 2017 to January 25, 2018; and
- (c) an account dated February 13, 2018 in the amount of \$10,075.36 in respect of the period from January 31, 2018 to February 12, 2018,

(the “**Statements of Account**”). Attached hereto and marked as **Exhibit “A”** to this Affidavit are copies of the Statements of Account. The average hourly rate of Aird & Berlis LLP is \$407.94.

- 3. Attached hereto and marked as **Exhibit “B”** to this Affidavit is a chart detailing the lawyers, law clerks and articling students who have worked on this matter.
- 4. This Affidavit is made in support of a motion to, *inter alia*, approve the attached accounts of Aird & Berlis LLP and the fees and disbursements detailed therein, and for no improper purpose whatsoever.

SWORN before me at the City of)
 Toronto, in the Province of Ontario)
 this 13th day of February, 2018)



 A commissioner, etc.
 JEREMY AVERSA



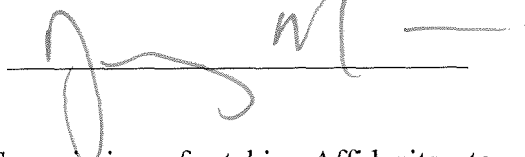
 IAN AVERSA

Attached is Exhibit "A"

Referred to in the
AFFIDAVIT OF IAN AVERSA

Sworn before me

this 13th day of February, 2018

A handwritten signature in dark ink, appearing to be "J. M. [unclear]", is written over a horizontal line.

Commissioner for taking Affidavits, etc

IN ACCOUNT WITH:

AIRD BERLIS

Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Ontario, Canada M5J 2T9
T 416.863.1500 F 416.863.1515
airdberlis.com

msi Spergel inc.
200-505 Consumers Road
North York, ON
M2J 4V8

Attention: Mr. Mukul Manchanda

Account No.: 585171

PLEASE WRITE ACCOUNT NUMBERS
ON THE BACK OF ALL CHEQUES

File No.: 13225/141769

December 22, 2017

Re: 2399295 Ontario Inc. o/a Fast Track Alliance

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended December 19, 2017

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
SRM	30/11/17	\$350.00	0.30	\$105.00	Order profile and PPSA search and report on same
IEA	01/12/17	\$495.00	0.70	\$346.50	Telephone calls and emails to and from client, RBC's counsel and J. Nemers regarding background, update and next steps
SRM	01/12/17	\$350.00	0.60	\$210.00	Review and report on high volume PPSA search against 2399595 Ontario Inc.
JTN	01/12/17	\$325.00	0.30	\$97.50	Receipt and review of issued and entered order and emails from R. Moses, K. Kallish, M. Manchanda, P. Gennis and I. Aversa re same; Telephone call with I. Aversa re same
IEA	04/12/17	\$495.00	0.50	\$247.50	Engaged with reviewing the application record and discussions regarding same; Emails to and from counsel, client and J. Nemers
JTN	04/12/17	\$325.00	0.20	\$65.00	Receipt and review of application record
IEA	05/12/17	\$495.00	1.00	\$495.00	Telephone call and emails to and

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					from client and J. Nemers re correspondence re leasing arrangements; Engaged with reviewing correspondence from client re same; Telephone call and emails to and from E. Gray and J. Nemers; Emails to and from client re same
JTN	05/12/17	\$325.00	1.00	\$325.00	Telephone call with client re status and next steps; Voicemail for E. Gray re Daimler Truck Financial; Receipt and review of vehicle location spreadsheet; Telephone call with E. Gray; Telephone calls with client re leasing issues; Attend to related matters as needed
IEA	06/12/17	\$495.00	1.00	\$495.00	Discussions with and instructions to J. Nemers re review of leasing documents and emails to and from client and J. Nemers re same; Discussions and instructions to J. Nemers re next steps
TSJ	06/12/17	\$295.00	0.40	\$118.00	Receive instruction from J. Nemers; Review initial responses received to date and updated tracking sheet; Revise form of S.18 letter
SRM	06/12/17	\$350.00	0.10	\$35.00	Order and report on corporate profile for 1095802
JTN	06/12/17	\$325.00	3.30	\$1,072.50	Engaged with review of security received from Riordan Leasing Inc. and Somerville National Leasing & Rentals Ltd.; Engaged with high- level review of 31 PPSA registrations; Consider same; Discussion with I. Aversa re same; Email to and telephone call with client re same and corresponding recommendations re next steps; Discussions with I. Aversa and T. Jones re same; Attend to related tasks as needed
IEA	07/12/17	\$495.00	0.80	\$396.00	Emails to and from E. Brady and client re leasing matters; Engaged with reviewing template release letter and providing comments;

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					Emails to and from client and J. Nemers re next steps
JTN	07/12/17	\$325.00	1.80	\$585.00	Receipt and review of email from client re equipment lessors; Discussion with I. Aversa re same; Engaged with drafting of and revisions to template agreement and release re same; Email to and follow-up discussion with I. Aversa re same; Attend to related tasks as needed
JTN	07/12/17	\$325.00	0.10	\$32.50	Receipt and review of lease buyout schedule from E. Brady re Somerville
IEA	08/12/17	\$495.00	1.00	\$495.00	Telephone call and emails to and from client and J. Nemers regarding leasing matters; Discussions and instructions to J. Nemers regarding same; Telephone call and emails to and from E. Brady from Somerville Auto and discussions regarding same
TSJ	08/12/17	\$295.00	0.50	\$147.50	Review file and PPSA searches; Review template agreement; Review validity and priority of equipment lessor's security
SRM	08/12/17	\$350.00	0.10	\$35.00	Order, review and report on PPSA search against VINs
JTN	08/12/17	\$325.00	1.20	\$390.00	Engaged with revision to draft template agreement re vehicle repossession, ordering and review of PPSA search re Somerville vehicle and email exchange with client re same and related matters; Meeting with T. Jones re same; Telephone call with I. Aversa; Voicemail for, email to and telephone call with E. Brady re Somerville
IEA	11/12/17	\$495.00	0.30	\$148.50	Telephone call and emails to and from client
IEA	12/12/17	\$495.00	0.50	\$247.50	Engaged with reviewing documents re leasing agreements and emails

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					and discussions with T. Jones re same
SRM	12/12/17	\$350.00	0.10	\$35.00	Order esummary and report on same
CP	12/12/17	\$180.00	0.20	\$36.00	Order PPSA searches for six vehicle identification numbers
CP	12/12/17	\$180.00	0.20	\$36.00	Order PPSA searches for additional six vehicle identification numbers
IEA	13/12/17	\$495.00	0.50	\$247.50	Emails to and from client and J. Jones re leasing agreements re TPine and reviewing documents re same
CP	13/12/17	\$180.00	0.10	\$18.00	Order PPSA search for 2399295 Ontario Inc.
IEA	14/12/17	\$495.00	1.00	\$495.00	Emails to and from client and J. Nemers re leasing arrangements re Daimler Truck and reviewing documents re same
IEA	15/12/17	\$495.00	0.70	\$346.50	Emails to and from client and J. Nemers regarding Daimler Truck; Emails to and from client and T. Jones regarding TPine
JTN	15/12/17	\$325.00	0.10	\$32.50	Prepare draft email to client re TPine and CLE-related matters
IEA	18/12/17	\$495.00	1.10	\$544.50	Telephone call and emails to and from client and J. Nemers; Telephone call and emails to and from R. Moses and J. Nemers; Discussions and instructions to J. Nemers regarding template letter and emails to and from client regarding same; Engaged with reviewing documents from E. Gray regarding Daimler, discussions and instructions to J. Nemers regarding same and emails to and from E. Gray, client and J. Nemers regarding same
JTN	18/12/17	\$325.00	1.70	\$552.50	Receipt and review of email from E. Gray; Discussion with I. Aversa re same and related matters; Attend on

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					conference call with client re status and next steps; Prepare draft template PPSA letter for client; Email to client re same; Email to E. Gray re purported post-receivership transaction; Telephone call with R. Moses; Attend to related tasks as needed
IEA	19/12/17	\$495.00	1.00	\$495.00	Discussions with J. Nemers re documents and information from E. Gray re Daimler and instructions to J. Nemers regarding next steps re same
SRM	19/12/17	\$350.00	0.10	\$35.00	Email to Ministry re obtaining copies of discharged registrations
JTN	19/12/17	\$325.00	2.10	\$682.50	Engaged with review of additional documentation provided by E. Gray and attempt to reconcile same with information on hand; Email to I. Aversa re same; Meeting with I. Aversa re same; Email to E. Gray; Voicemail and email to client re same; Receipt and review of further email from E. Gray re historical timeline re certain Daimler matters; Email exchange with client re same; Attend to related matters re Daimler
TOTAL:			24.60	\$9,645.00	

Name	Hours	Rate	Value
Shannon R. Morris (SRM)	1.30	\$350.00	\$455.00
Ian E. Aversa (IEA)	10.10	\$495.00	\$4,999.50
Jeremy T. Nemers (JTN)	11.80	\$325.00	\$3,835.00
Timothy S. Jones (TSJ)	0.90	\$295.00	\$265.50
Christina Pugliese (CP)	0.50	\$180.00	\$90.00

OUR FEE	\$9,645.00
HST at 13%	\$1,253.85

DISBURSEMENTS

COST INCURRED ON YOUR BEHALF AS AN AGENT

Search Under P.P.S.A.	\$224.00	
Due Diligence-Gov Fee	\$16.00	
 Total Agency Costs		\$240.00

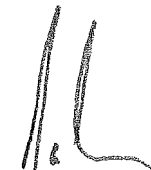
Subject to HST

Service Provider Fee	\$146.00	
Due Diligence	\$7.00	
Photocopies - Local	\$29.50	
Teraview Search	\$31.80	
Photocopies	\$0.25	
Imaging/Scanning	\$12.50	
 Total Disbursements		\$227.05
HST at 13%		\$29.52

AMOUNT NOW DUE

\$11,395.42

THIS IS OUR ACCOUNT HEREIN
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 0.8% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTOR. Please include the account number as reference.

IN ACCOUNT WITH:

AIRD BERLIS

Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Ontario, Canada M5J 2T9
T 416.863.1500 F 416.863.1515
airdberlis.com

msi Spergel inc.
200-505 Consumers Road
North York, ON
M2J 4V8

Attention: Mr. Mukul Manchanda

Account No.: 588428

PLEASE WRITE ACCOUNT NUMBERS
ON THE BACK OF ALL CHEQUES

File No.: 13225/141769

January 29, 2018

Re: 2399295 Ontario Inc. o/a Fast Track Alliance

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended January 25, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	20/12/17	\$495.00	1.00	\$495.00	Meeting and discussions with J. Nemers re ongoing lease reviews and next steps re same; Discussions and instructions to J. Nemers re same; Several emails re same
SRM	20/12/17	\$350.00	0.10	\$35.00	Order, review and report on vehicle identification number search
JTN	20/12/17	\$325.00	0.70	\$227.50	Engaged with review of security documents provided by Mercado; Email to client re same; Email exchange with client re Somerville; Email to E. Brady re same; Telephone call with R. Moses; Attend to related matters as needed
IEA	21/12/17	\$495.00	1.50	\$742.50	Emails to and from lessors, client and J. Nemers re ongoing lease review; Discussions and instructions to J. Nemers re same; Telephone call with client re update and next steps
SRM	21/12/17	\$350.00	0.10	\$35.00	Review certified PPSA search and report on same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	21/12/17	\$325.00	1.70	\$552.50	Email exchanges and telephone call with client; Email exchange with E. Gray re Daimler; Email exchange with E. Brady re Somerville; Receipt and review of historical PPSA registration listing; Prepare and issue Receiver's substantive response to E. Gray re Daimler's security interests; Attend to related matters as needed
IEA	22/12/17	\$495.00	1.30	\$643.50	Engaged with ongoing lease review; Discussions and instructions to J. Nemers regarding same; Telephone calls and emails to and from client, lessors and J. Nemers regarding same
JTN	22/12/17	\$325.00	0.40	\$130.00	Email exchange with client re Daimler; Email exchange with E. Gray re same; Email to E. Brady re Somerville
IEA	27/12/17	\$495.00	1.00	\$495.00	Emails to and from counsel, client and J. Nemers and discussions and instructions to J. Nemers regarding same
JTN	27/12/17	\$325.00	1.20	\$390.00	Receipt and review of email from E. Brady re Somerville; Receipt and review of draft response from client and engaged with revisions and further drafting re same; Telephones calls with client re Somerville, Daimler and related matters; Receipt and review of RSLA-related information from client; Email to and telephone call with I. Aversa re same; Attend to related matters as needed
IEA	28/12/17	\$495.00	0.30	\$148.50	Emails to and from counsel, client and J. Nemers and discussions and instructions to J. Nemers regarding same
JTN	28/12/17	\$325.00	0.20	\$65.00	Telephone call with client re RSLA lien holder; Receipt and review of email to RSLA lien holder re same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	29/12/17	\$495.00	1.00	\$495.00	Emails to and from counsel, client and J. Nemers and discussions and instructions to J. Nemers regarding same
JTN	29/12/17	\$325.00	1.70	\$552.50	Engaged with drafting and issuance of letter to S. Mandalagiri re certain RSLA vehicles; Email exchanges and telephone calls with client re same; Telephone call with S. Mandalagiri re same; Attend to related matters as needed
IEA	02/01/18	\$495.00	0.70	\$346.50	Emails to and from counsel, client and J. Nemers and discussions and instructions to J. Nemers regarding same; Emails and discussions regarding search results and instructions to J. Nemers regarding same
SRM	02/01/18	\$350.00	0.60	\$210.00	Order, review and report on VIN searches
JTN	02/01/18	\$375.00	1.30	\$487.50	Telephone calls with client and S. Mandalagiri re RSLA-related issues; Engaged with review of further materials provided to support Mercado PMSI and engaged with related matters re same; Email to client re same; Attend on conference call with client, S. Mandalagiri and his client re RSLA-related issues; Email exchange with client re Bodkin; Attend to related matters as needed
IEA	03/01/18	\$495.00	0.40	\$198.00	Emails to and from client and J. Nemers and discussions with J. Nemers; Emails to and from J. Nemers and S. Morris
SRM	03/01/18	\$350.00	0.10	\$35.00	Review certified PPSA searches and report on same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	03/01/18	\$375.00	1.00	\$375.00	Prepare draft email to K. Kallish re status; Engaged with review of additional materials provided by Bodkin; Email to client re same; Discussion with J. Aversa re same; Receipt and review of email chain from client re RSLA-related matters
IEA	05/01/18	\$495.00	0.20	\$99.00	Emails to and from client and J. Nemers and discussions with J. Nemers regarding same
JTN	05/01/18	\$375.00	0.20	\$75.00	Email exchange with client re Bodkin
IEA	07/01/18	\$495.00	0.30	\$148.50	Discussions and instructions to J. Nemers regarding update and next steps; Emails to and from client and J. Nemers regarding same
IEA	08/01/18	\$495.00	0.20	\$99.00	Emails to and from client and J. Nemers
IEA	09/01/18	\$495.00	1.10	\$544.50	Telephone call and emails to and from client and J. Nemers re update and next steps; Discussions and instructions to J. Nemers and S. Morris re same
SRM	09/01/18	\$350.00	0.80	\$280.00	Review non-neg; Prepare draft security opinion
JTN	09/01/18	\$375.00	0.50	\$187.50	Attend on conference call with client and J. Aversa; Instruct S. Morris re security opinion
IEA	10/01/18	\$495.00	0.30	\$148.50	Emails to and from J. Nemers and S. Morris re security review and opinion re RBC's security
SRM	10/01/18	\$350.00	0.50	\$175.00	Review and revise security opinion
IEA	11/01/18	\$495.00	0.60	\$297.00	Emails to and from client and J. Nemers and discussions and instructions to J. Nemers
SRM	11/01/18	\$350.00	0.30	\$105.00	Order, review and report on VIN searches
JTN	11/01/18	\$375.00	1.10	\$412.50	Engaged with review of security documents for Travelers; Email to client re same; Engaged with further

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					review of security documents for Bodkin; Email to client re same
IEA	12/01/18	\$495.00	0.30	\$148.50	Discussions with J. Nemers regarding security opinion and next steps regarding same
SRM	12/01/18	\$350.00	0.20	\$70.00	Review and report on PPSA searches
IEA	15/01/18	\$495.00	0.40	\$198.00	Emails to and from client and J. Nemers; Engaged with reviewing documents from client and discussions and instructions to J. Nemers regarding same
SRM	15/01/18	\$350.00	0.20	\$70.00	Order verbal and certified PPSA searches against specific VINs
JTN	15/01/18	\$375.00	0.50	\$187.50	Engaged with high-level security review re CLE
IEA	16/01/18	\$495.00	0.70	\$346.50	Engaged with reviewing documents from client; Discussions and instructions to J. Nemers re same; Emails to and from clients and J. Nemers re same
SRM	16/01/18	\$350.00	0.40	\$140.00	Review PPSA searches and report on same; Review and report on additional VIN searches
JTN	16/01/18	\$375.00	0.60	\$225.00	Engaged with high-level review of security documents provided by Element re located collateral; Receipt and review of PPSA searches; Email to client re CLE; Discussion with I. Aversa re Element
IEA	17/01/18	\$495.00	0.50	\$247.50	Emails to and from J. Nemers re search results and discussions re same; Emails to and from client and J. Nemers and discussions with J. Nemers
JTN	17/01/18	\$375.00	0.20	\$75.00	Engaged with review of additional CLE documents; Email to client re same
IEA	18/01/18	\$495.00	0.40	\$198.00	Emails to and from client and J. Nemers; Discuss with J. Nemers

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	18/01/18	\$375.00	0.20	\$75.00	Engaged with high-level review of draft auction agreement; Discussion with I. Aversa re same
IEA	19/01/18	\$495.00	1.00	\$495.00	Emails to and from client and J. Nemers and discussions with J. Nemers; Engaged with reviewing draft contract regarding auction and providing comments; Discussions and instructions to J. Nemers regarding same; Emails to and from client and J. Nemers regarding same
JTN	19/01/18	\$375.00	2.00	\$750.00	Telephone call with client re draft auction agreement; Engaged with review of, revisions to and further drafting of same; Email to client re same
IEA	22/01/18	\$495.00	0.50	\$247.50	Emails to and from client and J. Nemers regarding draft agreement with Ritchie Bros and ongoing lease review; Discussions and instructions to J. Nemers regarding same
JTN	22/01/18	\$375.00	0.80	\$300.00	Email exchange and telephone call with client re draft auction agreement; Engaged with revisions re same; Email to client re ECN security; Attend to related tasks as needed
IEA	23/01/18	\$495.00	0.40	\$198.00	Emails and discussions with J. Nemers and S. Morris re security opinion
SRM	23/01/18	\$350.00	0.10	\$35.00	Order certified PPSA search against 2399295 Ontario Inc.
JTN	23/01/18	\$375.00	0.50	\$187.50	Engaged with review of and revisions to draft security opinion; Email to S. Morris re same
IEA	24/01/18	\$495.00	1.10	\$544.50	Discussions with J. Nemers re call with client and discussions and instructions to J. Nemers re security opinion and next steps re upcoming motion; Emails to and from court and J. Nemers re hearing; Engaged

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					with reviewing the draft opinion and providing comments; Emails to and from client and J. Nemers re same
SRM	24/01/18	\$350.00	0.20	\$70.00	Review certified PPSA search and update security review re same
JTN	24/01/18	\$375.00	0.60	\$225.00	Telephone call with client re auction agreement, anticipated court attendance, RSLA claimant and related matters; Engaged with booking court hearing and related matters; Email exchange with I. Aversa and S. Morris re security opinion; Finalize and issue security opinion; Telephone call with I. Aversa re same
IEA	25/01/18	\$495.00	0.50	\$247.50	Engaged with reviewing the draft notice of motion and providing comments; Discussions and instructions to J. Nemers re same; Emails to and from client and J. Nemers re same
JTN	25/01/18	\$375.00	1.40	\$525.00	Engaged with drafting of and revisions to notice of motion; Email to client re same; Attend to related tasks as needed
TOTAL:			36.10	\$15,036.50	

Name	Hours	Rate	Value
Ian E. Aversa (IEA)	15.70	\$495.00	\$7,771.50
Shannon R. Morris (SRM)	3.60	\$350.00	\$1,260.00
Jeremy T. Nemers (JTN)	16.80	\$357.44	\$6,005.00

OUR FEE \$15,036.50
HST at 13% \$1,954.75

DISBURSEMENTS

COST INCURRED ON YOUR BEHALF AS AN AGENT

Search Under P.P.S.A. \$232.00
Notice of Motion/Application \$160.00

Total Agency Costs \$392.00

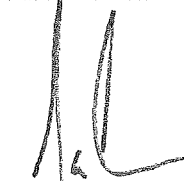
Subject to HST

Service Provider Fee	\$134.50	
Photocopies - Local	\$35.25	
Imaging/Scanning	\$39.00	
Photocopies	\$0.25	
Total Disbursements		\$209.00
HST at 13%		\$27.17

AMOUNT NOW DUE

\$17,619.42

THIS IS OUR ACCOUNT HEREIN
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.3% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

31603041.1

IN ACCOUNT WITH:

AIRD BERLIS

Brookfield Place, 181 Bay Street, Suite 1800
Toronto, Ontario, Canada M5J 2T9
T 416.863.1500 F 416.863.1515
airdberlis.com

msi Spergel inc.
200-505 Consumers Road
North York, ON
M2J 4V8

Attention: Mr. Mukul Manchanda

Account No.: 589995

PLEASE WRITE ACCOUNT NUMBERS
ON THE BACK OF ALL CHEQUES

File No.: 13225/141769

February 13, 2018

Re: 2399295 Ontario Inc. o/a Fast Track Alliance

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended February 12, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	31/01/18	\$495.00	0.40	\$198.00	Telephone call and emails to and from client; Telephone call with R. Moses; Engaged with reviewing and revising letter to CIBC and emails re same
JTN	31/01/18	\$375.00	1.30	\$487.50	Engaged with drafting of letter to CIBC re debtor's bank account; Attend to related matters re same
JTN	01/02/18	\$375.00	0.10	\$37.50	Receipt and review of delivery confirmation re letter to CIBC
JTN	02/02/18	\$375.00	0.10	\$37.50	Email exchange with client re court attendance
JTN	02/02/18	\$375.00	0.50	\$187.50	Email exchange with client and TTC's counsel re RSLA lien-related matters; Discussions with I. Aversa and T. Jones re same
IEA	02/02/18	\$495.00	0.50	\$247.50	Telephone call and emails to and from client, R. Moses and J. Nemers and correspondence to and from the court re hearing
JTN	05/02/18	\$375.00	1.40	\$525.00	Engaged with drafting of and revisions to discharge order and

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					approval and vesting order; Email to and discussion with I. Aversa re same; Follow-up email to counsel for TTC
IEA	05/02/18	\$495.00	1.00	\$495.00	Engaged with reviewing the draft orders and providing comments; Discussions and instructions to J. Nemers re same
JTN	06/02/18	\$375.00	1.80	\$675.00	Engaged with further revisions to draft AVO; Receipt and review of RSLA analysis from T. Jones re former Daimler vehicles; Consider same; Discussions with I. Aversa; Email to client; Further follow-up email to TTC's counsel and subsequent email exchange with TTC's counsel; Further email to client suggesting recommended approach re TTC; Attend to related matters as needed
IEA	06/02/18	\$495.00	1.10	\$544.50	Engaged with reviewing draft orders and providing comments; Discussions and instructions to J. Nemers re same; Emails to and from client and J. Nemers re same; Emails to and from counsel, client and J. Nemers re lien claims
JTN	07/02/18	\$375.00	1.40	\$525.00	Prepare for and attend on conference call with client re overall status and Report; Engaged with revisions to service list; Attend to related matters re same; Engaged with high-level review of historical research re distribution-related enquiry; Instruct S. Corregan re same; Email exchange with client; Follow-up email to TTC's counsel
IEA	07/02/18	\$495.00	1.00	\$495.00	Telephone call and emails to and from client and J. Nemers re draft motion materials, upcoming hearing and next steps re same; Discussions and instructions to J. Nemers re same
JTN	08/02/18	\$375.00	1.50	\$562.50	Engaged with revisions to draft Discharge Order; Email to T. Jones

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					re same; Engaged with review of and high-level revisions to draft Report; Attend to related tasks as needed
IEA	08/02/18	\$495.00	1.20	\$594.00	Telephone calls, discussions with and email exchanges with J. Nemers, S. Babe and client re distribution-related matters
JTN	09/02/18	\$375.00	2.40	\$900.00	Engaged with revisions to and further drafting of Report; Attend to related tasks as needed
JTN	10/02/18	\$375.00	2.20	\$825.00	Engaged with further revisions to and further drafting of Report; Telephone call with I. Aversa re same; Email to client re same; Instruct T. Jones re calculations re TTC; Attend to related matters as needed
IEA	10/02/18	\$495.00	1.20	\$594.00	Review of draft Report from J. Nemers; Telephone call with J. Nemers; Telephone call and email exchange with client
JTN	11/02/18	\$375.00	0.50	\$187.50	Email exchanges and telephone call with T. Jones re TTC calculations and related matters; Email to client re same
JTN	12/02/18	\$375.00	1.80	\$675.00	Telephone call and email exchanges with client re remaining matters re Report; Receipt and review of email from TTC's counsel; Consider same; Email exchange with T. Jones re same; Engaged with revisions to notice of motion, approval and vesting order and discharge order; Email to TTC's counsel; Attend to related matters as needed
IEA	12/02/18	\$495.00	0.20	\$99.00	Telephone call and email exchange with J. Nemers re report and service
TOTAL:			21.60	\$8,892.00	

Name	Hours	Rate	Value
Ian E. Aversa (IEA)	6.60	\$495.00	\$3,267.00
Jeremy T. Nemers (JTN)	15.00	\$375.00	\$5,625.00

OUR FEE	\$8,892.00
HST at 13%	\$1,155.96

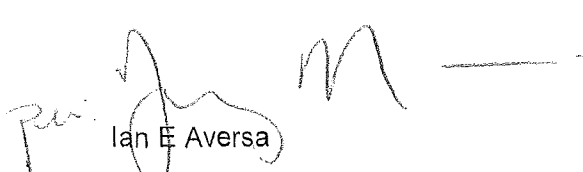
DISBURSEMENTS

Subject to HST

Photocopies - Local	\$23.50
Imaging/Scanning	\$0.75
Total Disbursements	\$24.25
HST at 13%	\$3.15

AMOUNT NOW DUE	<u><u>\$10,075.36</u></u>
----------------	---------------------------

THIS IS OUR ACCOUNT HEREIN
Aird & Berlis LLP


Ian E Aversa
E.&O.E.

PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.3% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.


Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF IAN AVERSA

Sworn before me

this 13th day of February, 2018

A handwritten signature in dark ink, appearing to be "J. S. M.", is written over a horizontal line.

Commissioner for taking Affidavits, etc

STATEMENT OF RESPONSIBLE INDIVIDUALS

Aird & Berlis LLP's professional fees herein are made with respect to the following individuals

Lawyer	Call to Bar	Hrly Rate	Total Time	Value
Ian Aversa	2008	\$495.00	32.4	\$16,038.00
Jeremy T. Nemers	2014	\$325.00 (2017)	17.7	\$ 5,752.50
		\$375.00 (2018)	25.9	\$ 9,712.50
Timothy S. Jones	2017	\$295.00	0.9	\$ 265.50
Clerk/Student	Call to Bar	Avg Hrly Rate	Total Time	Value
Shannon Morris	N/A	\$350.00	4.9	\$ 1,715.00
Christina Pugliese	N/A	\$180.00	0.5	\$ 90.00

**Standard hourly rates listed. However, in certain circumstances adjustments to the account were made.*

ROYAL BANK OF CANADA

-and-

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

AFFIDAVIT OF IAN AVERSA

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Ian Aversa (LSUC # 55449N)

Tel: (416) 865-3082

Fax: (416) 863-1515

Email: iaversa@airdberlis.com

Jeremy Nemers (LSUC # 66410Q)

Tel : (416) 865-7724

Fax : (416) 863-1515

Email : jnemers@airdberlis.com

Lawyers for the Receiver

TAB 8

District of
Division No. -
Court No. 32-159008
Estate No. 32-159008

**In the matter of the receivership of
2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE
of the City of Mississauga, in the Province of Ontario**

Form 12

Interim Statement of Receipts and Disbursements

Interim

RECEIPTS

1. Asset Realization

Other assets	8,034.27	
Accounts receivable	<u>48,746.08</u>	56,780.35

2. Tax Refund

HST Refund	<u>138.57</u>	138.57
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TOTAL RECEIPTS

56,918.92

DISBURSEMENTS

3. Fees Paid

To official receiver	<u>70.00</u>	70.00
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4. Premium

Insurance	<u>636.00</u>	636.00
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5. Federal and Provincial taxes

HST paid on disbursements exclusive of fees	189.42	
HST on Receiver/Agent's Fees	<u>2,372.99</u>	2,562.41

6. Miscellaneous

Search Fees	22.20	
Bank charges	7.50	
Travel	29.70	
Computer services	539.99	
Redirection of mail	250.95	
Repairs & maintenance	630.00	
Receiver's fees and costs	18,253.75	
Ascend License Fee	275.00	
HST on Ascend License Fee	<u>35.75</u>	20,044.84

7. Term Deposits

Term Deposit	<u>25,000.00</u>	25,000.00
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TOTAL DISBURSEMENTS

48,313.25

Note: How much of the total disbursements was paid for services provided by persons related to the trustee?

0.00

Amount available for distribution

8,605.67

8. Levy payable under section 147 of the Act

0.00

9. Unsecured creditors

Proved claims of 0.00

10. Amount retained in the Trust account by the Trustee:

8,605.67

Dated at the City of Toronto in the Province of Ontario, this 12th day of February 2018.

District of
Division No. -
Court No. 32-159008
Estate No. 32-159008

**In the matter of the receivership of
2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE
of the City of Mississauga, in the Province of Ontario**
Form 12 --- Concluded
Interim Statement of Receipts and Disbursements

Interim

msl Spergel Inc. - Licensed Insolvency Trustee

201 - 505 Consumers Rd.
Toronto ON M2J 4V8
Phone: (416) 497-1660 Fax: (416) 494-7199

TAB 9

Jeremy Nemers

From: Jeremy Nemers
Sent: February-05-18 6:12 PM
To: 'satishmandalagiri@gmail.com'
Cc: Ian Aversa; 'Mukul Manchanda'; 'Balvinder Tiwana'
Subject: RE: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Importance: High

Counsel,

May we please hear from you regarding the below?

Thank you,

Jeremy Nemers
Aird & Berlis LLP

416.865.7724
jnemers@airdberlis.com

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error. If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

From: Jeremy Nemers
Sent: February-02-18 4:05 PM
To: 'satishmandalagiri@gmail.com' <satishmandalagiri@gmail.com>
Cc: Ian Aversa <iaversa@airdberlis.com>; 'Mukul Manchanda' <mmanchanda@spergel.ca>; Balvinder Tiwana <bal_tiwana@live.ca>
Subject: RE: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Counsel,

Further to the below, and for each of the three vehicles in question, we would ask that you kindly confirm as soon as possible next week: (i) what quantum your client is claiming under the *Repair and Storage Liens Act*; and (ii) whether your client is relying on any documents other than those attached to this email. In regards to the attached documents, we note that certain signature blocks are missing or unsigned. We would therefore appreciate if you could provide us with signed copies of these materials (should such signatures exist), failing which we will review any documents without signatures on the basis that they are not signed.

Thanks,

Jeremy

Jeremy Nemers
Aird & Berlis LLP

416.865.7724

jnemers@airdberlis.com

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error. If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

From: Mukul Manchanda [<mailto:mmanchanda@spergel.ca>]

Sent: January-02-18 4:03 PM

To: Balvinder Tiwana <bal_tiwana@live.ca>

Cc: Ian Aversa <iaversa@airdberlis.com>; Jeremy Nemers <jnemers@airdberlis.com>; 'satishmandalagiri@gmail.com' <satishmandalagiri@gmail.com>

Subject: RE: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

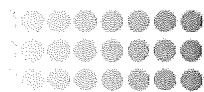
Hello Mr. Tiwana,

Please be advised that the trucks will be picked up tomorrow before 1:00pm. Rick Ruiter from Haglar Transport will be attending to pick up the trucks.

Should you have any questions or concerns please do not hesitate to contact me.

Best Regards,

Mukul Manchanda, B.Comm, CP, CIRP, LIT | Principal



msi Spergel inc., Licensed Insolvency Trustees

505 Consumers Road, Suite 200, Toronto, Ontario, M2J 4V8

T 416-498-4314 | F 416-494-7199 | C 416-454-4246

SPERGEL

mmanchanda@spergel.ca | www.spergel.ca



Member of the Independent
Canadian Insolvency Network



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.

From: Jeremy Nemers [<mailto:jnemers@airdberlis.com>]

Sent: December 29, 2017 11:25 AM

To: 'satishmandalagiri@gmail.com'

Cc: Ian Aversa; Mukul Manchanda

Subject: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Importance: High

Please see the attached correspondence.

Jeremy Nemers

416.865.7724

416.863.1515

jnemers@airdberlis.com

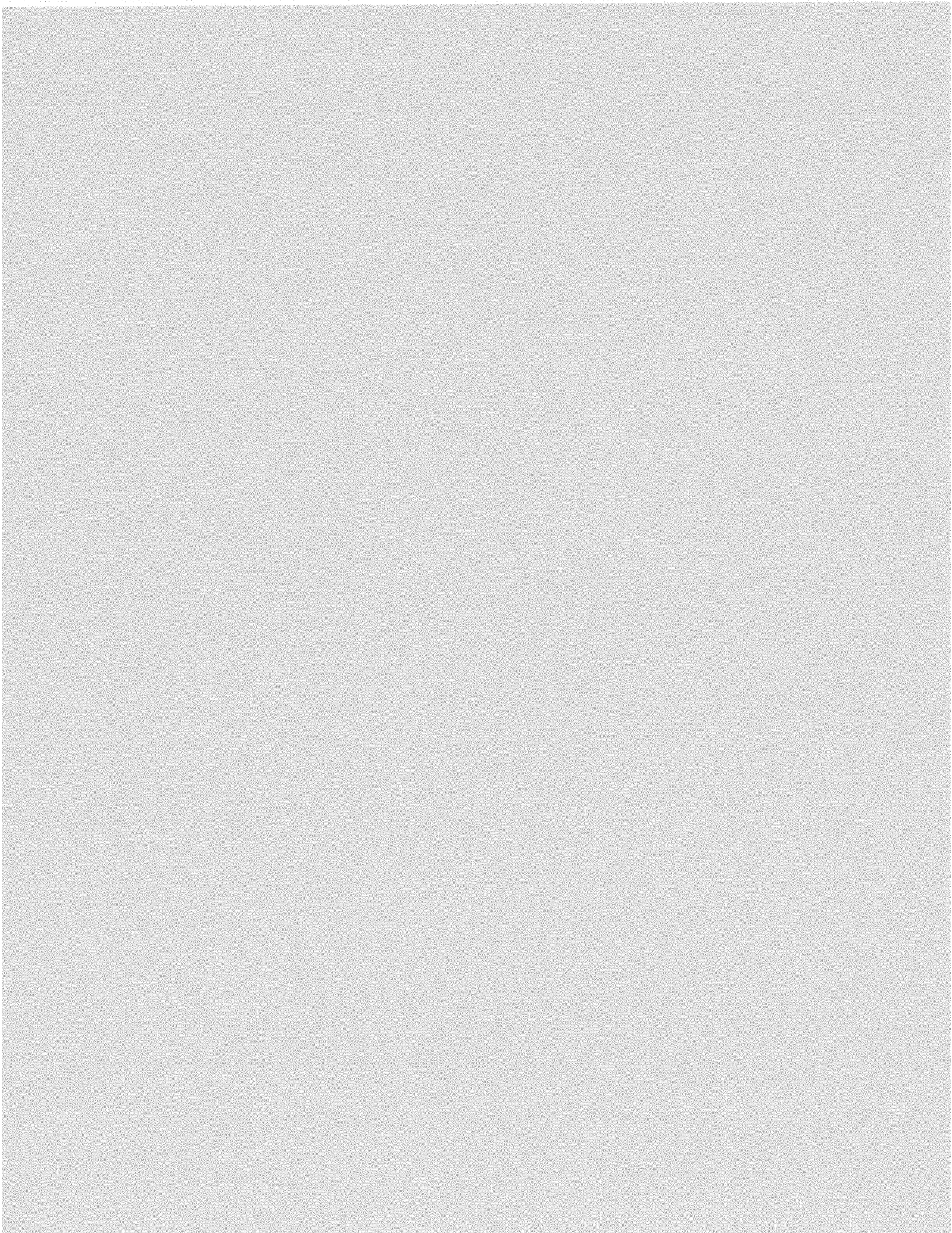
Aird & Berlis LLP | Lawyers

Brookfield Place, 181 Bay Street, Suite 1800

Toronto, Canada M5J 2T9 | airdberlis.com

AIRD BERLIS

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error. If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.



Mukul Manchanda

From: Jeremy Nemers <jnemers@airdberlis.com>
Sent: February 7, 2018 7:53 PM
To: Satish Mandalagiri
Cc: Ian Aversa; Mukul Manchanda
Subject: RE: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Counsel,

We have not received any fax from you. Please provide forthwith, and please confirm that your client is seeking a grand total of \$37,826.97 (all inclusive).

Thank you,

Jeremy

-----Original Message-----

From: Jeremy Nemers
Sent: February-06-18 8:39 PM
To: Satish Mandalagiri <satish.mandalagiri@gmail.com>
Cc: Ian Aversa <iaversa@airdberlis.com>; mmanchanda@spergel.ca
Subject: Re: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Thank you. Please fax any and all documents upon which your client is relying to my attention tomorrow at 416-863-1515, and please also confirm that your client is seeking a grand total of \$37,826.97 (all inclusive). We will then review with our client.

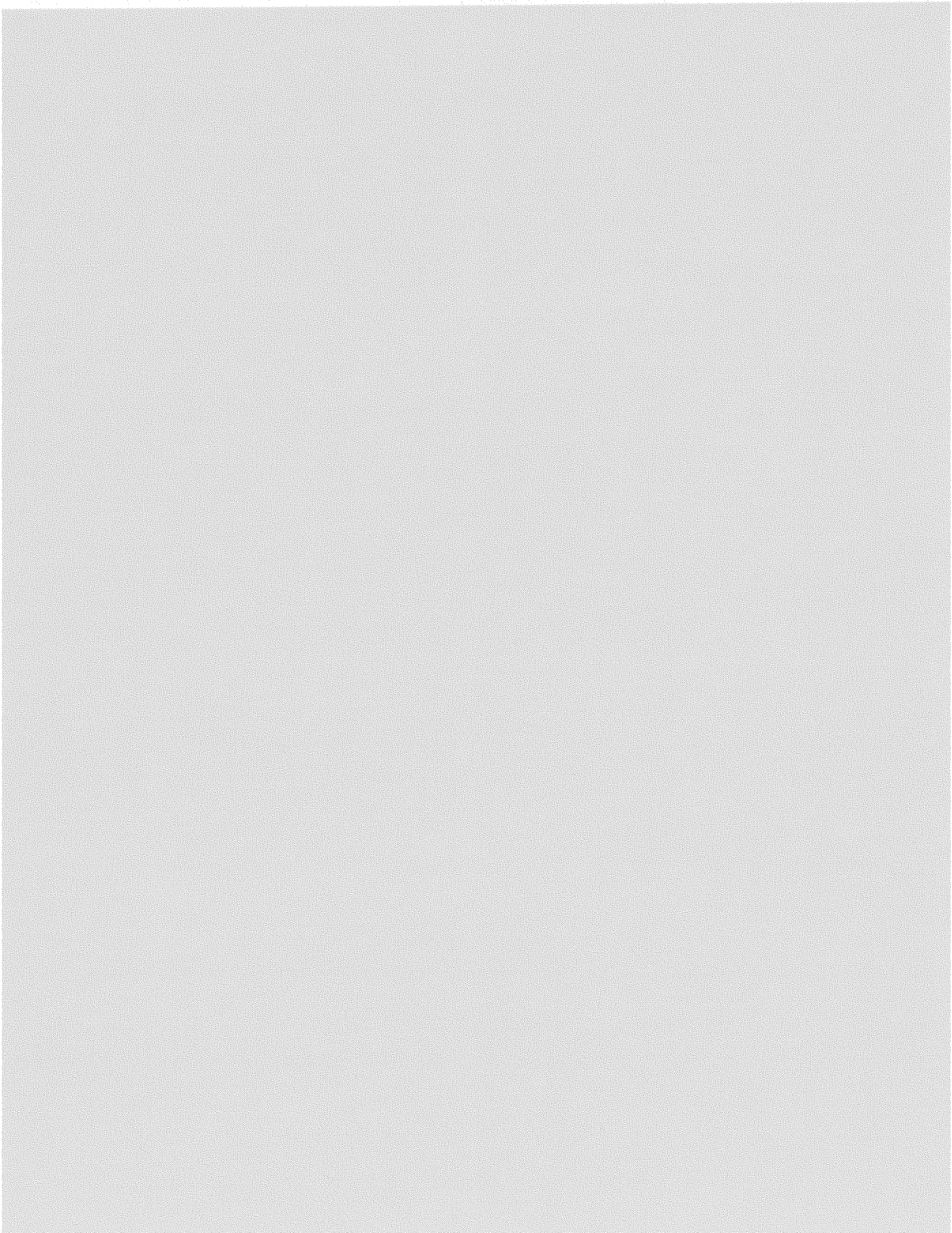
Thank you,

Jeremy

Sent from my iPhone

> On Feb 6, 2018, at 7:25 PM, Satish Mandalagiri <satish.mandalagiri@gmail.com> wrote:
>
> Dear Counsel.
>
> I had discussion with my client.
> It is our position that the invoices that were provided to your client were the complete invoices and the total amount for each of the three truck of with my client is claiming the liens are as follows
>
> 1. Truck unit no 313 Freightliner with VIN HV7658
>
> amount due towards this truck \$14,710.45 excluding lien charges
>
>
> 2. Truck unit 315 Freightliner 2017 with VIN HR 9991
>
>
> Amount \$13818.88 excluding lien charges

>
>
> 3. Truck unit 317 VIN JA8966 Freight liner 2017
>
>
> Amount \$9297.64
>
>
> The total amount from all three pending invoices are \$37,826.97.
>
> I will fax the invoices over again if the copies that are provided to you are not clear.
>
> Please let us know when the payment will be made.
>
> Regards
> Satish Mandalagiri
>
>



Jeremy Nemers

From: Jeremy Nemers
Sent: February-12-18 5:13 PM
To: 'Satish Mandalagiri'
Cc: Ian Aversa; 'Mukul Manchanda'
Subject: RE: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Good afternoon counsel,

Thank you for your email and the attachments thereto. Based on the below, we will proceed on the basis that your client is seeking a grand total of \$37,826.97 (all inclusive) in respect of vehicles referenced in the invoices.

Please note that the Receiver has not taken, and does not intend to take, possession of the three additional vehicles referenced in your below email.

Thanks,

Jeremy

Jeremy Nemers
Aird & Berlis LLP

T 416.865.7724
E jnemers@airdberlis.com

This email is intended only for the individual or entity named in the message. Please let us know if you have received this email in error.
If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.

From: Satish Mandalagiri [mailto:satish.mandalagiri@gmail.com]
Sent: February-12-18 10:52 AM
To: Jeremy Nemers <jnemers@airdberlis.com>
Subject: Re: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Good Morning Counsel,

Please find enclosed invoices on behalf of my client 2100331 Ontario Inc. o/a TTC & Mobile Truck Trailer Repair.

We confirm that the total of the pending invoices for the three subject matter trucks ins \$37,826.97.

Please be further advised that as regards three other trucks belonging to the corporation under receivership, there are liens and the description of the trucks are as follows

1. 2016 Freightliner Cascadia, VIN # 1FUJGLD52GLGY9616
2. 2018 Freightliner Cascadia, VIN# 3AKJHHJDR4JSJD9934

As regards these two trucks Mercedes-Benz Financial Services has brought an application under section 24 of the RSLA in Small Claims Court Brampton with court file number SC-18-314-00 also

3. 2016 Freightliner Cascadia VIN # 1FJGLD5XGLHA8229.

As regards this truck Somerville National Leasing & Rental Ltd. has brought an application into the Brampton Small Claims Court with court file number SC-18-511-00, under section 24 of the RSLA..

Please advise us if these vehicles are also under receivership and if the receiver would be defending these applications as well as bringing actions within 90 days of January 11th and January 24th respectively as per Section 24 (13) of the RSLA..

If your client, the receiver has no interest in these applications my client would proceed as per the Act to defend itself and bring actions as is necessary under the law.

I have attached the two applications for your perusal.

Please let us know.

Regards

Satish Mandalagiri

On Wed, Feb 7, 2018 at 7:52 PM, Jeremy Nemers <jnemers@airdberlis.com> wrote:

Counsel,

We have not received any fax from you. Please provide forthwith, and please confirm that your client is seeking a grand total of \$37,826.97 (all inclusive).

Thank you,

Jeremy

-----Original Message-----

From: Jeremy Nemers

Sent: February-06-18 8:39 PM

To: Satish Mandalagiri <satish.mandalagiri@gmail.com>

Cc: Ian Aversa <iaversa@airdberlis.com>; mmanchanda@spergel.ca

Subject: Re: Court File No. CV-17-587514-00CL / Royal Bank of Canada v. 2399295 Ontario Inc. o/a Fast Truck Alliance

Thank you. Please fax any and all documents upon which your client is relying to my attention tomorrow at 416-863-1515, and please also confirm that your client is seeking a grand total of \$37,826.97 (all inclusive). We will then review with our client.

Thank you,

Jeremy

Sent from my iPhone

> On Feb 6, 2018, at 7:25 PM, Satish Mandalagiri <satish.mandalagiri@gmail.com> wrote:

>

> Dear Counsel.

>

> I had discussion with my client.

> It is our position that the invoices that were provided to your client were the complete invoices and the total

amount for each of the three truck of with my client is claiming the liens are as follows

>

> 1. Truck unit no 313 Freightliner with VIN HV7658

>

> amount due towards this truck \$14,710.45 excluding lien charges

>

>

> 2. Truck unit 315 Freightliner 2017 with VIN HR 9991

>

>

> Amount \$13818.88 excluding lien charges

>

>

> 3. Truck unit 317 VIN JA8966 Freight liner 2017

>

>

> Amount \$9297.64

>

>

> The total amount from all three pending invoices are \$37,826.97.

>

> I will fax the invoices over again if the copies that are provided to you are not clear.

>

> Please let us know when the payment will be made.

>

> Regards

> Satish Mandalagiri

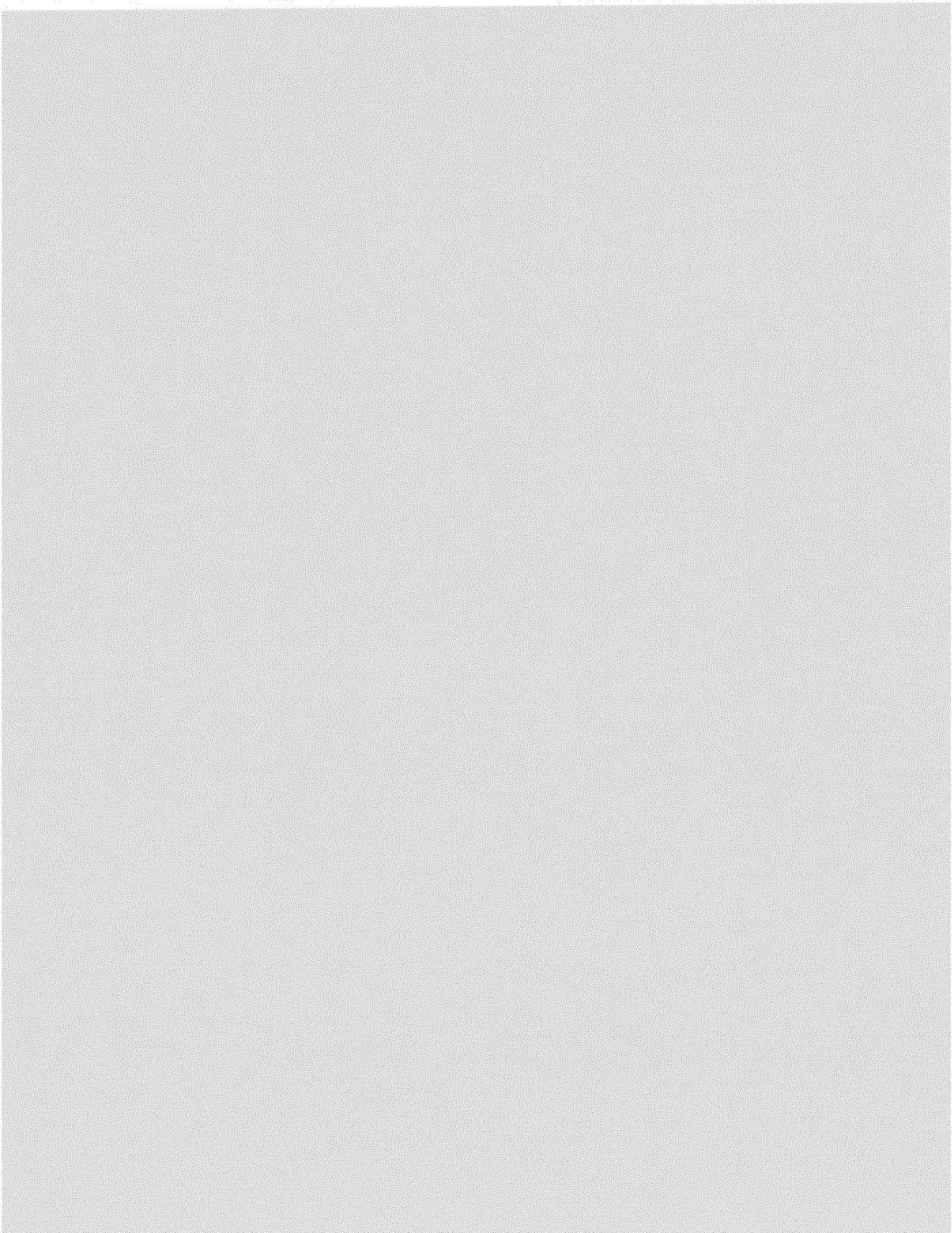
>

>

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Confidentiality Disclaimer

This e mail communication is intended for the person addressed only and if you have received it in error please delete the same permanently and inform the sender.





Phone: 905-678-7505 Fax: 905-678-0510

Date	Invoice #
Dec 27/17	5837

<p>The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.</p> <p>That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Ontario on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.</p> <p>That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.</p> <p>Customer Signature _____</p>	Subtotal	\$ 6000.00
	Sales Tax Total	\$ 780.00
	Total	\$ 6780.00
	Payments/Credits	
	Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
May 30/17	5464

Invoice To	
7669925 Canada Inc	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD-15	FRM7		391-1PW	454071	HV 7658	

Item	Qty	Labour Description	Price Each	Amount
		Steering Wheel Tilted		\$40.00
	08	Drive Tires replaced	\$575.00	\$4600.00
	1 1/2 hr	Fuel Treatment Device installed	\$80.00	\$120.00
		*** PARTS CHARGES ***		
	08	OTS on Drive Tires	\$12.95	\$103.60
GST/HST No.	857360929RT0001			

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Ontario on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.

That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

[Signature] 20/10/17

Subtotal	\$4863.60
Sales Tax Total	\$632.27
Total	\$5495.87
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
July 03/17	5556

Invoice To	
7669925 Canada LTD	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD-18	FRHT		391-1PW	490726	HV 7658	

Item	Qty	Labour Description	Price Each	Amount
	1hr	OIL change		\$80.00
		*** PARTS CHARGES ***		
	4 LTR	Eng oil	\$45.00	\$184.50
	01	OIL Filter	\$48.00	\$48.00
	01	Fuel Filter Kit	\$138.50	\$138.50
	01	Air Filter	\$125.00	\$125.00
	01	Fuel water Separator	\$80.00	\$80.00
GST/HST No.	857360929RT0001			

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Ontario on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.

That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

Subtotal	\$656.00
Sales Tax Total	\$85.28
Total	\$741.28
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
July 20/17	5590

Invoice To	
766 9925 Canada LTD	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD-15	FRH7		391-1PW	508711	HV 7658	

Item	Qty	Labour Description	Price Each	Amount
	1hr	Batteries replaced Bumper Bolt	\$80.00 —	\$80.00 —
		*** PARTS CHARGES ***		
	04	Batteries	\$125.00	\$500.00
	01	Bolt 19mm (Nut + washer)	\$10.00	\$10.00
GST/HST No.	857360929RT0001			

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Ontario on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.

That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature


[Signature] 25/07

Subtotal	\$590.00
Sales Tax Total	\$76.70
Total	\$666.70
Payments/Credits	
Balance Due	



Phone: 905-678-7505 Fax: 905-678-0510

Date	Invoice #
July 22/17	5599

<p>The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.</p> <p>That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Ontario on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.</p> <p>That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.</p> <p>Customer Signature </p>	Subtotal	\$ 80.10
	Sales Tax Total	\$ 10.40
	Total	\$ 90.40
	Payments/Credits	
	Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
Sep 15/17	5698

Invoice To	
766 99 25 Canada LTD	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD-15	FRHT		391-1PW		HV 7658	

Item	Qty	Labour Description	Price Each	Amount
	1 hr	Not Starting Fuel check valve leak	\$80.00	\$80.00
		*** PARTS CHARGES ***		
	02	Brake cleans	\$4.50	\$9.00
GST/HST No.		857360929RT0001		

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

Subtotal	\$89.00
Sales Tax Total	\$11.57
Total	\$100.57
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

Invoice

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Date	Invoice #
8ep23/17	5711

Invoice To	
766 9925 Canada LTD	
Customer Contact	Customer Phone
Tahir Sahib	

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD15	FRAT		391-1PW	564749	HV 7658	

Item	Qty	Labour Description	Price Each	Amount
	1hr	OIL change		\$80.00
		*** PARTS CHARGES ***		
	4LITR	Eng OIL	\$45.00	\$184.50
		Fuel Filter kit by Custom	—	—
		OIL Filter by Customer	—	—
	01	Fuel water Separator	\$80.00	\$80.00
	01	Air Filter	\$125.00	\$125.00
GST/HST No.	857360929RT0001			

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

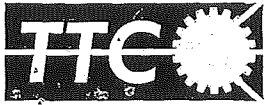
That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Ontario on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.

That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

[Signature]

Subtotal	\$469.50
Sales Tax Total	\$61.03
Total	\$530.53
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
Nov 10/17	5796

Invoice To	
766 99 25 Canada LTD	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD15	FRIT		391-1PW	598652	HV 7658	

Item	Qty	Labour Description	Price Each	Amount
	1 hr	Exhaust Flexi replaced Deer Guard removed		\$80.00
		*** PARTS CHARGES ***		
	01	Exhaust Flexi SS	\$35.00	\$35.00
	02	Seal clamp	\$15.00	\$30.00
GST/HST No.	857360929RT0001			

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Customer Signature _____

Subtotal	\$145.00
Sales Tax Total	\$18.85
Total	\$163.85
Payments/Credits	
Balance Due	



Phone: 905-678-7505 Fax: 905-678-0510

Date	Invoice #
Nov 16/17	5802

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
313	DD-15	FRHT		391-1PW	607223	HV 7658	
Item	Qty	Labour Description				Price Each	Amount
		STD Inspection Brake Adst					\$100.00 \$25.00
		*** PARTS CHARGES ***					
GST/HST No.		857360929RT0001					
Subtotal						\$125.00	

Customer Signature _____

Subtotal	\$125.00
Sales Tax Total	\$16.25
Total	\$141.25
Payments/Credits	
Balance Due	



Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
Dec 27/17	5838

Invoice To	
76699 25 Canada LTD	
Mercedes-Benz Financial Canada	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
315	DD-15	FRHT		391-2PW		HR 9991	

Item	Qty	Labour Description	Price Each	Amount
	40 days	Storage From Nov 19 / 2017 to Dec 28 / 2017	\$150.00	\$6000.00
		*** PARTS CHARGES ***		
GST/HST No.	857360929RT0001			

	Subtotal	\$ 6000.00
	Sales Tax Total	\$ 780.00
	Total	\$ 6780.00
	Payments/Credits	
	Balance Due	

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature _____



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
June 06/17	5491

Invoice To	
766 9925 Canada Inc	
East Track Alliance	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
315	DD-15	FRHT		391-2PW	403230	MR 9991	

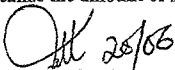
Item	Qty	Labour Description	Price Each	Amount
	02	Steer Tire Balance	\$30.00	\$60.00
		*** PARTS CHARGES ***		
	10	wheel Nuts Skirt/Type	\$11.00	\$110.00
GST/HST No.		857360929RT0001		

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

 26/06

Subtotal	\$170.00
Sales Tax Total	\$22.10
Total	\$192.10
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
July 03/17	5554

Invoice To	
766 99 25 Canada LTD	
Customer Contact	Customer Phone
Tahir Sahib	

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
315	DD-15	FRHT		391-2PW	431355	HR 9991	

Item	Qty	Labour Description	Price Each	Amount
	1hr	OIL change		\$80.00
	1/2hr	Shock replaced		\$40.00
	08	Drive Tires replaced	\$575.00	\$4600.00
		*** PARTS CHARGES ***		
	01	Shock	\$75.00	\$75.00
	42Ltr	OIL Rotella	\$4.50	\$189.00
	01	OIL Filter	\$48.00	\$48.00
	01	Fuel Filter Kub	\$138.50	\$138.50
	01	Air Filter	\$125.00	\$125.00
	01	Fuel water separator	\$80.00	\$80.00
	08	OTS	\$12.95	\$103.60

GST/HST No. 857360929RT0001

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

Subtotal	\$5479.10
Sales Tax Total	\$712.28
Total	\$6191.38
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
July 25/17	5308

Invoice To	
766 99 25 Canada Inc	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
315	DD-15	FRH7		391-2PW	458000	HR 9991	

Item	Qty	Labour Description	Price Each	Amount
	1 hr	Batteries replaced	\$80.00	\$80.00
		*** PARTS CHARGES ***		
	04	Batteries Alliance	\$125.00	\$500.00
GST/HST No.		857360929RT0001		

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

Subtotal	\$580.00
Sales Tax Total	\$75.40
Total	\$655.40
Payments/Credits	
Balance Due	



Phone: 905-678-7505 Fax: 905-678-0510

Date	Invoice #
Dec 27/17	5839

Invoice To	
8075654 Canada Inc	
7669925 Canada LTD	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
317	DD15	PERHT		391-3PW		JA 8966	

Item	Qty	Labour Description	Price Each	Amount
	40 days	Storage From Nov 19/2017 to Dec 28/2017	\$150.00	\$6000.00
		*** PARTS CHARGES ***		
GST/HST No.	857360929RT0001			

	Subtotal	\$6000.00
	Sales Tax Total	\$780.00
	Total	\$6780.00
	Payments/Credits	
	Balance Due	

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature _____



TRUCK & TRAILER REPAIR

2106331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
June 05/17	5480

Invoice To	
7669925 Canada Inc	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
317	DD-15	FRHT		391.3PW	338481	JA 8966	

Item	Qty	Labour Description	Price Each	Amount
	1hr	Oil Change Service	\$80.00	\$80.00
	1hr	Batteries Replaced	\$80.00	\$80.00
*** PARTS CHARGES ***				
	4LTR	Eng oil	\$4.50	\$184.50
	01	oil Filter	\$48.00	\$48.00
	01	Fuel Filter Kit	\$138.50	\$138.50
	01	Air Filter	\$125.00	\$125.00
	01	Fuel water separator	\$80.00	\$80.00
	04	Batteries Alliance	\$110.00	\$440.00
GST/HST No.	857360929RT0001			

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Customer Signature

[Signature] 25/06

Subtotal	\$1176.00
Sales Tax Total	\$152.88
Total	\$1328.88
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
Aug 12/17	5837

Invoice To	
766 9925 Canada Inc	
Customer Contact	Customer Phone
Tahir Sahib	

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
317	DD-15	FRH7		391-3PW	403414	JA 8966	

Item	Qty	Labour Description	Price Each	Amount
	1hr	Batteries replaced	\$80.00	\$80.00
		*** PARTS CHARGES ***		
	on	Batteries Alliance	\$125.00	\$500.00
GST/HST No.		857360929RT0001		

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

Subtotal	\$580.00
Sales Tax Total	\$75.40
Total	\$655.40
Payments/Credits	
Balance Due	



TRUCK & TRAILER REPAIR

2100331 ONTARIO INC

O/A TTC & MOBILE TRUCK TRAILER REPAIR

7505 Kimbel St., Mississauga ON L5S 1A7

Phone: 905-678-7505 Fax: 905-678-0510

Invoice

Date	Invoice #
Oct 24/17	3775

Invoice To	
766 99 25 Canada Inc	
Customer Contact	Customer Phone

Unit	Engine	Make	Ship	License Plate	Mileage	VIN	Year
317	DD-15	FRH7		391-3PW	437872	JA 8966	

Item	Qty	Labour Description	Price Each	Amount
	1hr	Oil Change + Grease		\$80.00
		*** PARTS CHARGES ***		
	42LTR	Eng oil	\$4.50	\$189.00
	01	OIL Filter Cap Assy	\$94.00	\$94.00
	02	Brake cleans	\$4.50	\$9.00
GST/HST No.	857360929RT0001			

The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.

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That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.

Customer Signature

Subtotal	\$372.00
Sales Tax Total	\$48.36
Total	\$420.36
Payments/Credits	
Balance Due	



Phone: 905-678-7505 Fax: 905-678-0510

Date	Invoice #
Nov 18/17	5805

<p>The Undersigned hereby acknowledges: That the undersigned is indebted to the above named company in the amount set out on this work order together with interest of 2% per month, 24% per annum computed from the date of this work order.</p> <p>That until payment in full for this work order is received, a lien under the Repair and Storage Lien Act of Onatrio on vehicle described herein in respect of the material supplied, all disbursements and the service rendered under this work order for the full amount charged therefore, and further that the said lien shall continue in force at all times, whether the vehicle is in my possession or possession of the debtor.</p> <p>That we, or our bailiff or agent may seize and resume possession at anytime if the amount of the indebtedness is not paid on due date and realize the amount of such indebtedness together with all costs and disbursements of resuming possession.</p> <p>Customer Signature _____</p>	Subtotal	\$100.00
	Sales Tax Total	\$13.00
	Total	\$113.00
	Payments/Credits	
	Balance Due	

TAB 10

2016 ONSC 354
Ontario Superior Court of Justice (Divisional Court)

1218897 Ontario Ltd. v. Certas Insurance

2016 CarswellOnt 601, 2016 ONSC 354, [2016] O.J. No. 264, 262 A.C.W.S. (3d) 778

**1218897 Ontario Limited o/a Castle Auto Collision & Mechanical
Service, Appellant and Certas Insurance, Respondent**

M.A. Sanderson J.

Heard: November 19, 2015
Judgment: January 18, 2016
Docket: Toronto 333/14

Counsel: Mark A. Klaiman, W. Xavier Navarrete, for Appellant
Lisa M. Carr, for Respondent

Subject: Contracts; Corporate and Commercial; Insurance; Property

Headnote

Personal property security --- Statutory liens --- Garagemen's liens --- Miscellaneous

Motor vehicle was towed to plaintiff's shop for repair following accident — After examination, defendant insurer decided vehicle would be written off — When owner went to retrieve personal items from vehicle, plaintiff had him sign repair service agreement acknowledging storage fee of \$100 per day — Plaintiff subsequently demanded payment of storage fee before releasing vehicle to defendant — Defendant refused on basis that fee was excessive — Defendant eventually secured release of vehicle by making payment into court pursuant to s. 24 of Repair and Storage Liens Act — Defendant subsequently denied claim under policy — Plaintiff commenced action claiming, among other things, storage fee of \$6,400 (64 days x \$100) plus HST — Court found there was no agreement regarding storage that was binding as between plaintiff and defendant with result appropriate amount had to be determined on basis of fair value under s. 4(1)(b) of Act — On that basis, court awarded \$60 per day for 40 days of storage plus towing fees, damage report fee and HST for total of \$2,918.66 — Plaintiff appealed — Appeal dismissed — Trial judge had made no error in finding there was no binding agreement regarding storage or in adopting \$60 per day as appropriate rate and in finding 40 days to be reasonable period — Fact defendant subsequently decided to deny claim under policy did not affect its right to make payment into court under s. 24 in order to protect subrogated interests of itself and insured.

Table of Authorities

Cases considered by M.A. Sanderson J.:

Halton Regional Pound Facility v. Holland (2014), 2014 ONSC 3776, 2014 CarswellOnt 8776, 323 O.A.C. 116 (Ont. Div. Ct.) — considered

Housen v. Nikolaisen (2002), 2002 SCC 33, 2002 CarswellSask 178, 2002 CarswellSask 179, 286 N.R. 1, 10 C.C.L.T. (3d) 157, 211 D.L.R. (4th) 577, [2002] 7 W.W.R. 1, 219 Sask. R. 1, 272 W.A.C. 1, 30 M.P.L.R. (3d) 1, [2002] 2 S.C.R. 235, 2002 CSC 33 (S.C.C.) — followed

1218897 Ontario Ltd. v. Intact Insurance Co. (March 25, 2013), Doc. SC-11-918-00 (Ont. Small Cl. Ct.) — considered

Statutes considered:

Insurance Act, R.S.O. 1990, c. I.8

s. 278(1) — considered

Repair and Storage Liens Act, R.S.O. 1990, c. R.25

Generally — referred to

s. 4 — considered

- s. 4(1) — considered
- s. 4(1)(a) — considered
- s. 4(1)(b) — considered
- s. 4(4) — considered
- s. 4(6) — considered
- s. 7 — considered
- s. 7(5) — considered
- s. 7(6) — considered
- s. 23 — considered
- s. 24 — considered
- s. 24(1) — considered
- s. 24(13) — considered

APPEAL by plaintiff from judgment awarding amount for storage fee for vehicle.

M.A. Sanderson J.:

Introduction

1 The appellant, 1218897 Ontario Limited ("Castle Auto or Castle") appeals the decision of Deputy Judge Ashby of the Toronto Small Claims Court dated June 11, 2014. Counsel for Castle submits that the trial judge erred in failing to hold that the Repair Service Agreement "the Agreement" required Certas to pay Castle \$100 per day, the rate specified in the Agreement signed by the insured Vladmirs Kolesnikovs for 64 days (the "storage period").

The Parties

2 Castle Auto, the appellant, is an auto body repair business in Toronto.

3 Certas Direct Insurance, improperly named as Certas Insurance, is an insurer. Certas entered into a Standard Form Policy of Automobile Insurance with the insured, Vladmirs Kolesnikovs, the owner of a 2000 Mercedes Benz that was in effect at all material times.

Outline of the Issues on Appeal

4 Counsel for Castle submitted that the trial judge erred in law in failing to hold that Certas was bound by the Repair Service Agreement signed by the insured Kolesnikovs that specified that Castle would charge Kolesnikovs \$100.00 per day to store his vehicle [after it was damaged in a motor vehicle accident and towed to Castle for possible repair].

5 Counsel for Castle submitted that the trial judge erred in law in failing to hold that once the Agreement had been entered into, Certas, as Kolesnikovs' auto insurer, ("the insurer") was bound to pay that storage rate over the duration of the storage period and/or in failing to find that Kolesnikovs was bound to pay Castle and that Certas was required to indemnify Kolesnikovs for the full amount.

6 While counsel for Certas did not contest that Kolesnikovs had signed the Agreement, she submitted that the trial judge was correct in finding there was no binding agreement with respect to the amount of the storage fees, that a reasonable storage rate was \$60 per day, and that the trial judge did not err in ordering Certas to pay Castle \$60 per day for storage of the vehicle for 40 days.

7 Counsel for Castle further submitted that the trial judge erred in law in failing to find that because Certas ultimately refused to provide coverage for property damage under the policy, Certas had no standing to bring an application under s.24 of the *Repair and Storage Liens Act* or to challenge Castle's daily storage rate.

Facts

8 On March 14, 2011, a 2000 Mercedes Benz, "the vehicle" owned by Kolesnikovs and insured by Certas, was damaged in a motor vehicle accident.

9 On March 15, 2011, the vehicle was towed to Castle Auto.

10 Castle Auto sent Kolesnikovs a Repair Service Agreement by fax on March 21, 2011.

11 On March 21, 2011, Certas' appraiser attended at Castle Auto to examine the damage to the vehicle.

12 By March 23, 2011, Certas had already concluded that the vehicle would be written off/would *not* be repaired.

13 At that time, Kolesnikovs' property damage claim under the policy was still under investigation. [Despite Certas' subsequent denial of coverage under the policy, I have referred to Kolesnikovs throughout these Reasons as the insured, because a valid policy of insurance was in force at the time].

14 On March 24, 2011, Certas contacted Castle Auto seeking copies of its invoices for the storage of the vehicle. Its representative learned that Castle was seeking payment for storage fees of \$100 per day, back to March 15, 2011. Certas took the position that Castle's storage claims were excessive and refused to pay them.

15 On March 28, 2011, Castle indicated to Certas that it would not release the vehicle unless it had received \$100 per day for storage and the other fees set out in the Agreement.

16 On March 31, 2011, Kolesnikovs, knowing that the vehicle would not be repaired, attended at Castle Auto to retrieve his personal possessions from it. When he was there, he signed the Agreement.

17 Mr. Chris Borson, one of the principals of Castle, gave evidence at trial that on that day, he explained the Agreement to Kolesnikovs, who indicated that he understood it. However, there was no reference in Borson's evidence to any discussion about the total storage fees to that date or about other charges said to be owing as of March 31, 2011 or any reference to the likely duration of the storage after that date.

18 Counsel for Certas submitted that Castle Auto should have released the vehicle at that time and that Certas attempted unsuccessfully to negotiate reasonable storage fees with Castle.

19 Counsel for Certas submitted that in all of the circumstances and especially given Castle's refusal to release the vehicle unless excessive storage fees were paid, it was reasonable for Certas to take steps to mitigate its or its insured's potential loss.

20 On April 26, 2011, more than a month after Certas had decided not to repair the vehicle, the vehicle was still being stored at Castle Auto.

21 In order to get it released, starting on April 14, 2011, Certas took steps under s24 of the RSLA. On April 26, 2011, it issued an Initial Certificate in the name of Certas, and it deposited \$7,065.89 into Court. As of that date, Castle

was claiming storage of \$4400 plus HST for 44 days storage. It was also claiming a \$275.00 administration fee, an environmental levy of \$475.00, a damage report fee of \$150.00, a towing fee of \$1,665.00 and a labour charge of \$321.60, for a total of \$7,286.60, plus HST of \$947.26.]

22 At trial, Ms. Williamson, a representative of Certas, gave evidence that at the time that Certas commenced the s.24 RSLA application, Certas had not yet confirmed it would provide Kolesnikovs with coverage for his property damage claim under the policy.

23 After the Initial Certificate was issued on April 28, 2011, Castle issued a Notice of Objection under s24 of the RSLA requiring Certas to pay additional funds into court as a precondition of releasing the vehicle.

24 On May 4, 2011, Certas received Castle's Notice of Objection.

25 On May 10, 2011, after paying additional monies into Court, Certas obtained a Final Certificate.

26 Eight days later, on May 18, 2011, 64 days after the storage period commenced, Certas removed the vehicle from the Castle premises.

27 On June 16, 2011, Castle issued a Claim in Small Claims Court, naming Certas as the Defendant and claiming inter alia, storage fees of \$6,400 (\$100 64) plus HST.

28 After the exchange of pleadings in the Small Claims Court action, Certas denied Kolesnikovs's property damage claim under the policy. However, Certas continued to defend the Small Claims Court action that Castle had brought against Certas.

29 Counsel for Certas did not call Kolesnikovs to give evidence at the trial.

The Reasons of the Trial Judge

30 The Reasons of the trial judge included the following:

...This same plaintiff instituted an almost identical action against Intact Insurance Company in claim Number SC-11-918-00. Deputy Judge Papageorgiou issued detailed reasons for judgment on March 25, 2013 and at the conclusion of this trial, I was advised her decision was under appeal, such appeal to be heard on May 21, 2014. Accordingly, I reserved my judgment until that appeal was disposed of. However, for reasons unknown to me, the appeal was abandoned.

I completely adopt the reasons of Deputy Judge Papageorgiou with respect to the conclusions she reached regarding the claims advanced in this action.

On March 14, 2011 a car belonging to Vladimirs Kolesnikovs was involved in an accident and it was towed eventually to the plaintiff's premises for inspection. The owner had a Repair Service Agreement faxed to him which I assume was signed by him, which contains rates that will be charged by the plaintiff. The defendant is the insurer of the vehicle and after an inspection declared the vehicle to be a write off. After a great deal of correspondence of various kinds, no agreement was reached over charges levied by the plaintiff, so monies were paid into court and the vehicle was released.

Unlike the decision referred to above, I did not hear from the owner of the vehicle concerning the "agreement" to pay the charges levied by the plaintiff. However I agree with Deputy Judge Papageorgiou that there is no binding agreement with this defendant. Thus I must determine the fair value for towing, storage and other charges.

Deputy Judge Papageorgiou heard much, if not more evidence, than I did about storage rates, and she did an analysis of the evidence and cases, which led her to conclude that \$60.00 a day plus HST was the fair rate. I agree.

Similarly, I agree with her conclusion as to towing fees and conclude that \$166.00 plus HST is appropriate for towing and in this case there were 2 tows, one from the accident to the pound and the other from the pound to the plaintiff's premises. Thus the total allowed is \$375.16. There is no basis for a mark up of this amount.

An environmental fee and an administration fee are claimed by the plaintiff and for the same reasons given in the earlier decision, I conclude those charges are not allowable. A fee of \$150.00 plus HST for a damage report is allowed.

The only remaining issue is the number of days allowable for storing the vehicle. The plaintiff claims 64 days from 16 March to 18 May, the latter date being the day the car was finally removed. The defendant concedes 17 days. The certificate confirming payment into court was applied for and issued on 26 April, although the plaintiff objected to the amount paid in. Clearly, the parties were at odds over the charges, but the defendant is experienced enough to know that it was possible to obtain the vehicle using the Act sooner than it did. The plaintiff was in almost constant correspondence with the defendant's representatives to have the vehicle removed. In all the circumstances, I conclude 40 days is reasonable.

Thus, the claim of the plaintiff is allowed at $40 \times \$67.80 = \2712.00 plus \$375.16 plus \$169.50 for a grand total of \$2918.66. This amount is payable out of the funds in court to the plaintiff and the balance is returnable to the defendant, although not until 31 days from the date of these reasons.

This is not a case for either aggravated or punitive damages.

If the parties are unable to agree on costs, they may make submissions in writing to me within 21 days of the release of these reasons.

31 After the reasons were released, the parties agreed that no costs of the trial would be payable by either party.

The Standard of Review

32 The Supreme Court of Canada has set out the standard of review applicable in appeals from judge's orders in *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235 (S.C.C.) (CanLII):

- (a) On questions of law the standard is correctness;
- (b) On questions of fact, the standard is palpable and overriding error;
- (c) On questions of mixed law and fact, where there is an extricable legal principle, the standard of review is correctness. However, with respect to the application of the correct legal principles to the evidence, the trial judge's interpretation of the evidence as a whole, the standard is palpable and overriding error.

Was there a Binding Amount Agreed Upon for Storage Under s4(1) of the RSLA

33 The trial judge wrote: I did not hear from the owner of the vehicle concerning the "agreement" to pay the charges levied by the plaintiff. However, I agree with Deputy Judge Papageorgiou that there is no binding agreement with this defendant.

Section 4(1)

34 Section 4(1) of the *Repair and Storage Liens Act* ("RSLA") provides as follows:

4. (1) Subject to subsection (2), a storer has a lien against an article that the storer has stored or stored and repaired for an amount equal to,

- (a) the amount agreed upon for the storage or storage and repair of the article;

(b) where no such amount has been agreed upon, the fair value of the storage or storage and repair...

35 Counsel for Certas submitted that the trial judge found as a fact that was no "amount agreed upon" for the storage of the vehicle.

36 I note that in the decision to which the trial judge was referring, *1218897 Ontario Ltd. v. Intact Insurance Co.* [(March 25, 2013), Doc. SC-11-918-00 (Ont. Small Cl. Ct.)] March 25, 2013, Deputy Judge Papageorgiou also held that there was no amount agreed upon for storage within the meaning of s4(1) of the RSLA.

37 Counsel for Castle submitted that there *was* an amount agreed upon for the storage of the vehicle under s4 (1) (a) [\$100 per day for so long as Castle stored the vehicle]. There was no need for the trial judge to consider what rate would have been reasonable under s.4(1)(b) of the RSLA.

38 Under the RSLA, Castle has a right to a lien against an article for an amount equal to "the amount agreed upon".

39 Counsel for Castle Auto submitted that the trial judge erred in principle in finding that there was no binding agreement here. There was no evidence contradicting the evidence of Borson that Kolesnikovs understood the terms of the Agreement when he signed it.

40 While the trial judge did not go through the Reasons of Deputy Judge Papageorgiou and compare the facts in each case, he did say that Castle had started an almost identical action in Claim SC-11-918-00. In both cases, the insured had signed identical Repair Services Agreements. The trial judge here adopted Deputy Judge Papageorgiou's reasons which included a reference to the Repair Services Agreement as being "lengthy and densely worded, the details of the various different payments possible required are imbedded in very small print in one small section of the agreement", [It] "requires some effort to actually understand and then calculate the final amount. It is clear that Mr [S.] would never have executed an agreement that said in clear language that he agreed to pay Castle \$2994.50."

41 In this case, Borson gave no evidence about any discussion with Kolesnikovs about the likely length of the storage or about Kolesnikovs' understanding about the likely duration of the storage. He did not give evidence that he had brought the outstanding balance owing for storage to the insured's attention before Kolesnikovs signed the Agreement. Borson did not assert that Kalashnikov agreed to pay the daily rate whatever the duration of the storage.

Conclusion on Whether There was an Agreed upon Amount for the Storage

42 It was open to the trial judge to conclude on the facts that Kolesnikovs [knowing that the vehicle was not being repaired] did not agree to pay for 64 days of storage/did not agree upon an amount for storage within the meaning of s4(1)(a) of the RSLA.

43 The evidence was uncontradicted that by March 31, the insured knew that the vehicle would not be repaired. He came to Castle on that day to remove his personal belongings from the vehicle. I infer that in those circumstances he did not know, was not told and did not agree to pay a further month and a half of storage fees for a car that had already been declared to be a write off. I infer that he was not aware and would not have expected that the vehicle would continue to be stored at Castle between March 31 and until May 18.

44 When Kolesnikovs signed the Agreement on March 17, 2011, he would have reasonably understood that the vehicle would either be shortly repaired or if a decision was made not to repair, the storage would be discontinued. He did not agree to pay for storage for as long as 60 days. By March 23, Certas had determined the vehicle would not be repaired. He did not expressly agree to pay more than \$9,000 for storage of a car not worth repairing.

45 I find that Kolesnikovs had no agreement with Castle on the final or total amount for the storage of his vehicle.

Conclusion on the S4 of the RSLA

46 Since there was no agreed upon amount, the trial judge did not err in holding that s4(1)(a) did not apply.

S 4(4) and (6)

47 Counsel for Castle submitted that the trial judge made a palpable and overriding error in failing to consider s.4(4) of the RSLA and to apply it to the evidence at trial.

48 Counsel for Castle submitted that the Divisional Court in *Halton Regional Pound Facility v. Holland*, 2014 ONSC 3776 (Ont. Div. Ct.) paras 23-25 noted that even in situations where a storer receives an article from a party other than the owner, the RSLA requires only that notice be given to other parties 60 days after taking possession of the article. He submitted that the implication is clear, that the RSLA recognizes that even in circumstances when someone other than the owner has requested that a vehicle be stored, the store's lien is not defeated. Instead, the storage claim may be limited to 60 days.

49 Stated differently, he submitted that an insurer only has a right to challenge the storage rate after 60 days have passed. Prior to the expiration of the 60 day period, the insurer is bound by whatever rate to which insured has agreed. For the first 60 days, Certas cannot challenge the rate of \$100 per day.

50 Counsel for Certas submitted that sections 4(4) and (6) of the RSLA have no application in the circumstances here. They apply only when the lienholder has received an article from a person other than its owner [for instance, a stolen motor vehicle recovered by the police].

Conclusion on ss4(4) and (6)

51 In my view s 4 ss(4) and (6) do not apply on the facts in this case. Here Castle received the vehicle with the knowledge and consent of the owner the insured Kolisnikovs.

S 7(5) and 7(6)

52 Sections 7(5) and (6) of the RSLA, provide as follows:

Acknowledgment of indebtedness required

[5] A non-possessory lien is enforceable only if the lien claimant obtains a signed acknowledgment of the indebtedness which acknowledgment may be on an invoice or other statement of account.

[6] An acknowledgment of indebtedness under subsection (5) is without prejudice to the right of the owner or any other person to dispute in a proceeding the amount that the lien claimant is owed.

53 Counsel for Certas submitted that under s 7 of the RSLA, although a storer may recover storage fees if it has an acknowledgment of indebtedness, the store's right is without prejudice to the owner's right to challenge the amount of the storage fees. While the insured's signature may have constituted an acknowledgement of indebtedness, Certas can dispute the amount of the storage fees under s7.

54 Counsel for Castle submitted that Section 7 applies only if a lienholder has voluntarily given up possession of the stored article. Section 7(6) has no application to a storer that has given up an item after a s.24 RSLA application has been made. Under s.24 the money paid into Court acts as a substitute for the security otherwise provided by the article being stored.

Conclusion on s7

55 After Certas paid amounts into court under s24 of the RSLA, the possessory lien was not converted into a non possessory lien. Rather, once the money was paid into court and the vehicle was released under s24(13), the lien was

discharged against the vehicle and became a charge against the amount paid into court or the security posted with the court. By the time Castle gave up possession of the vehicle, it had already been given an alternative form of security. There was no non-possessory lien.

56 Sections 7(5) and 7(6) do not apply.

Section 4(1)(b)

57 Since s4(1)(a) did not apply, the trial judge did not err in moving on to the next stage of the analysis, determining a reasonable rate under s4(1)(b).

58 *What are Reasonable Storage Rates?*

59 Deputy Judge Ashby considered six recent decisions on the fair value of storage for Toronto repair facilities, including two decisions against Castle Auto. He wrote: Deputy Judge Papageorgiou heard much evidence than I did about storage rates and she did an analysis of the evidence and cases which led her to conclude that \$60 day plus HST was the fair rate. I agree.

60 Counsel for Castle Auto submitted that the Deputy Judge erred in simply adopting the conclusions of Deputy Judge Papageorgiou in determining fair value.

61 Counsel for Certas submitted that Deputy Judge Ashby's ruling on the daily storage rate was supported by evidence upon which he reasonably concluded that a reasonable daily storage rate was \$60/day.

62 Evidence proffered in the present case by Ms. Kathy Williamson included the following:

- (i) A study prepared by the Insurance Bureau of Canada's study in October 2011 showing storage/parking rates from \$7.53 per day to \$60.00 per day for outdoor storage;
- (ii) By-laws of the City of Mississauga's limiting storage fees charged by repair facilities and tow companies for motor vehicles towed from accident scenes at an all-inclusive rate of \$60/day;
- (iii) By-laws of the City of Vaughan limiting storage fees to a maximum of \$55.00 per day for outside storage;
- (iv) Storage rates charged by Toronto collision reporting centres [where Castle Auto is located] of \$35.00 per day after the first 24 hour period;
- (v) The York Regional Police limitation of outdoor storage rates at \$50.00 per day for outdoor storage;
- (vi) The Halton Regional Police Services Board limitation of storage rates at \$60.00 per 24 hour period.

Conclusion

63 There was evidence upon which it was open to the trial judge to conclude that a reasonable storage rate was \$60 per day. [Counsel for Certas did not cross appeal on this point]

The Number of Days Allowable

64 Counsel for Castle Auto requested that the number of storage days for which Certas must pay should be increased from 40 to 64.

65 The trial judge wrote: The only remaining issue is the number of days allowable. This Court must determine when the vehicle should have been released. The plaintiff claims 64 days from March 16 to May 18, the latter date being the day the car was finally removed. The defendant concedes 7 days. The certificate confirming payment into court was applied

for and issued on April 26...the defendant is experienced enough to know it was possible to obtain the vehicle using the Act sooner than it did. The plaintiff was in almost constant correspondence with the defendant's representatives to have the vehicle removed.

Conclusion on Reasonable Storage Rates

66 On the evidence, it was open to the trial judge to reach the conclusion that he did.

Does the fact that Certas did not have an insurable interest in the Vehicle because it had denied coverage under the policy affect its right to bring the s24 Repair and Storage Lien Application and to defend the within action?

67 Section 24(1) of the RSLA provides as follows:

24. (1) Where a claimant claims a lien against an article under Part I (Possessory Liens) and refuses to surrender possession of the article to its owner or any other person entitled to it and where one of the circumstances described in subsection (1.2) exists, the owner or other person lawfully entitled to the article may apply to the court in accordance with the procedure set out in this section to have the dispute resolved and the article returned

68 Under s.24, it is clear that the application may be brought by the owner, or any another person lawfully entitled to the article.

69 Counsel for Castle Auto submitted that between the date of loss and the date of Judgment Certas was neither the owner of the vehicle stored or "any other person entitled to it." Accordingly, it did not have standing either to issue the s.24 RSLA certificate or to challenge the daily storage rates.

70 Counsel for Castle submitted that instead of bringing a s. 24 application, Certas should have brought an application for direction under s.23.

71 Counsel for Certas submitted that Certas had issued an Ontario Automobile Policy for the 2000 Mercedes Benz to Kolesnikovs. At the time the s24 Application was brought, Certas had not yet decided whether to provide coverage for the property damage claim that Koleskinovs had submitted. There was an Ontario Automobile Policy in force insuring Kolesnikovs.

72 Pursuant to section 278 of the *Insurance Act*, the right of subrogation arises whenever an insurer makes any payment under a contract of insurance:

Subrogation

278. (1) An insurer who makes any payment or assumes liability therefor under a contract is subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce those rights. R.S.O. 1990, c. 1.8, s. 278 (1).

Conclusion

73 Certas brought a s24 Application and made a payment of its own funds to get the vehicle released. In so doing, Certas was protecting the interest of itself and of its insured [whether or not it ultimately decided to provide coverage.]

74 An insured is entitled to subrogate in respect of any payment made.

75 Furthermore, since Castle Auto issued this Claim against Certas, Certas was entitled to defend the claims brought against it.

Summary of Conclusions

76 In my view, there was no amount agreed upon for the storage of the vehicle under s4(1)(a) of the RSLA.

77 Upon learning that Castle was attempting to charge what Certas thought were excessive storage fees, it was reasonable for Certas to attempt to mitigate its insureds and/or its exposure to those claims. When Certas started proceedings under s24 of the RSLA, it was not acting contrary to the interest of its insured. It paid its own funds into court to obtain the release of the vehicle and reduced any continuing exposure of its insured to further storage costs.

78 After Certas paid amounts into court under s24 of the RSLA, Castle's possessory lien was not converted into a non possessory lien. Rather, once the money was paid into court and the vehicle was released, Castle's lien was discharged against the vehicle and became a charge against the amount paid into court or the security posted with the court.

79 There was no non-possessory lien and s7(5) and 7(6) does not apply.

80 Neither section 4(4) nor s.4(6) applies. The vehicle came into storage with the knowledge and consent of the owner.

81 Therefore, Deputy Judge Ashby did not err in finding that s4(1)(b) of the RSLA applied and attempting to determine the fair value of the storage.

82 There was evidence before the trial judge upon which he could reasonably conclude that a fair storage rate was \$60 per day.

83 Therefore, the appeal is dismissed.

Appeal dismissed.

ROYAL BANK OF CANADA

-and-

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

**REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER OF
2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE**

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ROYAL BANK OF CANADA

-and-

2399295 ONTARIO INC. o/a FAST TRACK ALLIANCE

Applicant

Respondent

Court File No. CV-17-587514-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

MOTION RECORD
(returnable February 23, 2018)

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