

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

B E T W E E N:

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**ORBIT FREIGHT LTD.**

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**MOTION RECORD**

Date: March 16, 2021

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

**Kyle B. Plunkett (LSO # 31044N)**  
Tel (416) 865-3406  
Email [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Miranda Spence – # 60621M**  
Tel (416) 865-3414  
Email: [mspence@airdberlis.com](mailto:mspence@airdberlis.com)

Fax (416) 863-1515

Lawyers for the Receiver

TO: SEE ATTACHED SERVICE LIST

## SERVICE LIST

TO: **MSI SPERGEL INC.**  
509 Consumers Road, Suite 200  
North York, ON M2J 4V8

**Attention: Mukul Manchanda**  
Tel: (416) 498-4314  
Fax: (416) 498-4314  
Email: [mmanchanda@spergel.ca](mailto:mmanchanda@spergel.ca)

Proposed Receiver

AND

TO: **ORBIT FREIGHT LTD.**  
1704 Meyerside Drive Unit 1-2  
Mississauga, ON L5T 1A3

Respondent

AND

TO: **Aird & Berlis LLP**  
Barristers and Solicitors  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Attention: Kyle B. Plunkett**  
Tel: 416-863-1500  
Fax: 416-863-1515  
Email: [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

Solicitors for the Proposed Receiver

AND

TO: **SANTAM S. PANDEL**  
31 Heslop Circle  
Brampton, ON L6R 0M8

AND

TO: **THE BANK OF NOVA SCOTIA**  
1 St. Clair Avenue East  
Toronto, ON M4T 1Z3

AND

TO: **CANADA REVENUE AGENCY**

c/o Department of Justice  
Ontario Regional Office  
120 Adelaide St. W., Suite 400  
Toronto, ON M5H 1T1

**Attention: Rakhee Bhandari**

Tel: (416) 952-8563

Email: [rakhee.bhandari@justice.gc.ca](mailto:rakhee.bhandari@justice.gc.ca)

AND

TO: **HER MAJESTY THE QUEEN IN RIGHT  
OF ONTARIO AS REPRESENTED BY  
THE MINISTRY OF FINANCE**

Revenue Collections Branch – Insolvency Unit  
33 King Street W., P.O. Box 627  
Oshawa, ON L1H 8H5  
Email: [insolvency.unit@ontario.ca](mailto:insolvency.unit@ontario.ca)

AND

TO: **MERCADO CAPITAL CORPORATION**

Suite 1900, 13450 102<sup>nd</sup> Avenue  
Surrey, BC V3T 5Y1

AND

TO: **WELLS FARGO EQUIPMENT FINANCE COMPANY**

1290 Central Parkway W, 11<sup>th</sup> Fl  
Mississauga, ON L5C 4R3

AND

TO: **BODKIN, A DIVISION OF BENNINGTON FINANCIAL CORPORATION**

102-1465 North Service Rd E  
Oakville, ON L6H 1A7

AND

TO: **CLE CAPITAL INC.**

3390 South Service Rd., Unit #104  
Burlington, ON L7N 3J5

AND

TO: **BANK OF MONTREAL**

5750 Explorer Ave  
Mississauga, ON L4W 0A9

AND

TO: **TFG FINANCIAL CORPORATION**

501, 4180 Lougheed Hwy  
Burnaby, BC V5C 6A7

AND

TO: **CANADIAN WESTERN BANK**  
285 2880 Glenmore Trail SE  
Calgary, AB T2C 2E7

AND

TO: **RIORDAN LEASING INC.**  
1158 King St. E.  
Kitchener, ON N2G 2N4

AND

TO: **FIRST WEST LEASING LTD.**  
6470 201 St.  
Langley, BC V2Y 2X4

AND

TO: **KING TOWING**  
1225 Matheson Blvd E  
Mississauga, ON L4W 1B6  
Email: [dispatch@kingtowing.ca](mailto:dispatch@kingtowing.ca)

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

**B E T W E E N:**

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**ORBIT FREIGHT LTD.**

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

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2.	First Report of the Receiver dated March 16, 2021
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B	Appendix 2 – Pre-Filing Report
C	Appendix 3 – The First Letter and the Second Letter
D	Appendix 4 – The Notice Letter
3.	Draft Order

# TAB 1

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

**B E T W E E N:**

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**ORBIT FREIGHT LTD.**

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**NOTICE OF MOTION**

**MSI SPERGEL INC.**, in its capacity as receiver and manager (in such capacity, the “**Receiver**”) of Orbit Freight Ltd. (the “**Debtor**”) will make a motion to a judge presiding over the Commercial List , on Wednesday, the 17<sup>th</sup> day of March, 2021, at 11:30 a.m., or as soon after that time as the motion can be heard, by judicial video conference via Zoom at Toronto, Ontario. Please refer to the Zoom conference details attached as Schedule “A” hereto, and advise if you intend to join the hearing by emailing mspence@airdberlis.com.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally, via Zoom video conference.

**THE MOTION IS FOR** an Order substantially in the form attached at Tab 3 to the Motion Record, as follows:

- (a) if necessary, validating service of the notice of motion and motion record;

- (b) that 2251760 Ontario Inc. o/a King Towing and/or its representatives (collectively, “**King Towing**”) shall immediately advise the Receiver of the location of the assets described as follows (the “**Truck(s)**”):

Year	Model	Make	VIN
2021	Peterbilt	567	1NPCX4TX8MD736670
2021	Peterbilt	567	1NPCX4TX5MD736674

- (c) that any person having possession of the Trucks shall immediately release the Trucks to the Receiver and/or its agents;
- (d) that the Receiver shall not be required to make any payment to King Towing, or any other person, to secure the immediate release of the Trucks to the Receiver and/or its agents;
- (e) that the Sheriff, the police, or other law enforcement entity of the applicable Ontario jurisdictions, including, without limitation, the Peel Regional Police (collectively, the “**Authorities**”) shall assist the Receiver in recovering the Trucks. The within Order shall be sufficient authority for the Receiver to request and receive the cooperation of the Authorities in the applicable jurisdiction and no further order, writ or other document shall be required;
- (f) that should any of the Authorities of the applicable jurisdiction locate any of the Trucks, said Authority shall advise the Receiver accordingly and assist the Receiver in seizing the Truck in question and delivering possession of the vehicle to the Receiver. In such circumstances, notwithstanding paragraph 4 above, the Receiver may be required to pay to the applicable Authority any applicable fee(s);



- (g) that the Receiver is empowered and authorized to file a missing vehicles report with the appropriate Authorities and that this Order shall constitute sufficient authority for such report to be filed and accepted by the appropriate authority;
- (h) that 2251760 Ontario Inc. o/a King Towing shall pay to the Receiver its costs of this motion in an amount that is just; and
- (i) such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

- (a) the Debtor was a Canadian owned, private corporation carrying on business as a transporter of goods. Orbit operated from an office space located at 1704 Meyerside Drive, Units 1 & 2, Mississauga, ON (the “**Premises**”). Satnam Singh Pandal (“**Mr. Pandal**”) is the principal of the Company.
- (b) the Receiver was appointed by way of the order of the Honourable Justice McEwen dated March 11, 2021 (the “**Receivership Order**”);
- (c) on March 12, 2021, the Receiver attended at the Premises and met with Mr. Pandal. Mr. Pandal advised, amongst other things, that the Trucks had been towed away from the Premises on request of another tenant by King Towing a few days prior to the appointment of the Receiver;
- (d) despite requests from the Receiver and its counsel, King Towing has refused to release the Trucks to the Receiver. In response to the Receiver’s requests, King Towing has:

- (i) asked whether the Receiver would permit King Towing to retain the Trucks over the weekend so that King Towing can accrue additional storage charges;
  - (ii) refused to disclose the location of the Trucks; and
  - (iii) advised that King Towing will release the Trucks once the Receiver deposits \$50,000 into Court;
- (e) On Friday, March 12, 2021, the Receiver's counsel advised King Towing that if the Trucks were not released forthwith, the Receiver would bring an urgent motion to the Court to seek the release of the Trucks;
- (f) To date, King Towing has not released the Trucks, nor have they responded directly to the Receiver's counsel;
- (g) The Receiver has sought the assistance of the Peel Regional Police, however, the police have declined to become involved in what they consider a civil matter;
- (h) The Receiver is unable to insure the Trucks, which have an estimated value of over \$400,000, until such time as they are in the Receiver's possession;
- (i) Intervention by this Honourable Court on an urgent basis is necessary to protect the Debtor's assets and the interest of stakeholders; and
- (j) Such further and other grounds as counsel may advise.

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

- (k) The First Report of the Receiver dated March 16, 2021; and

- (1) Such further and other evidence as counsel may advise and this Honourable Court may permit.

Date: March 16, 2021

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

**Kyle B. Plunkett (LSO # 31044N)**  
Tel (416) 865-3406  
Email [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Miranda Spence – # 60621M**  
Tel (416) 865-3414  
Email: [mspence@airdberlis.com](mailto:mspence@airdberlis.com)

Fax (416) 863-1515

Lawyers for the Receiver

TO: SEE ATTACHED SERVICE LIST

## **SCHEDULE “A”**

### Zoom Video Conference Details:

Topic: Toronto-Dominion Bank v. Orbit Freight Ltd. - urgent hearing re removal of debtor's assets

Time: Mar 17, 2021 11:30 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://zoom.us/j/7788502673>

Meeting ID: 778 850 2673

One tap mobile

+14388097799,,7788502673# Canada

+15873281099,,7788502673# Canada

Dial by your location

+1 438 809 7799 Canada

+1 587 328 1099 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 204 272 7920 Canada

Meeting ID: 778 850 2673

Find your local number: <https://zoom.us/u/a5Ovo6d5C>

Applicant

Respondent

Court File No. CV-21-00658361-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at Toronto**

**NOTICE OF MOTION**

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

**Kyle B. Plunkett (LSO # 31044N)**  
Tel (416) 865-3406  
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Fax: (416) 863-1515

*Lawyers for the Receiver*

# TAB 2

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

**BETWEEN:**

THE TORONTO-DOMINION BANK

Applicant

-and-

ORBIT FREIGHT LTD.

Respondent

**FIRST REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER  
OF ORBIT FREIGHT LTD.**

**March 16, 2021**

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## **APPENDICES**

1. The Receivership Order
2. The Pre-Filing Report
3. The First Letter and the Second Letter
4. The Notice Letter

## **I. APPOINTMENT AND BACKGROUND**

1. This first report (this “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”) of Orbit Freight Ltd. (“**Orbit**” or the “**Company**”).
2. Orbit was a Canadian owned, private corporation carrying on business as a transporter of goods. Orbit operated from an office space located at 1704 Meyerside Drive, Units 1 & 2, Mississauga, ON (the “**Premises**”). Satnam Singh Pandal (“**Mr. Pandal**”) is the principal of the Company.
3. Spergel was appointed as the Receiver of all the assets, undertakings and properties of Orbit (collectively, the “**Property**”) by Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made March 11, 2021 (the “**Receivership Order**”). The Receivership Order was made upon the application of Orbit’s general secured creditor, The Toronto-Dominion Bank (“**TD**”). Attached as **Appendix “1”** to this First Report is a copy of the Receivership Order.
4. Prior to its appointment as the Receiver, on March 8, 2021 Spergel in its capacity as the Proposed Receiver filed a pre-filing report (the “**Pre-Filing Report**”) outlining, amongst other things, the results of the inspection of the premises conducted on March 5, 2021. Attached as **Appendix “2”** to this First Report is a copy of the Pre-Filing Report.
5. The Receiver retained Aird & Berlis LLP as its independent counsel (the “**Receiver’s Counsel**”).

## **II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER**

6. The purpose of this First Report is:
  - a) to seek an order from this Honourable Court ordering 2251760 Ontario Inc. o/a King Towing (“**King Towing**”) to release the Trucks (as defined herein) to the Receiver; and

- b) to seek an order from this Honourable Court ordering the Sheriff of the Ontario jurisdictions, where the Trucks are located, to assist the Receiver in recovering the Trucks.

*Disclaimer*

7. 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 First Report for any other purpose.
8. In preparing this First Report, the Receiver has relied upon certain information provided to it by Mr. Pandal. 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.
9. Unless otherwise stated, all monetary amounts contained in this Report are expressed in Canadian dollars.

**III. ACTIONS OF THE RECEIVER UPON APPOINTMENT**

10. A copy of the Receivership was provided to the Company and Mr. Pandal by the Receiver.
11. On March 12, 2021, the Receiver attended at the Premises and met with Mr. Pandal. Mr. Pandal advised, amongst other things, the following:
- a) All of the trucks and trailers were returned to the respective lessors prior to the appointment of the Receiver with the exception of the following:

Year	Model	Make	VIN
2021	Peterbilt	567	1NPCX4TX8MD736670
2021	Peterbilt	567	1NPCX4TX5MD736674

(collectively, the “**Trucks**”); and

- b) the Trucks were towed away from the Premises on request of another tenant by King Towing a few days prior to the appointment of the Receiver.
12. Upon discovering that the Trucks were towed away by King Towing, the Receiver immediately contacted King Towing and requested that, in accordance with the Receivership Order, King Towing release the Trucks to the Receiver without delay. The Receiver's Counsel sent a letter to King Towing (the "**First Letter**"), as follows:
- a) attaching a copy of the Receivership Order;
  - b) asking under what authority did King Towing remove the Trucks from the Premises;
  - c) advising that pursuant to paragraph 4 of the Receivership Order, anyone having notice of the Receivership Order is required to deliver to the Receiver any property belonging to Orbit upon the Receiver's request; and
  - d) advising that in the event the Trucks were not released, the Receiver intends to report King Towing's non-compliance with the Receivership Order to the Court.
13. Subsequent to receipt of the First Letter by King Towing, the Receiver received and engaged in multiple telephone discussions with two personnel of King Towing, namely Happy and Sunny, who advised as follows:
- a) Happy advised that he would like to retain the Trucks over the weekend so King Towing can accrue additional storage. Happy would not disclose the location of the Trucks; and
  - b) Sunny advised that King Towing has the right to retain possession of the Trucks pursuant to alleged liens under the *Repair and Storage Liens Act*, and further advised that King Towing will release the Trucks once the Receiver deposits \$50,000 into court.
14. Given the position taken by King Towing, the Receiver's Counsel sent another letter (the "**Second Letter**") summarizing the Receiver's conversation with Happy and Sunny and advising, amongst other things,

- a) that in the event King Towing has a legitimate claim for storage, the Receiver will not pay any storage accruing from March 12, 2021; and
- b) that in view of King Towing's improper actions, the Receiver will be scheduling an urgent hearing to have this matter put before the Court as soon as possible, and asking King Towing to provide contact information of its counsel so materials can be served.

Attached as **Appendix "3"** to this First Report are copies of the First Letter and the Second Letter.

- 15. On March 15, 2021, in an attempt to gain access to the Trucks, the Receiver contacted the Peel Regional Police ("**Peel Police**") and met with officer Taryn Young at the Premises. Upon review of the Receivership Order, the First Letter and the Second Letter, Peel Police concluded this to be a civil matter and advised that they are not able to get involved in assisting with retrieval of the Trucks.
- 16. On March 16, 2021, the Receiver's Counsel wrote to King Towing to advise that a court date had been secured on March 17, 2021, at 11:30 am (the "**Notice Letter**"). The Receiver's Counsel encouraged King Towing to retain counsel and advised that materials would follow. A copy of the Notice Letter is attached as **Appendix "4"** to this First Report.

### **III. CONCLUSION AND RECOMMENDATION**

- 17. The Receiver notes that the Trucks collectively are estimated to be worth over \$400,000. The Receiver further notes that it is unable to obtain insurance on the Trucks due to the fact that the location of the Trucks is unknown, and that the Receiver does not have possession of the Trucks.
- 18. Given the value of the Trucks, the inability of the Receiver to obtain insurance, the conduct of King Towing, and the Peel Police's refusal to become involved on the basis of the Receivership Order, the Receiver is of the view that an intervention by this Honourable Court on an urgent basis is necessary to protect the assets of Orbit and the interest of stakeholders.

19. Accordingly, the Receiver respectfully requests that this Honourable Court grant the relief as set out in paragraph 6 of this First Report.

Dated at Toronto this 16<sup>th</sup> day of March, 2021.

**msi Spergel inc.**

in its capacity as the Court-appointed Receiver of Orbit Freight Ltd., and not in its personal or corporate capacity.

Per:

A handwritten signature in black ink, appearing to read 'Mukul', written over a horizontal line.

---

Mukul Manchanda, CPA, CIRP, LIT  
Principal

# APPENDIX 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	THURSDAY, THE 11 <sup>th</sup>
	)	
JUSTICE MCEWEN	)	DAY OF MARCH, 2021

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**ORBIT FREIGHT LTD.**

Respondent

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel inc. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Orbit Freight Ltd. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom, at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michelle Benoy sworn March 11, 2021 and the Exhibits thereto, the report of msi Spergel inc. as proposed receiver, dated March 8, 2021 and on hearing the submissions of counsel for the Applicant, no one else appearing, although duly served as appears from the affidavit of service of Lindsay Provost sworn March 8, 2021, and on reading the consent of msi Spergel inc. to act as the Receiver,



## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application 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, msi Spergel inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

## **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 \$5,000, provided that the aggregate consideration for all such transactions does not exceed \$25,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

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

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

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

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

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

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

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

### **NO EXERCISE OF RIGHTS OR REMEDIES**

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

### **NO INTERFERENCE WITH THE RECEIVER**

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

### **CONTINUATION OF SERVICES**

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

may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

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

### **EMPLOYEES**

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

### **PIPEDA**

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

provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

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

### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, 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 \$75,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "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 'http://www.spergelcorporate.ca/engagements'.

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 blue ink, appearing to read "McEwen", is written above a horizontal line.

Justice, Ontario Superior Court of Justice

Commercial List

## 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 of Orbit Freight Ltd. (the "Debtor") 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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_-CL-\_\_\_\_\_, 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:

THE TORONTO-DOMINION BANK

-and-

ORBIT FREIGHT LTD.

Applicant

Respondent

Court File No. CV-21-00658361-00CL

11 March 21

T. Hogan  
L. Provost  
M. Spence

The Order shall go as per the draft filed and signed.

It is unopposed.

The Respondent has ceased operations and is in default. The principal of the Respondent, Mr. Pandal, is bankrupt.

The Applicant has a right, under its security, to move for the Order.

Further, there is urgency, as set out in the motion materials.

The relief sought is just and equitable.

I note, however, that the Respondent and other stakeholders were short-served.

Mr. Pandal has spoken with the proposed Receiver and knows of today's hearing but did not attend, and he is meeting with the Receiver tomorrow.

If, however, Mr. Pandal or other stakeholders wish to make submissions, I will hear them.



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at  
Toronto, Ontario

**ORDER**

**Harrison Pensa** <sup>LLP</sup>  
Barristers and Solicitors  
450 Talbot Street, P.O. Box 3237  
London, Ontario N6A 4K3

**Timothy C. Hogan (LSO #36553S)**  
**Robert Danter (LSO #69806O)**

Tel: (519) 679-9660  
Fax: (519) 667-3362  
Email: [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com)  
[rdanter@harrisonpensa.com](mailto:rdanter@harrisonpensa.com)

Solicitors for the Applicant,  
The Toronto-Dominion Bank

# APPENDIX 2



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

**BETWEEN:**

THE TORONTO-DOMINION BANK

Applicant

-and-

ORBIT FREIGHT LTD.

Respondent

**PRE-FILING REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE PROPOSED RECEIVER  
OF ORBIT FREIGHT LTD.**

**March 8, 2021**

## Table of Contents

I.	PURPOSE OF THIS REPORT .....	1
II.	INSPECTION AND DEMAND FOR PAYMENT .....	2
III.	BANKRUPTCY OF SATNAM SINGH PANDAL .....	3
IV.	CONCLUSION AND RECOMMENDATION.....	3

## **APPENDICES**

1. Pictures of the Onsite Inspection
2. Bankruptcy documents for Mr. Satnam Pandal

## **I. PURPOSE OF THIS REPORT**

1. msi Spergel inc. ("**Spergel**") understands that The Toronto-Dominion Bank ("**TD**" or the "**Bank**") intends to make an application to the Ontario Superior Court of Justice (Commercial List) (the "**Court**") to appoint Spergel as receiver Orbit Freight Ltd. ("**Orbit**" or the "**Company**") 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**").
2. This pre-filing report (this "**Report**") is prepared by Spergel in its capacity as the proposed receiver (in such capacity, the "**Proposed Receiver**") of all of the assets, undertakings and properties (the "**Property**") of the Company.
3. On March 5, 2021, Spergel was engaged as consultant by TD to, amongst other things, inspect the Property.
4. The purpose of this Report is to advise the Court of, amongst others:
  - a) Spergel's qualifications to act as Receiver; and
  - b) the result of the Proposed Receiver's inspection of the Property.
5. The Proposed Receiver understands that Orbit operated from a premises located at 1704 Meyerside Drive, Units 1 & 2, Mississauga, ON (the "**Company's Premises**") and that Satnam Singh Pandal ("**Mr. Pandal**") is the principal of the Company.
6. The Proposed 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.
7. In preparing this Report, the Proposed Receiver has relied upon certain information provided to it by the Bank, and not any information or advice it has received from the Company. The Proposed 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 Proposed Receiver expresses no opinion or other form of assurance with respect to such information.

8. Unless otherwise stated, all monetary amounts contained in this Report are expressed in Canadian dollars.

## II. **INSPECTION AND DEMAND FOR PAYMENT**

9. On March 5, 2021 around 10:00am, the Proposed Receiver attended at the Company's Premises to inspect the Property (the "**Inspection**"). During its attendance, the Proposed Receiver noted the following:
  - a) The Company's Premises was locked;
  - b) The office area visible through the glass door appeared to be cleared out; and
  - c) At least two Orbit trucks were parked on the front lawn, and one Orbit dump truck was parked in the parking lot;

Pictures taken during the Inspection are attached to this Report as **Appendix "1"**.

10. Following the Inspection, TD issued demand for payment and a Notice of Intention to Enforce Security pursuant to the section 244(1) of the BIA (the "**244 Notices**") to the Company.
11. The ten (10) day period prescribed under 244 Notices expires on March 15, 2021 and, accordingly, the return date for TD's application is set to be heard prior to the expiry of such period. However, given the status of the Company and the bankruptcy of the principal, Mr. Pandal, as discussed below, there is urgency to this application and a receiver to secure the remaining assets for the benefit of the creditors.
12. In addition, the Proposed Receiver reviewed the Company's accounts receivable listing as at January 31, 2021 provided to it by the Bank. The accounts receivable listing as at January 31, 2021 indicates CAD and USD accounts receivables of \$1,406,505.85 and USD\$359,671.42 (collectively, the "**Accounts Receivable**"), respectively.

13. At this time, Spergel has no visibility with respect to the remaining assets of the Company or the value thereof, as the business appears to have been abandoned, or at least, the Company has ceased operations.

### **III. BANKRUPTCY OF SATNAM SINGH PANDAL**

14. The Proposed Receiver has discovered that on March 2, 2021, Mr. Pandal, the principal of the Company, filed an assignment and Spergel was appointed as Licensed Insolvency Trustee (in such capacity, the “**Bankruptcy Trustee**”) of the estate of the bankrupt by the Official Receiver.
15. Mr. Pandal, in his sworn statement of affairs, indicated that he operated two trucking businesses as follows (both of which have ceased operating):

<b>Business Name</b>	<b>Start Date</b>	<b>End Date</b>
Orbit Freight Ltd.	February 13, 2012	February 15, 2021
Delta Carrier Inc.	October 25, 2004	January 31, 2021

Copies of the relevant bankruptcy documents (including the sworn statement of affairs) of Mr. Pandal are attached to this Report as **Appendix “2”**.

### **IV. CONCLUSION AND RECOMMENDATION**

16. Given the Inspection and Mr. Pandal’s disclosure in his sworn statement of affairs regarding the status of the Company’s operations, it is apparent that as at the date of this Report, Orbit has ceased operating.
17. Accordingly, the Proposed Receiver is of the view that an appointment of a receiver is just and convenient to protect the Property (including Accounts Receivable) and the interest of the stakeholders.
18. Spergel is a Licensed Insolvency Trustee within the meaning of subsection 2(1) of the BIA.
19. Spergel has consented to act as Receiver in these proceedings should the Court grant the Order appointing a receiver. A copy of Spergel’s consent to act is included in the Bank’s Application Record.

20. As noted above, Spergel was engaged by TD to assist it with reviewing and assessing the Bank's collateral position. As a result of its engagement, Spergel has acquired some knowledge of the Company's business and operations.

Dated at Toronto this 8<sup>th</sup> day of March, 2021.

**msi Spergel inc.**

in its capacity as the Proposed Receiver  
of Orbit Freight Ltd., and not in its personal or  
corporate capacity.

Per:



---

Mukul Manchanda, CPA, CIRP, LIT  
Principal  
43762717.2

# APPENDIX 1









1





1











# APPENDIX 2



District of  
Division No.  
Court No.  
Estate No.

-- FORM 79 --  
Statement of Affairs (Non-Business Bankruptcy)  
(Subsection 49(2) and 158(d) of the Act / Subsections 50(2) and 62(1) and Paragraph 66.13(2)(d) of the Act)

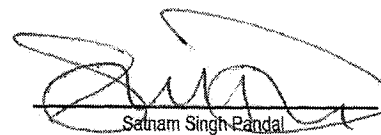
☒ Original ☐ Amended

In the matter of the bankruptcy of  
Satnam Singh Pandal  
of the City of Brampton, in the Province of Ontario  
SUMMARY ADMINISTRATION

ASSETS						
Type of assets	Description (Provide details)	Estimated Dollar Value	Exempt Property		Secured Amount/ Liens	Estimated net realizable dollar value
			Yes	No		
1. Cash on Hand						
2. Furniture		1,000.00	x		0.00	0.00
3. Personal Effects	Other	1,000.00	x		0.00	0.00
4. Policies & RRSPs	Argosy Securities RRSP - 1J6-692S1	17,640.00	x		0.00	0.00
5. Securities						
6. Real Property or Immovable	House					
	Cottage					
	Land					
7. Motor Vehicles	Automobile					
	Motorcycle					
	Snowmobile					
	Other					
8. Recreational Equipment						
9. Taxes						
TOTAL		19,640.00			0.00	0.00

27-Feb-2021

Date

  
Satnam Singh Pandal  
Bankrupt

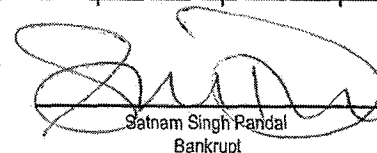
District of  
Division No.  
Court No.  
Estate No.

FORM 79 -- Continued

LIABILITIES						
Liabilities type code (LTC): 1 Real Property or Immovable Mortgage or Hypothec 2 Bank Loans (except real property mortgage) 3 Finance Company Loans 4 Credit Cards Bank/Trust Companies Issuers 5 Credit Cards Other Issuers 6 Taxes Federal/Provincial/Municipal 7 Student Loans 8 Loans from Individuals 9 Other						
Creditor	Address including postal code	Account No.	Amount of debt			Enter LTC
			Unsecured	Secured	Preferred	
Capital One MasterCard Bankruptcies c/o FCT Default Solutions Attn: Insolvency Department	PO Box 2514, Stn B London ON N6A 4G9	5223 XXXX XXXX 8541	7,760.00	0.00	0.00	5
CIBC Visa - Bankruptcies c/o TECHCOM Managed Services	6-6150 Hwy 7, PO Box 486 Woodbridge ON L4H 0R6	4500 XXXX XXXX 8528	14,255.00	0.00	0.00	4
First West Leasing Ltd. Contingent \$ = 1.00	6470 201 Street Langley City BC V2Y 2X4		1.00	0.00	0.00	9
Meridian Onecap Credit Corporation (formerly Roynat Lease Finance - Toronto) Attn: Chelsey Spence Contingent \$ = 1.00	800-40 Sheppard Ave W North York ON M2N 6K9		1.00	0.00	0.00	9
Ontario Superior Court of Justice Attn: The Filing office	50 Eagle St West Newmarket ON L3Y 6B1	CV-21-00000206-00 00	1.00	0.00	0.00	9
Pallett Valo LLP Attn: Frances Wales	300-77 City Centre Dr, West Tower Mississauga ON L5B 1M5	42112D	0.00	0.00	0.00	9
RBC Royal Bank Visa c/o BankruptcyHighway.com Attn: Razel Bowen Contingent \$ = 1.00	PO Box 57100 Etobicoke ON M8Y 3Y2	4514 XXXX XXXX 9315	1.00	0.00	0.00	4
RBC Royal Bank Visa c/o BankruptcyHighway.com Attn: Razel Bowen	PO Box 57100 Etobicoke ON M8Y 3Y2	4514 XXXX XXXX 5408	3,210.00	0.00	0.00	4
Scotiabank c/o Canaccede International Management Ltd. Contingent \$ = 1.00	PO Box 758 Stn B London ON N6A 4Y8	4538 XXXX XXXX 5022	1.00	0.00	0.00	4
TD Canada Trust C/O FCT Default Solutions	PO Box 2514, Station B London ON N6A 4G9	1181-3249045	15,075.00	0.00	0.00	2
TD Canada Trust C/O FCT Default Solutions Contingent \$ = 1.00	PO Box 2514, Station B London ON N6A 4G9	2032-5013073	1.00	0.00	0.00	2
TD Canada Trust C/O FCT Default Solutions Contingent \$ = 1.00	PO Box 2514, Station B London ON N6A 4G9	1181-5007100	1.00	0.00	0.00	2
TD Canada Trust C/O FCT Default Solutions Contingent \$ = 1.00	PO Box 2514, Station B London ON N6A 4G9	1968-9007100-09	1.00	0.00	0.00	2

27-Feb-2021

Date

  
Satnam Singh Randal  
Bankrupt


District of  
Division No.  
Court No.  
Estate No.

FORM 79 - Continued

LIABILITIES						
Creditor	Address including postal code	Account No.	Amount of debt			Enter LTC
			Unsecured	Secured	Preferred	
TD Canada Trust C/O FCT Default Solutions Contingent \$ = 1.00	PO Box 2514, Station B London ON N6A 4G9	8144-9007100-01	1.00	0.00	0.00	2
TD Canada Trust Visa C/O FCT Default Solutions Contingent \$ = 1.00	PO Box 2514, Station B London ON N6A 4G9	4520 XXXX XXXX 6788	1.00	0.00	0.00	4
TD Canada Trust Visa C/O FCT Default Solutions Contingent \$ = 1.00	PO Box 2514, Station B London ON N6A 4G9	4520 XXXX XXXX 4988	1.00	0.00	0.00	4
TD Canada Trust Visa C/O FCT Default Solutions	PO Box 2514, Station B London ON N6A 4G9	4520 XXXX XXXX 7718	19,730.00	0.00	0.00	4
T-Pine Leasing Capital Corporation Contingent \$ = 1.00	6050 Dixie Road Mississauga ON		1.00	0.00	0.00	9
Wells Fargo Financial Retail Services c/o InSolve Global Credit Fund I, L.P. Contingent \$ = 1.00	c/o TECHCOM Managed Services Inc 6-6150 Hwy 7, PO Box 487 Woodbridge ON L4H 0R6	460-9404728-001	1.00	0.00	0.00	9
	TOTAL	Unsecured	60,043.00			
	TOTAL	Secured		0.00		
	TOTAL	Preferred			0.00	
TOTAL					60,043.00	

27-Feb-2021

Date

  
Satnam Singh Pandal  
Bankrupt


District of  
Division No.  
Court No.  
Estate No.

FORM 79 – Continued

INFORMATION RELATING TO THE AFFAIRS OF THE BANKRUPT					
<b>A. PERSONAL DATA</b>					
1. Family name: Pandal		Given names: Satnam Singh Gender: Male		Date of birth: YYYY / MM / DD 1972/08/31	
2. Also known as:					
3. Complete address, including postal code : 31 Heslop Circle Brampton ON L6R 0M8					
4. Marital status: (Specify month and year of event if it occurred in the last five years )		Married			
5. Full name of spouse or common-law partner: Manjeet Kaur Pandal					
6. Name of present employer: None		Occupation: None (Unemployed)			
7A. Number of persons in household family unit, including bankrupt:				4	
7B. Number of persons 17 years of age or less:				2	
8. Have you operated a business within the last five years?				Yes	
Business Name		Business Type	From	To	
Orbit Freight Ltd.		Truck Transportation	13-Feb-2012	15-Feb-2021	
Delta Carrier Inc.		Truck Transportation	25-Oct-2004	31-Jan-2021	
<b>B. WITHIN THE 12 MONTHS PRIOR TO THE DATE OF THE INITIAL BANKRUPTCY EVENT, HAVE YOU, EITHER IN CANADA OR ELSEWHERE:</b>					
9A. Sold or disposed of any of your property?			Yes		
9B. Made payments in excess of the regular payments to creditors?			No		
9C. Had any property seized by a creditor?			No		
<b>C. WITHIN FIVE YEARS PRIOR TO THE DATE OF THE INITIAL BANKRUPTCY EVENT, HAVE YOU, EITHER IN CANADA OR ELSEWHERE:</b>					
10A. Sold or disposed of any property?			No		
10B. Made any gifts to relatives or others in excess of \$ 500?			No		
<b>D. BUDGET INFORMATION: Attach Form 65 to this Form.</b>					
11A. Have you ever made a proposal under the Bankruptcy and Insolvency Act?			Yes		
11B. Have you ever been bankrupt before in Canada?			Yes		
(a) Filing Date and Location		(b) Trustee/Admin	(c) Proposal Successful?	(d) Date Certificate obtained	(e) OSB Number
Satnam Singh Pandal					
Jan-07-2000	North York, Ontario	Cooper & Company Ltd.	No	Apr-25-2001	32-109773
Oct-22-2002	North York, Ontario	Rumanek & Company Ltd.	-	Feb-19-2004	32-133118
12. Do you expect to receive any sums of money which are not related to your normal income, or any other property within the next 12 months?					No
13. If you answered Yes to any of questions 9, 10 and 12, provide details:					

27-Feb-2021

Date

  
Satnam Singh Pandal  
Bankrupt

**9A:**

Various vehicle that were being leased have been surrendered or seized by the secured lenders . I had personally guaranteed these leases. The lease shortfalls have yet to be determined but I expect the financial deficiencies will be will be significant. These debts have been listed as contingent debts .

**14. Give reasons for your financial difficulties :**

I owned and operated two trucking businesses and relied on credit facilities to fund the businesses from time -to-time. I also relied on credit facilities to help support my family as well as the businesses were by -in-large unprofitable. Unfortunately both companies failed and my vehicles have been repossessed or surrendered . My debt level, which will grow as I have personally guaranteed much of my corporate debt, is significant and I have no hope of ever repaying my creditors . I file this bankruptcy with a view to regain some financial stability for myself and my family .

I, Satnam Singh Pandai of the City of Brampton in the Province of Ontario, do swear (or solemnly declare) that this statement is, to the best of my knowledge, a full, true and complete statement of my affairs on the 27th day of February 2021, and fully discloses all property and transactions of every description that is or was in my possession or that may devolve on me in accordance with the Bankruptcy and Insolvency Act.

SWORN (or SOLEMNLY DECLARED )  
before me at the City of Mississauga in the Province of  
Ontario, on this 27th day of February 2021.

\_\_\_\_\_  
Christopher Galea, Commissioner of Oaths  
For the Province of Ontario  
Expires June 27, 2022

27-Feb-2021

\_\_\_\_\_  
Date

\_\_\_\_\_  
Satnam Singh Pandai  
Bankrupt

District of  
Division No.  
Court No.  
Estate No.

- FORM 65 -  
Monthly Income and Expense Statement of the Bankrupt and the Family Unit  
and Information (or Amended Information) Concerning  
the Financial Situation of the Individual Bankrupt  
(Section 68 and Subsection 102(3) of the Act; Rule 105(4))

☒ Original

☐ Amended

In the matter of the bankruptcy of  
Satnam Singh Pandal  
of the City of Brampton, in the Province of Ontario  
SUMMARY ADMINISTRATION

Information concerning the monthly income and expense statement of the bankrupt and the family unit, the financial situation of the bankrupt and the bankrupt's obligation to make payments required under section 68 of the Act to the estate of the bankrupt are as follows:

MONTHLY INCOME	Bankrupt	Other Members of the family unit	Total
Net employment income .....	0.00		
Net pension/Annuities. ....	0.00		
Net child support. ....	0.00		
Net spousal support. ....	0.00		
Net employment insurance benefits .....	0.00		
Net social assistance .....	0.00		
Self-employment income Gross 0.00 Net .....	0.00		
Other net income .....	0.00		
TOTAL MONTHLY INCOME	0.00 (1)	0.00 (2)*	
TOTAL MONTHLY INCOME OF THE FAMILY UNIT ((1) + (2)) .....			0.00 (3)
MONTHLY NON-DISCRETIONARY EXPENSES			
Child support payments .....	0.00		
Spousal support payments .....	0.00		
Child care .....	0.00		
Medical condition expenses .....	0.00		
Fines/penalties imposed by the Court .....	0.00		
Expenses as a condition of employment .....	0.00		
Debts where stay has been lifted .....	0.00		
Other expenses .....	0.00		
TOTAL MONTHLY NON-DISCRETIONARY EXPENSES	0.00 (4)	0.00 (5)	
TOTAL MONTHLY NON-DISCRETIONARY EXPENSES OF THE FAMILY UNIT ((4) + (5)) .....			0.00 (6)
AVAILABLE MONTHLY INCOME OF THE BANKRUPT ((1) - (4)) .....	0.00 (7)		
AVAILABLE MONTHLY INCOME OF THE FAMILY UNIT ((3) - (6)) .....			0.00 (8)
BANKRUPT'S PORTION OF THE AVAILABLE MONTHLY INCOME OF THE FAMILY UNIT			100.00 % (9)

MONTHLY DISCRETIONARY EXPENSES : (Family unit)

Housing expenses

Rent/mortgage/hypothec.....	0.00
Property taxes/condo fees.....	0.00
Heating/gas/oil.....	0.00
Telephone.....	0.00
Cable.....	0.00
Hydro.....	0.00
Water.....	0.00
Furniture.....	0.00
Other.....	0.00

Personal expenses

Smoking.....	0.00
Alcohol.....	0.00
Dining/lunches/restaurants.....	0.00
Entertainment/sports.....	0.00
Gifts/charitable donations.....	0.00
Allowances.....	0.00
Other.....	0.00

Non-recoverable medical expenses

Prescriptions.....	0.00
Dental.....	0.00
Other.....	0.00

Living expenses

Food/grocery.....	0.00
Laundry/dry cleaning.....	0.00
Grooming/toiletries.....	0.00
Clothing.....	0.00
Other.....	0.00

Transportation expenses

Car lease/payments.....	0.00
Repair/maintenance/gas.....	0.00
Public transportation.....	0.00
Other.....	0.00

Insurance expenses

Vehicle.....	0.00
House.....	0.00
Furniture/contents.....	0.00
Life insurance.....	0.00
Other.....	0.00

Payments

Payments to the estate.....	280.00
To secured creditor.....	0.00
(Other than mortgage and vehicle).....	0.00
Other.....	0.00

TOTAL MONTHLY DISCRETIONARY EXPENSES (FAMILY UNIT)..... 280.00 (10)

MONTHLY SURPLUS OR (DEFICIT) FAMILY UNIT ((8) - (10))..... -280.00 (11)

Information (or Amended Information) Concerning the Financial Situation of the Individual Bankrupt

Payments to the estate as per agreement

Number of persons in household family unit, including bankrupt: 4

Total amount bankrupt has agreed to pay monthly..... 280.00 (12)

Amount bankrupt has agreed to pay monthly to repurchase assets..... 0.00 (13)

Residual amount paid into the estate ((12) - (13))..... 280.00 (14)

Payments required by Directive No. 11R2 (Surplus Income)

Monthly amount required by Directive No. 11R2 (Surplus Income) based on percentage established on line (9).... 0.00 (15)

Difference between amounts at lines (14) and (15)..... 280.00 (16)

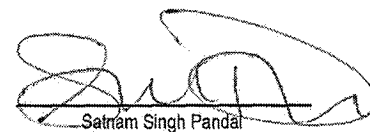
Other applicable comments:

While I search for gainful employment, I am being financially supported by family, who are also funding this bankruptcy.

Dated at the City of Mississauga in the Province of Ontario, this 27th day of February 2021.

msi Spengel Inc. - Licensed Insolvency Trustee  
Per:

Christopher Galea - Licensed Insolvency Trustee  
204 - 1425 Dundas St. E.  
Mississauga ON L4X 2W4  
Phone: (905) 602-4143 Fax: (905) 602-8879

  
Satnam Singh Pandai

# APPENDIX 3



March 12, 2021

**BY COURIER, FAX (905-282-0448) AND EMAIL (dispatch@kingtowing.ca)**

King Towing  
1225 Matheson Blvd E  
Mississauga, ON L4W 1B6

**Attention: Happy**

Dear Sir:

**Re: The Toronto-Dominion Bank ("TD Bank") v. Orbit Freight Ltd.  
Court File No. CV-21-00658361-00CL**

---

We are the lawyers for msi Spergel Inc. (the "**Receiver**"), in its capacity as the Court-appointed receiver of Orbit Freight Ltd. ("**Orbit Freight**"). The Receiver was appointed by way of the Order of the Honourable Justice McEwen dated March 11, 2021 (the "**Appointment Order**"). A copy of the Appointment Order is enclosed.

Orbit Freight's business premises are located at 1704 Meyerside Drive, Mississauga (the "**Premises**"). We understand that King Towing has removed from the Premises two Peterbilt Model 567 trucks, bearing VINs 1NPCX4TX8MD736670 and 1NPCX4T5MD736674 (the "**Trucks**"). The Trucks are the property of Orbit Freight. Please advise under what authority you removed the Trucks from the Premises.

Pursuant to paragraph 4 of the enclosed Appointment Order, anyone having notice of the Appointment Order is required to deliver to the Receiver any property belonging to Orbit Freight, upon the Receiver's request.

In accordance with the Appointment Order, we hereby demand that you immediately deliver the Trucks to the Receiver. Please contact Mukul Manchanda at 416.454.4246 to arrange for such delivery by **no later than the close of business on Monday, March 15, 2021.**

If you fail to deliver the Trucks as requested herein, the Receiver intends to report your non-compliance with the Appointment Order to the Court. If we are forced to take this step, we will ask the Court to order that King Towing pay the Receiver's costs associated with this non-compliance.

We look forward to your prompt attention to this matter.

March 12, 2021  
Page 2

Yours truly,

AIRD & BERLIS LLP



Miranda Spence

MS/  
Encl.

c. Kyle Plunkett, Aird & Berlis LLP  
Mukul Manchanda, msi Spergel Inc.

43842725.1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	THURSDAY, THE 11 <sup>th</sup>
	)	
JUSTICE MCEWEN	)	DAY OF MARCH, 2021

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**ORBIT FREIGHT LTD.**

Respondent

**ORDER  
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel inc. as receiver and manager (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Orbit Freight Ltd. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day by judicial videoconference via Zoom, at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michelle Benoy sworn March 11, 2021 and the Exhibits thereto, the report of msi Spergel inc. as proposed receiver, dated March 8, 2021 and on hearing the submissions of counsel for the Applicant, no one else appearing, although duly served as appears from the affidavit of service of Lindsay Provost sworn March 8, 2021, and on reading the consent of msi Spergel inc. to act as the Receiver,

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application 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, msi Spergel inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

## **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 \$5,000, provided that the aggregate consideration for all such transactions does not exceed \$25,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

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

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

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

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

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

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



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

### **NO EXERCISE OF RIGHTS OR REMEDIES**

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

### **NO INTERFERENCE WITH THE RECEIVER**

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

### **CONTINUATION OF SERVICES**

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

may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

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

### **EMPLOYEES**

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

### **PIPEDA**

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

provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

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

### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, including, but not limited to, any illness or bodily harm resulting from a party or parties contracting COVID-19, 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 \$75,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "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 'http://www.spergelcorporate.ca/engagements'.

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 blue ink, appearing to read "McE T.", is positioned above a horizontal line.

Justice, Ontario Superior Court of Justice

Commercial List

## 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 of Orbit Freight Ltd. (the "Debtor") 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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_-CL-\_\_\_\_\_, 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:

THE TORONTO-DOMINION BANK

-and-

ORBIT FREIGHT LTD.

Applicant

Respondent

Court File No. CV-21-00658361-00CL

11 March 21

T. Hogan  
L. Provost  
M. Spence

The Order shall go as per the draft filed and signed.

It is unopposed.

The Respondent has ceased operations and is in default. The principal of the Respondent, Mr. Pandal, is bankrupt.

The Applicant has a right, under its security, to move for the Order.

Further, there is urgency, as set out in the motion materials.

The relief sought is just and equitable.

I note, however, that the Respondent and other stakeholders were short-served.

Mr. Pandal has spoken with the proposed Receiver and knows of today's hearing but did not attend, and he is meeting with the Receiver tomorrow.

If, however, Mr. Pandal or other stakeholders wish to make submissions, I will hear them.



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at  
Toronto, Ontario

**ORDER**

**Harrison Pensa** <sup>LLP</sup>  
Barristers and Solicitors  
450 Talbot Street, P.O. Box 3237  
London, Ontario N6A 4K3

**Timothy C. Hogan (LSO #36553S)**  
**Robert Danter (LSO #69806O)**

Tel: (519) 679-9660  
Fax: (519) 667-3362  
Email: [thogan@harrisonpensa.com](mailto:thogan@harrisonpensa.com)  
[rdanter@harrisonpensa.com](mailto:rdanter@harrisonpensa.com)

Solicitors for the Applicant,  
The Toronto-Dominion Bank



Miranda Spence  
Direct: 416.865.3414  
E-mail: mspence@airdberlis.com

March 12, 2021 (second letter)

**BY EMAIL** (dispatch@kingtowing.ca)

King Towing  
1225 Matheson Blvd E  
Mississauga, ON L4W 1B6

**Attention: Happy, Sonny**

Dear Sir:

**Re: The Toronto-Dominion Bank (“TD Bank”) v. Orbit Freight Ltd.  
Court File No. CV-21-00658361-00CL  
msi Spergel Inc. (the “Receiver”), in its capacity as the Court-appointed receiver  
of Orbit Freight Ltd. (“Orbit Freight”)**

---

Mr. Manchanda of the Receiver has advised that, following the issuance of our letter of earlier today, he has received telephone calls as follows:

- Happy of King Towing called to request that Mr. Manchanda leave the Trucks at King Towing for two days, so that King Towing could collect the applicable storage fees
- Sonny of King Towing called to advise that he would not release the Trucks unless and until the Receiver paid \$50,000 into court

Evidently, King Towing is not taking seriously its obligations under the Appointment Order. We reiterate our demand that King Towing return to the Trucks to the Receiver, forthwith.

We further note that, despite our request, you have not provided any information as to the authority under which King Towing removed the Trucks from the Premises. To the extent that King Towing has a claim in relation to the Trucks, which is denied on the basis of the information provided to date, it may file such claim with the Receiver in the normal course.

In any event, the Receiver will not be paying storage fees going forward, given that King Towing has not returned the Trucks in response to our demand.

Please also note that, as of the date of the Receiver’s appointment, the Trucks were in good working order. We will hold King Trucking responsible for any damage to the vehicles that may exist upon their return to the Receiver.

In view of King Towing’s improper actions as described herein, we will be scheduling an urgent hearing to have this matter put before the Court as soon as possible. Please provide us with contact information for your counsel, so that we may serve them with our materials.

March 12, 2021  
Page 2

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in dark ink, appearing to read 'M. Spence', written in a cursive style.

Miranda Spence

MS/

c. Kyle Plunkett, Aird & Berlis LLP  
Mukul Manchanda, msi Spergel Inc.

43848335.1

# APPENDIX 4



Miranda Spence  
Direct: 416.865.3414  
E-mail: mspence@airdberlis.com

March 16, 2021

**BY EMAIL** (dispatch@kingtowing.ca)

King Towing  
1225 Matheson Blvd E  
Mississauga, ON L4W 1B6

**Attention: Happy, Sonny**

Dear Sir:

**Re: The Toronto-Dominion Bank ("TD Bank") v. Orbit Freight Ltd.  
Court File No. CV-21-00658361-00CL  
msi Spergel Inc. (the "Receiver"), in its capacity as the Court-appointed receiver  
of Orbit Freight Ltd. ("Orbit Freight")**

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We have not received any further response to our letters of March 12, 2021. Please be advised that we have secured an urgent hearing appointment before the Ontario Superior Court of Justice – Commercial List on **Wednesday, March 17, 2021 at 11:30 am**, by Zoom video conference.

At that time we will ask the Court to order that the Trucks removed from Orbit Freight's premises be released or delivered to the Receiver immediately. We will also be seeking the Receiver's costs associated with King Towing's breach of the Appointment Order previously provided to you, including, without limitation, its costs of the Court attendance.

Our motion record containing the Receiver's report, setting out the precise relief sought, and containing the Zoom details for the Court attendance, will follow later today.

We encourage you to retain counsel to address this matter.

Yours truly,

AIRD & BERLIS LLP

Miranda Spence

MS/

c. Kyle Plunkett, Aird & Berlis LLP  
Mukul Manchanda, msi Spergel Inc.

43879718.1

# TAB 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) WEDNESDAY, THE 17<sup>TH</sup> DAY  
JUSTICE HAINEY ) OF MARCH, 2021

B E T W E E N:

**THE TORONTO-DOMINION BANK**

Applicant

- and -

**ORBIT FREIGHT LTD.**

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER**

**THIS MOTION**, made by msi Spergel inc. in its capacity as receiver and manager (in such capacity, the “**Receiver**”) of Orbit Freight Ltd. (the “**Debtor**”) was heard this day by judicial videoconference via Zoom, at 330 University Avenue, Toronto, Ontario.

**ON READING** the notice of motion and the first report of the Receiver dated March 16, 2021 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver, and such other parties as were present,

1. **THIS COURT ORDERS** that the time for service and manner of service of the notice of motion and motion record is hereby abridged and validated such that the motion is properly returnable on this date, and hereby dispenses with further service thereof.



2. **THIS COURT ORDERS** that King Towing and/or its representatives (collectively, “**King Towing**”) shall immediately advise the Receiver of the location of the assets described as follows (the “**Truck(s)**”):

Year	Model	Make	VIN
2021	Peterbilt	567	1NPCX4TX8MD736670
2021	Peterbilt	567	1NPCX4TX5MD736674

3. **THIS COURT ORDERS** that any person having possession of the Trucks shall immediately release the Trucks to the Receiver and/or its agents.

4. **THIS COURT ORDERS** that the Receiver shall not be required to make any payment to King Towing, or any other person, to secure the immediate release of the Trucks to the Receiver and/or its agents.

5. **THIS COURT ORDERS AND DECLARES** that the Sheriff, the police, or other law enforcement entity of the Ontario jurisdictions set out in Schedule “A” hereto, including, without limitation, the Peel Regional Police (collectively, the “**Authorities**”) shall assist the Receiver in recovering the Trucks. The within Order shall be sufficient authority for the Receiver to request and receive the cooperation of the Authorities in the applicable jurisdiction and no further order, writ or other document shall be required.

6. **THIS COURT ORDERS** that should any of the Authorities of the applicable jurisdiction locate any of the Trucks, said Authority shall advise the Receiver accordingly and assist the Receiver in seizing the Truck in question and delivering possession of the vehicle to the

Receiver. In such circumstances, notwithstanding paragraph 4 above, the Receiver may be required to pay to the applicable Authority any applicable fee(s).

7. **THIS COURT ORDERS** that the Receiver is empowered and authorized to file a missing vehicles report with the appropriate Authorities and that this Order shall constitute sufficient authority for such report to be filed and accepted by the appropriate authority.

8. **THIS COURT ORDERS** that King Towing shall pay to the Receiver its costs of this motion in the sum of \$\_\_\_\_\_.

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**SCHEDULE “A”**

City of Toronto

Regional Municipality of York and/or York Region

Regional Municipality of Peel and/or Peel Region

Applicant

Respondent

Court File No. CV-21-00658361-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at Toronto**

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**ORDER**

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

**Kyle B. Plunkett (LSO # 31044N)**

Tel (416) 865-3406

Email [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Miranda Spence (LSO # 60621M)**

Tel: (416) 865-3414

Email: [mspence@airdberlis.com](mailto:mspence@airdberlis.com)

Fax: (416) 863-1515

*Lawyers for msi Spergel inc. in its capacity as receiver  
and manager of Orbit Freight Ltd.*

Applicant

Respondent

Court File No. CV-21-00658361-00CL

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**Proceedings commenced at Toronto**

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**MOTION RECORD**

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

**Kyle B. Plunkett (LSO # 31044N)**

Tel (416) 865-3406

Email [kplunkett@airdberlis.com](mailto:kplunkett@airdberlis.com)

**Miranda Spence (LSO # 60621M)**

Tel: (416) 865-3414

Email: [mspence@airdberlis.com](mailto:mspence@airdberlis.com)

Fax: (416) 863-1515

*Lawyers for the Receiver*