

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE  
JUSTICE HAINES

) FRIDAY THE 5<sup>TH</sup>  
) DAY OF JANUARY, 2018



BETWEEN

ROYAL BANK OF CANADA

Applicant

and

TORONTO MACHINE & TOOL COMPANY LIMITED,  
TORONTO MACHINE & TOOL INC.

Respondent

**APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c B-3, AS AMENDED AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.c43, AS AMENDED**

**ORDER**

**THIS APPLICATION** made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel Inc. as receiver (the "Receiver") without security, of all of the assets, undertakings and properties of Toronto Machine & Tool Company Limited and Toronto Machine & Tool Inc., (the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at the Ontario Superior Court of Justice, 330 University Avenue, Toronto, Ontario.

**ON CONSENT** of the parties;

1. **THIS COURT ORDERS** that Toronto Machine & Tool Inc.'s ("TMT Inc.") proposed Trustee, Dodick & Associates Inc., shall provide the Applicant (the "Bank") all requested information.
2. **THIS COURT ORDERS** that the Bank shall be permitted to obtain independent appraisals for the properties known municipally as 57 Mack Avenue, Toronto, Ontario and 38 Milne Avenue, Toronto, Ontario (the "Properties").

3. **THIS COURT ORDERS** that provided the conditions are satisfied or waived by the Purchasers, Albion Building Consultant Inc., 2389750 Ontario Inc., Ahmed Group Inc (“the Purchasers”) of the Properties and providing the Agreements of Purchase and Sale dated (January 2, 2018) (“the APS”) are completed on or before April 30, 2018, the Bank shall be paid all monies due and owing by the Respondents from the proceeds of sale with respect to the Properties.

4. **THIS COURT ORDERS** that Toronto Machine & Tool Company Limited (“TMT Ltd.”) will provide a Direction Re: Funds directing that all funds payable to the Bank be paid to Devry Smith Frank LLP, in Trust from the sale proceeds for the Properties.

5. **THIS COURT ORDERS** that in the period commencing January 4, 2018 and ending with the completion of the transactions in the APS:

- (a) the Bank may issue a Notice of Sale with respect to the Properties;
- (b) there shall be no excesses or over runs on any accounts of the Respondents held at that Bank;
- (c) the Bank will return all NSF cheques without notice;
- (d) all operating lines and revolving credit facilities will be termed out on an interest only basis;
- (e) no payments will be permitted by the Bank if sufficient funds are not on account by the Respondents;
- (f) all interest payments are to be made when due and in the event of default, the Bank may make use of the consent judgment and consent to an Order re: Receivership referenced herein without further notice to the Respondents;
- (g) all accounts receivables and operations to be deposited immediately by the Respondents to accounts held with the Bank;
- (h) the Respondents covenant to maintain a zero balance at all bank accounts, save and except for accounts held at the Bank;
- (i) provided the Respondents comply with their obligations herein, the Bank shall permit normal operations of the Respondent’s bank accounts.

6. **THIS COURT ORDERS** that in the event the transaction in the APS are not completed on or before April 30, 2018, or in the event the Purchasers in the APS have not waived or satisfied the conditions on or before February 21, 2018, then;

- (a) the Respondents shall and do hereby consent to Judgment in an amount no less than \$3,500,000.00, and

- (b) the Respondents hereby consent to msi Spergel Inc. being appointed as Receiver over all assets, property and undertaking of the Respondents as per draft Order attached.

7. **THIS COURT ORDERS** that the consent to Judgment referenced in paragraph 6(a) above will be held in escrow by the solicitors for the Bank, Devry Smith Frank LLP until such time there the APS are not completed for any reason on or before April 30, 2018 or if the conditions are not waived by the Purchasers on or before February 21, 2018. The Bank will be at liberty to take out the consent Judgment and proceed forthwith to appoint msi Spergel Inc. as receiver in accordance with paragraph 6 above.

8. **THIS COURT ORDERS** that in the event the transactions contemplated in the APS are completed on April 30, 2018 and the Bank is repaid in accordance with paragraph 3 above, the consent judgment will be returned to the Respondents' counsel.

9. **THIS COURT ORDERS** that the parties agree and acknowledge that nothing in this Order shall limit the Bank in exercising <sup>its</sup> right with respect to the collection of any shortfall with respect to monies owed by the Respondents after payment of the net proceeds from the sale of the Properties.

*Rm. Ittleman*

FEB 01 2018

R. Ittleman, Registrar  
Superior Court of Justice

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

FEB 01 2018

PER / PAR:

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ROYAL BANK OF CANADA

and

Applicant

TORONTO MACHINE & TOOL COMPANY  
LIMITED, ET. AL..

Respondent

Court File No. CV-17-587642-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)

IN THE MATTER OF AN 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.C43, AS AMENDED

Proceeding commenced at  
TORONTO

**ORDER**

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