

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C.

1985, C B-3, AS AMENDED

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF ARTEX SYSTEMS INC.,
OF THE TOWN OF CONCORD IN THE PROVINCE OF ONTARIO

FIRST REPORT OF MSI SPERGEL INC.,
IN ITS CAPACITY AS TRUSTEE UNDER THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF ARTEX SYSTEMS INC.

SEPTEMBER 29, 2021

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APPENDICES

- A. Certificate of filing the Notice of Intention to Make a Proposal
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1.0 PURPOSE OF THIS REPORT AND DISCLAIMER

- 1.0.1 This report (the “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as proposal trustee (in such capacity, the “**Proposal Trustee**”) in connection with the Notice of Intention to Make a Proposal (“**NOI**”) filed by Artex Systems Inc., (“**Artex**” or the “**Company**”) on September 1, 2021 (the “**Filing Date**”) pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c B-3 (the “**BIA**”). Attached hereto as **Appendix “A”** is a copy of the Certificate of Appointment Issued by the Office of the Superintendent of Bankruptcy.
- 1.0.2 The purpose of this First Report is to provide the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) with information pertaining to:
- (a) the Company and the restructuring steps to be undertaken by the Company during these proceedings;
 - (b) the Company’s request for the granting of a proposed administration charge to a maximum amount of \$50,000 over the assets, property, and undertakings of Artex in favour of counsel to Artex, the Proposal Trustee, and counsel to the Proposal Trustee (the “**Administration Charge**”) and the Proposal Trustee’s comments with respect thereto; and
 - (c) the Company’s request for an extension of the time for the Company to file a proposal with Official Receiver, up to and including November 15, 2021 and the Proposal Trustee’s comments with respect thereto (the “**Stay Extension**”).
- 1.0.3 The Proposal Trustee 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.
- 1.0.4 In preparing this First Report, the Proposal Trustee has relied upon certain information provided to it by the Company’s management. The Proposal Trustee 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 Proposal Trustee expresses no opinion or other form of assurance with respect to such information.

- 1.0.5 The cash flow forecast and projections in this report relate to future events and are based on management’s assumptions, which may not remain valid throughout the period of the projections. Consequently, they cannot be relied upon to the same extent as information derived from the reviewed accounts for completed accounting periods. For these reasons, the Proposal Trustee expresses no opinion as how closely the actual cash flows achieved will correspond to the projection.
- 1.0.6 This First Report does not take into account the future impact of COVID-19 on any projection or other assumptions presented by the Company to the Proposal Trustee. The potential for unknown ramifications on consumers, supply chains, commercial counterparties (both direct and indirect to the Company’s operations) and future decisions that may need to be made as a result of the evolving COVID-19 situation means that the projections and other assumptions may be significantly impacted by COVID-19. The full impact of COVID-19, both on the Company’s business and in general, is not capable of being qualitatively or quantitatively assessed at this time, and the Proposal Trustee has not endeavoured to do so in this First Report.
- 1.0.7 All references to dollars in this First Report are in Canadian currency unless otherwise noted.

2.0 BACKGROUND AND APPOINTMENT

- 2.0.1 On September 1, 2021, the Company commenced these proceedings by filing an NOI with the Superintendent of Bankruptcy and Spergel was appointed as Proposal Trustee.
- 2.0.2 Artex is in the business of manufacturing architectural precast wall panels for buildings primarily in the United States, including large-scale condominiums and public use buildings.
- 2.0.3 As outlined in the Affidavit of Domenico D’Ascanio, sworn September 28, 2021 (the **D’Ascanio Affidavit**) and filed with the Court, the Company experienced severe cash flow problems arising from deteriorating market conditions, as well as a confluence of cash demands on several concurrent projects. As a result, the Company fell behind on its payments to creditors, government payroll remittances, as well as its obligations to its primary secured lender, the Toronto-Dominion Bank (the “**TD**”).

- 2.0.4 At this time, the Company’s sole project is in Manhattan, New York, (the “**Manhattan Project**”) and most of its cash flow is reliant on that on-going contract. The Company has projected that if it completes the Manhattan Project, and can collect outstanding holdbacks from other jobs, it will have sufficient funds to fully repay the outstanding priority source deduction obligations, its indebtedness to TD, as well as repay a significant portion of its unsecured debt.
- 2.0.5 In order to accomplish the above goals, the Company requires that its key critical suppliers support its on-going operations, and, to that end, the Company continues to negotiate with them.
- 2.0.6 The Company throughout the NOI has been operating on a COD basis and has been paying for all ongoing materials and services as they are acquired. However, the collection of a number of the contract receivables have been delayed due to varying circumstances. The Trustee has reviewed those receivables and the related circumstances with the Company and is satisfied that they are still expected to be collected; however, their receipt is now delayed.
- 2.0.7 The Company has prepared an updated Statement of Projected Cash Flow from Sept 30, 2021 to March 31, 2021 (the “**Updated Cash Flow**”) to reflect these changes, a copy of which is attached hereto as **Appendix “B”**.
- 2.0.8 The Trustee has reviewed the Updated Cash Flow statement and notes that it indicates the Company will have sufficient liquidity to fund both operating costs and the costs of these proposal proceedings for the period of the Stay Extension, if granted.

3.0 EXTENSION OF THE STAY PERIOD TO NOVEMBER 15, 2021

- 3.0.1 The current stay of proceedings will expire on October 1, 2021. Artex is seeking a 45-day extension pursuant to Section 50.4(9) of the BIA up to and including November 15, 2021.
- 3.0.2 TD has agreed to work with the Company in order to allow the Manhattan project to be completed and has entered into a Forbearance Agreement with the Company.

- 3.0.3 If the Company is not able to continue operating and cannot complete the Manhattan project, it appears that there will be insufficient funds to pay both TD and the source deduction obligations. As a result, there would be no funds available for the unsecured creditors.
- 3.0.4 The Company requires an additional extension of 45 days in order for it to be in a position to formulate a viable proposal.
- 3.0.5 The Trustee is of the opinion that:
- (a) Artex has acted, and is acting, in good faith and with due diligence;
 - (b) Artex would likely be able to make a viable proposal if the extension being applied for were granted; and
 - (c) That no creditor would be materially prejudiced if the extension being requested were granted.

4.0 ADMINISTRATION CHARGE

- 4.0.1 The Company is seeking an order granting, among other things, a charge in the maximum of \$50,000 against the property of the Company, to secure the fees and disbursements incurred in connection with professional services rendered to the Company both before and after the commencement of the proposal proceedings by the Proposal Trustee and its legal counsel, and the Company's legal counsel (the "**Administration Charge**").
- 4.0.2 The Administration Charge is proposed to rank first on the Company's property and ahead of the security interests of TD.
- 4.0.3 The quantum of the Administration Charge sought by the Company was determined in consultation with the Proposal Trustee and having regard for the Company's Cash Flow Statement.

4.0.4 The Proposal Trustee believes that the Administration Charge is both required and reasonable in the circumstances and, as such, supports the granting and proposed ranking of the Administration Charge.

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.0.1 Based on the foregoing, the Proposal Trustee supports the relief sought by the Company for an Order:

(a) approving an Administration Charge up to a maximum of \$50,000; and

(b) approving the extension of the stay period to November 15, 2021.

Dated at Toronto this 29th day of September, 2021.

msi Spergel inc.,
solely in its capacity as the Trustee acting under a
Notice of Intention to Make a Proposal of Artex
Systems Inc. and not in its personal or corporate capacity.

Per:



Mukul Manchanda, CPA, CIRP, LIT
Principal

APPENDIX “A”



Industry Canada
Office of the Superintendent
of Bankruptcy Canada

Industrie Canada
Bureau du surintendant
des faillites Canada

District of Ontario
Division No. 09 - Toronto
Court No. 31-2763610
Estate No. 31-2763610

In the Matter of the Notice of Intention to make a proposal of:

ARTEX SYSTEMS INC

Insolvent Person

MSI SPERGEL INC

Licensed Insolvency Trustee

Date of the Notice of Intention:

September 01, 2021

CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the Bankruptcy and Insolvency Act;

Pursuant to subsection 69. (1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: September 01, 2021, 15:11

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

Canada

APPENDIX “B”

Artex Systems Inc.
Cash Flow Statement
From August 31/2021 to period ending January 31, 2022

<i>(CAD)</i>	<i>Month Ending</i>	<i>Notes</i>	Contract Balance	Opening Balance	Month 1 31-Oct	Month 2 30-Nov	Month 3 31-Dec	Month 4 31-Jan	Month 5 28-Feb	Month 6 31-Mar	Total
RECEIPTS											
GST			\$ -		\$ 20,000.00	\$ 20,000.00	\$ 10,000.00	\$ -	\$ -		\$ 50,000.00
CEWS - period 18 & 19			-		50,000.00	-	-	-	-		50,000.00
Accounts receivable and holdbacks CDN (US @ 1.18)											
1077 - One Wall Street			-		-	-	-	-	-		-
1081 - Riverside RB3 - Holdback			35,400.00			35,400.00					35,400.00
1081 - 40 East End Avenue			4,540.00		4,540.00						4,540.00
1081 - 40 East End Avenue - Holdback			23,400.00		23,400.00						23,400.00
1084 - 130 William Street - Holdback			50,000.00			25,000.00	25,000.00				50,000.00
1086 - Vandewater - Holdback			177,000.00		59,000.00	59,000.00	59,000.00				177,000.00
1087 - 200 E 83rd Street			5,871,650.00	354,000.00	980,000.00	1,100,800.00	1,048,000.00	820,000.00	450,000.00	50,000.00	4,448,800.00
1087 - 200 E 83rd Street - Holdback (\$995,500.00 max)			1,307,850.00		312,350.00			200,000.00	200,000.00	100,000.00	812,350.00
Total Receipts			\$7,469,840.00	\$354,000.00	\$1,449,290.00	\$1,240,200.00	\$1,142,000.00	\$1,020,000.00	\$650,000.00	\$150,000.00	\$5,651,490.00
DISBURSEMENTS											
Accounts payable (CDN)											
Plant payroll					120,000	120,000	90,000				330,000
Outstanding source deductions			-		47,000	47,000	47,000	47,000			188,000
Plant benefits (pension, health)			-		32,220	32,220	24,000	64,440			152,880
Plant vacation pay			-					50,000			50,000
Office payroll			-		58,000	58,000	58,000	30,000	30,000	30,000	264,000
Office health benefits			-		9,000	9,000	9,000				27,000
WSIB			-		5,250	5,250	5,250				15,750
Monthly rent			-		35,783	35,783	35,783				107,349
Office cleaning			-		3,400	3,400	3,400				10,200
Property taxes			-		24,000	24,000	24,000				72,000
Utilities (hydro, enbridge, water, etc)			-		8,000	8,000	8,000				24,000
Insurance premium - instalments			-		14,700	14,700	14,700				44,100
Trailer lease payments			-								-
Shipping/logistics			-		140,000	140,000	70,000	10,000			360,000
Plant disposal			-		6,000	6,000	6,000				18,000
Incentive pay plant			-					120,000			120,000
Cement			-		10,000	10,000	6,500				26,500
Aggregates			-		5,000	5,000	3,000				13,000
Admixtures			-		1,000	1,000	1,000				3,000
Wood			-		10,000	10,000	5,000	5,000			30,000
Steel			-		20,000	20,000	10,000	10,000			60,000
Galvanizing			-		12,000	12,000	5,000				29,000
Misc. - window installation & caulking			-	20,000	30,000	20,000	20,000	20,000			90,000
Professional fees			-		10,000	10,000	10,000	10,000	10,000	10,000	60,000
TD - Line of credit			-	75,000	75,000	150,000	150,000				375,000
BUK/TRIANGLE			-	40,000	58,000	58,000	98,000	100,000			354,000
Accounts payable USD (@ 1.18)											
ASI erection payroll			-		240,000	240,000	120,000	120,000	60,000	60,000	840,000
Job site consumables			-		5,000	5,000	3,000				13,000
197 Union Stamps			-	110,890	86,110						197,000
Insurance premium - instalments			-		46,610	46,610	46,610				139,830
Sublet stone			-	14,300	120,000	120,000	120,000	120,000			494,300
Engineer			-	5,900	11,800	11,800	11,800	17,700	17,700	5,900	82,600
Broker			-		420	420	120				960
Sublet (EASI)			-	71,000	47,000		128,000	138,000			384,000
Total Disbursements			-	337,090	1,291,293	1,223,183	1,133,163	862,140	117,700	105,900	4,733,379
Net Change in Cash from Operations				16,910	157,997	17,017	8,837	157,860	532,300	44,100	918,111
Net Change in Cash					157,997	17,017	8,837	157,860	532,300	44,100	918,111
Opening Cash				16,910	16,910	174,907	191,924	200,761	358,621	890,921	
Ending Cash				16,910	174,907	191,924	200,761	358,621	890,921	935,021	