



Court File No. CV-21-00664778-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM

)

TUESDAY, THE 18TH

JUSTICE STEELE

)

DAY OF JUNE, 2024

)

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

**MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION**

Respondents

ORDER

(Omit Tax Claim and Distribution)

THIS MOTION, made by KSV Restructuring Inc. (“**KSV**”) in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Mahal Venture Capital Inc. (“**Mahal VC**”) and Golden Miles Food Corporation (together with Mahal VC, the “**Companies**”) owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario, and in its capacity as licensed insolvency trustee of the Companies, for an order, (i) ordering that the Receiver and the Mahal VC estate shall incur no liability in respect of the Omit Tax Claims (as defined in the Sixth Report of the Receiver and Third Report of the Trustee, dated March 25, 2024 (the “**Sixth Report**”)), (ii) authorizing and directing the Receiver

to make certain distributions from the proceeds of the sale of the real property owned by Mahal VC (the “**Real Property Proceeds**”) and other recoveries associated with Mahal VC (together with the Real Property Proceeds, the “**Mahal VC Proceeds**”) to Skymark Finance Corporation, acting by its receiver Alvarez & Marsal Canada Inc. (“**Skymark Receiver**”) and KLN Holdings Inc. (“**KLN**”), was heard on June 4, 2024 by judicial videoconference.

ON READING the Sixth Report, the Supplement to the Sixth Report of the Receiver, dated April 3, 2024 (the “**Supplement**”), and the Second Supplement to the Sixth Report, dated May 10, 2024 (the “**Second Supplement**”, together with the Sixth Report and the Supplement, the “**Consolidated Sixth Report**”), the Affidavit of Dale Snider, affirmed April 25, 2024 (the “**Snider Affidavit**”), and the Affidavit of Pat Telfer, affirmed May 2, 2024 (the “**Telfer Affidavit**”), and on hearing the submissions of counsel for the Receiver, MNP Inc., in its capacity as receiver of 12175622 Canada Ltd. (the “**Purchaser Receiver**”), Alvarez & Marsal Canada Inc., in its capacity as receiver of 2305145 Ontario Inc. (formerly Skymark Financial Corporation) (the “**Skymark Receiver**”), The City of Brantford (the “**City**”), Santokh Mahal and KLN Holdings Inc. (“**KLN**”) and such other parties listed on the Participant Information Form, no one else appearing although properly served as appears from the Affidavits of Service of Nancy Thompson sworn March 27, 2024 and April 4, 2024 and the Lawyer’s Certificate of Service of Chris Burr, dated May 27, 2024, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Receiver’s Notice of Motion dated March 27, 2024 (the “**NOM**”), the Consolidated Sixth Report, the Snider Affidavit, and the Telfer Affidavit be and hereby is abridged, such that service of the NOM, the Consolidated Sixth

Report, the Snider Affidavit and the Telfer Affidavit is hereby validated, and that further service thereof is hereby dispensed with.

OMIT TAX CLAIMS LIABILITY

2. **THIS COURT ORDERS** that the Receiver, KSV in its personal capacity, KSV in its capacity as licenced insolvency trustee of Mahal VC, and Mahal VC (collectively, the “**Omit Released Parties**”) are not, and shall not be, liable or otherwise obligated to pay 12175622 Canada Ltd. (the “**Purchaser**”), the Purchaser Receiver, or the City on account of (a) the “Omit Tax Bill” dated November 25, 2022 issued by the City to the Purchaser in the amount of \$347,819.93 (Bill No. 00001678000 000173909000), (b) the “Omit Tax Bill” dated November 25, 2022 issued by the City to the Purchaser in the amount of \$352,486.83 (Bill No. 00001678000 000176243003), (c) the “Omit Tax Bill” dated November 25, 2022 issued by the City to the Purchaser in the amount of \$391,116.18 (Bill No. 00001678000 000195558006), or (d) any other “omit” tax bill issued by the City to the Purchaser, and the Omit Released Parties are hereby released of any liability therefor.

INTERIM DISTRIBUTION

Omit Tax Claims Distribution

3. **THIS COURT ORDERS** that the Receiver is hereby authorized to make the following distributions from the Mahal VC Proceeds, subject to minor modifications to account for accruals of interest and expenses as reasonably determined by the Receiver:

(a) \$1,242,300 to the Skymark Receiver; and

(b) \$257,700 to KLN.

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

- (a) the pendency of these proceedings; and
- (b) the bankruptcy proceedings commenced in respect of the Companies on or about November 15, 2021,

the distributions authorized by Paragraph 3 hereof (the “**Distributions**”) shall be binding on KSV, in its capacity as licensed insolvency trustee of the Companies, and any successor licensed insolvency trustee that may be appointed in respect of the Companies, and shall not be void or voidable by creditors of the Companies, nor shall the Distributions constitute nor be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers at undervalue, or other reviewable transactions under the *Bankruptcy and Insolvency Act* (Canada), or any other applicable federal or provincial legislation, nor shall the Distributions constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation and shall, upon the receipt thereof by the recipients, be free of all claims, liens, security interests, charges or encumbrances.

MISCELLANEOUS

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.



Digitally signed
by Jana Steele
Date: 2024.07.11
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SKYMARK FINANCE CORPORATION
Applicant

- and -

MAHAL VENTURE CAPITAL INC., et al.
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

ORDER
(Omit Tax Claim and Distribution)

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