



**Second Report of
KSV Restructuring Inc.
as Licensed Insolvency Trustee of ProEx
Logistics Inc., Guru Logistics Inc., 1542300
Ontario Inc. and 2221589 Ontario Inc.**

October 18, 2024

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COURT FILE NO:
BK-24-03014702-0031

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE BANKRUPTCY OF PROEX LOGISTICS INC., GURU LOGISTICS
INC., 1542300 ONTARIO INC. AND 221589 ONTARIO INC.

SECOND REPORT OF
KSV RESTRUCTURING INC.
AS LICENSED INSOLVENCY TRUSTEE

OCTOBER 18, 2024

1.0 Introduction

1. This report (“Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as trustee (the “Trustee”) of ProEx Logistics Inc. (“ProEx”), Guru Logistics Inc. (“Guru”), 1542300 Ontario Inc. (operated as ASR Transportation) (“ASR”), 2221589 Ontario Inc. (“222”) (collectively, the “Bankrupt Entities”).
2. Pursuant to an order dated October 23, 2023 (the “Assignment Order”) granted in the Receivership Proceedings (as defined below), KSV, in its capacity as Receiver (as defined below), was authorized to assign the Bankrupt Entities into bankruptcy. A copy of the Assignment Order is attached hereto as **Appendix “A”**. The Assignment Order provides for the procedural consolidation of the estates but not for substantive consolidation.
3. The Receiver has received multiple urgent requests from creditors seeking distributions in the Receivership Proceedings. However, the Receiver was unable to make any distributions to creditors or shareholders because it was unable to obtain a comfort letter or clearance certificate from Canada Revenue Agency (“CRA”). Accordingly, the Receiver determined that the final matters in the Receivership Proceedings, including distributions to unsecured creditors, would be most efficiently completed in a bankruptcy.
4. The Bankrupt Entities were assigned into bankruptcy on November 27, 2023, and KSV was appointed Trustee, subject to confirmation at the First Meeting of Creditors. The First Meeting of Creditors was held December 18, 2023 at which KSV was confirmed as Trustee and inspectors (the “Inspectors”) were appointed by the creditors present at the meeting.

5. As of the date of this Report, approximately \$4 million is available for distribution to the Bankrupt Entities' creditors less any costs to be incurred in the receivership or bankruptcy.
6. There are limited remaining matters in these bankruptcy proceedings (the "Bankruptcy Proceedings"). The Inspectors have approved distributions to unsecured creditors and a distribution to one of the shareholders, Swinderpal Singh Randhawa ("Paul"), on account of his equity claim. If the estates continue to be administered separately, there will be insufficient funds to satisfy all unsecured claims in full.
7. The Trustee is of the view that the substantive consolidation of ProEx, ASR and Guru is warranted under the circumstances and aligns with the remedial purposes of the the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"). Substantive consolidation of these three entities would enable the full payment of unsecured claims. The only parties who may face potential prejudice from this consolidation are the shareholders, who remain locked in a dispute over the distribution of proceeds from the estates.
8. The central issue in this motion is the allocation of funds remaining after the satisfaction of unsecured claims as between the two shareholders, Paul and Rana Partap Singh Randhawa ("Rana"). The Trustee recommends that certain amounts be allocated to Paul as an equity claim, with the balance of the amounts paid to Paul in accordance with the outstanding cost awards noted below.
9. In August 2024, the Trustee was advised by Lenczner Slaght LLP ("Lenczner"), former counsel to Rana, that it intended to bring a motion in the Bankruptcy Proceedings seeking a solicitor's lien and a charging order over any funds to be distributed to either Rana or Paul, should such amounts have been payable to Rana.
10. In August 2024, the Trustee wrote to counsel to Paul and Lenczner advising of the proposed distributions in respect of unsecured claims and equity claims, and requesting confirmation of their positions on the matter. Although the Trustee is of the view that the proposed distributions are appropriate under the BIA, it is also mindful of the longstanding disagreements between the parties and intends to ensure that all parties are provided a fair opportunity to be heard in the matter.
11. At a case conference, Justice Penny agreed that for efficiency, the matter should proceed as a motion by the Trustee for advice and direction on the administration of the estates under section 34 of the BIA, with a timetable to ensure the matter proceeds as scheduled. A copy of the Endorsement is attached as **Appendix "B"**.
12. While the Trustee was hopeful that the issues between the parties could be narrowed and advanced as a motion for more limited relief, it has been unable to obtain a substantive response from Rana's counsel, notwithstanding repeated efforts to coordinate discussions regarding outstanding issues. As such, the Trustee seeks the Court's advice and direction on next steps in the Bankruptcy Proceedings to avoid unnecessary costs or allegations that the Trustee has not afforded Rana a fair opportunity to express his concerns. The Trustee notes that under the BIA, once the Trustee has determined the treatment of a claim, a challenge to a claim can be brought by a creditor or the debtor. No such challenge has been raised as of the date of this Second Report.

13. The Trustee also notes that protracted litigation regarding the claims and the ultimate distribution to shareholders will erode the value of the estate. Other than a claim against Rana, no assets remain to be realized upon. As such, an efficient resolution is in the best interest of all parties.

1.1 Purpose of this Report

1. The purpose of this Report is to provide the Court with information in support of the Trustee's motion under section 34 of the BIA, seeking advice and direction regarding the distribution of funds remaining in the estate. Specifically, the Trustee is seeking an order:
 - a) substantively consolidating the estates of ProEx, Guru and ASR (the "Trucking Business");
 - b) approving the Trustee's determination on the unsecured claims and equity claims filed by Paul;
 - c) providing direction on the distribution of funds remaining after the payment of all claims, considering that it is impractical to return the funds to the companies and there are competing claims from Rana, Paul, and Lenczner regarding entitlement to these amounts; and
 - d) approving the Trustee's reports filed in these proceedings.

1.2 Currency

1. All amounts in this Report are expressed in Canadian Dollars, unless otherwise noted.

1.3 Restrictions

1. The Trustee has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied upon in this Report in a manner that complies with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the financial information presented in this Report should perform its own diligence.
2. The Trustee accepts no responsibility for any reliance placed by any third party on RGC's (as defined below) financial information presented herein, nor for any information concerning potential recoveries.

2.0 Relevant Background

1. ProEx, Guru, ASR, 222, 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc. (collectively, "RGC") operated a trucking business consisting of a fleet of vehicles. RGC provided international truckload services between the US and Canada with Ford Motor Company as its largest customer. In addition, RGC owned certain real estate

that was liquidated prior to the Receiver's appointment. Paul and Rana are the ultimate shareholders of the RGC entities.

2. Since 2018, Paul and Rana have been involved in a dispute concerning, among other things, the ownership, operation and sale of RGC.
3. On October 1, 2018, Rana and Paul, in their personal capacities and each on behalf of the corporate respondents, entered into Minutes of Settlement (the "October Minutes"), which provided, among other things: (a) that Rana and Paul each own 50% of RGC; and (b) a process to sell the Trucking Business and to equally divide the proceeds. A copy of the October Minutes is attached as Appendix "C" to the Fifth Report (defined below), which is attached hereto as **Appendix "C"**.
4. On September 13, 2019, the parties executed a further settlement to address the unequal benefits previously paid to the shareholders. A copy of the settlement agreement (the "Unequal Benefits Settlement" and together with the October Minutes the "Settlement Agreements") is attached as Appendix "D" to the Fifth Report, which is attached hereto as Appendix "C". Among other things, the Unequal Benefits Settlement provides that the brothers intend to receive equal payments from RGC, "provided that all liabilities as they generally come due of the RGC entities to third parties, such as all obligations to the Canada Revenue Agency and its provincial equivalent, are honoured on time".
5. In the context of the dispute between Paul and Rana, on May 19, 2021, the Honourable Justice Koehnen released a decision which, among other things, contemplated the issuance of the Receivership Order for the purposes of KSV, as Receiver, to carry out a sale mandate (the "Sale Mandate") and an investigation (the "Investigation Mandate"). A copy of the decision is attached as Appendix "A" to the Fifth Report, which is attached hereto as Appendix "C".
6. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on May 26, 2021 (the "Receivership Order"), KSV was appointed as receiver (the "Receiver") of all the assets, undertakings and property of RGC (the "Receivership Proceedings"). The Receivership Order was amended on June 4, 2021 (the "Amended Receivership Order").

2.1 Investigation Mandate

1. The Receiver concluded its Investigation Mandate and identified conclusive evidence that Rana was working with another trucking company, Motion Transport Ltd. ("Motion") and transferring RGC's assets, resources, personnel, and revenues to Motion in contravention of the October Minutes and with the aim of eroding the value of RGC. The Receiver's findings were summarized in its Fifth Report to Court dated September 24, 2021 (the "Fifth Report"). A copy of the Fifth Report is attached hereto as **Appendix "C"**.
2. Following a review of the potential claims identified in the Fifth Report and the associated costs of pursuing these claims, the Receiver filed a Notice of Action and Statement of Claim against Rana.

2.2 Sale Mandate and the Assets Recovered

1. At the commencement of its mandate, the Receiver determined that it needed to immediately discontinue RGC's business and operations because they were no longer viable.
2. The Receiver developed a sale process to sell the Trucking Business ("Sale Process"). The Sale Process was approved pursuant to an order dated July 21, 2021.
3. As set out in the Fourth Report of the Receiver dated September 8, 2021 (the "Fourth Report"), there was strong interest in the assets and as of the bid date, 32 prospective purchasers had submitted bids. The Receiver ultimately selected the bid from McDougall Auctioneers Ltd. (the "Auctioneer") because, among other things, the offer from the Auctioneer provided for competitive guaranteed minimum proceeds (the "Guaranteed Minimum") and included potential upside dependent on the Auctioneer's sale results.
4. Pursuant to the Auction Approval Order, the Receiver entered into an Auction Services Agreement with the Auctioneer. Pursuant to the Auction Services Agreement, the first auction was held on October 22, 2021, with subsequent sales for additional assets that were not sold at the original auction.
5. Additional details of the Sale Process can be found in the Seventh Report of the Receiver dated September 21, 2022.
6. As at the date of this Second Report, approximately \$4 million in cash is available for distribution to the creditors of the Bankrupt Entities, less costs to complete the administration of these proceedings. The cash primarily represents proceeds from the sale of vehicles and refunds received from Canada Revenue Agency. With the Inspectors' approval, the Trustee allocated the cash among the Bankrupt Entities as follows:

Bankrupt Entity	(\$000s)
ASR	2,932
ProEx	52
Guru	528
222	518
Total	4,030

7. Besides the cash balances, the only other potentially significant asset of the Bankrupt Entities consists of litigation claims against Rana.

3.0 The Claims Process

1. On September 16, 2021, the Court granted an order in the Receivership Proceedings (the "CPO") establishing a claims process for RGC's creditors. This process required creditors to submit claims in a manner similar to a bankruptcy claims process, with October 31, 2021, established as the Claims Bar Date.

2. More than 60 claims were filed with the Receiver pursuant to the CPO.
3. Following the review of these claims, the Receiver issued several Notices of Revision or Disallowances (“NORD”) and reached resolutions with each claimant who received a NORD.
4. Due to RGC’s outdated tax records at the time of the CPO and the Receiver’s intention to cooperate with the government, the CPO did not preclude claims by the federal or provincial governments regarding corporate or sales and use taxes.
5. Following the assignment, the Trustee brought a motion before this Court to allow the Trustee to allow the use of proofs of claim filed in the Receivership Proceedings. This measure aimed to alleviate the burden on small businesses and individuals with claims against the debtors, preventing unnecessary re-filing of the same information.
6. On February 14, 2024, the Court granted the order for the relief sought by the Trustee (the “Prior Claims Order”). A copy of the Prior Claims Order is attached hereto as **Appendix “D”**. Creditors were free to file new proofs of claim or supplement their prior claims; six creditors opted to do so. The CRA has also received notice of the Bankruptcy Proceedings and filed proofs of claim, as noted below.

4.0 Claims Asserted by Paul

4.1 Process for Reviewing Paul’s Claim

1. Paul filed a proof of claim against RGC on October 29, 2021, as amended on July 27, 2022 (the “Original Claim”). On December 15, 2023, Paul filed a further supplement to the proof of claim in connection with the bankruptcy filings (the “Supplemental Claim”, together with the Original Claim, referred to as “Paul’s Claim”). Paul’s Claim asserts unpaid wages, business expenses, non-compliance with the October Minutes, and an ownership interest in the Trucking Business or its proceeds. A copy of Paul’s Claim, as amended, is attached as **Appendix “E”**. Paul also provided supplemental support for his claim including bank statements and uncashed cheques. Supporting documents, including bank statements and uncashed cheques, are not attached due to personal information but can be provided upon request.
2. The Trustee has reviewed Paul’s Claim and has engaged in discussions with Paul’s counsel to request clarification and additional documentation.

4.2 Paul's Unsecured Claim

1. Paul has filed an unsecured claim totalling \$117,693.40 against RGC, although the supporting documentation relates to ProEx. The components of Paul's unsecured claim against the Bankrupt Entities are as follows:

(unaudited; \$)	Amount
Paul's Payroll	28,852.03
Paul's wife's Payroll	14,380.70
Subcontractor payments to Amar	24,000.00
Expenses advances to business	41,719.21
Interest on credit card	8,741.46
	<u>117,693.40¹</u>

2. The Trustee notes the following observations regarding Paul's Claim:
 - the Trustee is satisfied with the supporting documentation provided by Paul;
 - Paul and his wife are not entitled to priority for wages under sections 81.3 of 81.4 or section 136 of the BIA as they are not acting at arm's length with the Bankrupt Entities and the Trustee is unable to verify whether such claims are "proper transactions" under the BIA and Paul is a director of Proex. The Trustee notes that, under the applicable legislation, the Bankrupt Entities may be considered common employers and would therefore be jointly liable for such amounts. Given the Trustee's position on substantive consolidation, it may not be necessary for the Court to make a determination on this issue;
 - With respect to the balance of Paul's claim, the Trustee understands that Paul is of the view that his claim should be against all the RGC entities, notwithstanding that the documentation provided relates to ProEx. Again, further determination may be unnecessary due to the Trustee's position on substantive consolidation.
3. If the estates are substantively consolidated, all unsecured creditors will be paid in full (as set out in the table below).
4. The Trustee is of the view that the amounts above are owing as ordinary unsecured claims.

4.3 Equity Claims

1. Paul's Claim includes two components related to his role as shareholder: a claim for breach of the October Minutes (the "Wrongful Conduct Claim") and a claim for 50% of the proceeds and any other amounts recovered by the debtors in his capacity as a shareholder (the "Ownership Claim").²

¹ Paul has advised that he may have additional claims that are not captured in the claims noted above.

² The Trustee is of the view that the Ownership Claim is a claim for a return of capital as a shareholder and should be dealt with in the return of surplus as described below

2. With respect to the Wrongful Conduct Claim, Paul seeks damages for the difference between the proceeds from the sale of the Trucking Business he ultimately receives and the amount that he would have received had the Trucking Business been sold in the manner required by the October Minutes. Paul alleges that Rana obstructed the timely sale of the Trucking Business in violation of the October Minutes. The Wrongful Conduct Claim alleges that as the directing mind of certain of the RGC entities (including ASR), and pursuant to the corporate identification doctrine, principles of attribution, agency and vicarious liability, Rana's conduct is deemed to have been that of RGC.
3. The Trustee reviewed the Wrongful Conduct Claim and proposed its acceptance as an equity claim. All Inspectors, with the exception of Sam Dukesz, as counsel to Paul, who was excused from the meeting for purposes of the discussion, voted in favour of accepting the claim and authorized a distribution in respect of the same.
4. The Trustee's evaluation of the Wrongful Conduct Claim relied on the findings of the Investigation Mandate. As set out in the Fifth Report, the Receiver found that Rana was actively engaged in the set-up and operation of Motion to the detriment of the efforts to sell the Trucking Business, including:
 - (a) representing or permitting an ASR employee to represent that Motion was "a wholly owned subsidiary of ASR";
 - (b) attempting to secure business for Motion from several of RGC's customers, including Ford Motor Company, which was ASR's largest customer, and Ventra Plastics, which was ProEx's largest customer;
 - (c) causing RGC to transfer 13 vehicles to Motion, three of which were subsequently transferred to another company beneficially owned by Rana;
 - (d) permitting ASR vehicles and fuel cards to be used to support Motion's business; and
 - (e) providing material support to Motion through his sons in the form of labour and capital.
5. The facts set out in the Fifth Report disclose that ASR, under Rana's direction, diverted assets to impede the Sale Process and diminish the value of any assets ultimately sold.
6. Following the Fifth Report, the Receiver engaged Grant Thornton Ltd. to prepare an independent valuation (the "Valuation Report") of the Trucking Business, specifically, ASR, Guru and ProEx.³ The valuation showed that as of October 2018, the Trucking Business had a value of approximately \$5,300,000, and Paul's 50% share of the Trucking Business had a value of approximately \$2,650,000. This amount represents

³ Although Paul's claim in the Receivership was asserted against various additional entities, the Receiver retained the valuator solely in respect of the main operating entities. The remaining entities are not bankrupt and not a part of these proceedings.

what Paul would have received if the Trucking Business had been sold in October 2018.⁴ A copy of the Valuation Report is attached hereto as **Appendix “F”**.

7. As a result, the Trustee is of the view that the maximum allowable claim against the Trucking Business would be \$2,650,000 (the “Equity Claim”).
8. Rana’s counsel has not confirmed Rana’s position on this claim but has advised that a motion under section 34 of the BIA would provide it with the opportunity to present any relevant objections.
9. The Trustee understands that Lenczner may object to the Equity Claim to the extent that there are insufficient funds remaining to satisfy its claims against Rana (as described below).
10. Aware of potential objections to the distributions, the Trustee is bringing this motion to provide a single forum for the parties to raise issues related to distributions.

5.0 Claims in Respect of the Surplus

1. Section 144 of the BIA stipulates that after all claims are paid in full with interest, the bankrupt is entitled to a return of the surplus. The Receiver was appointed because the shareholders and directors of RGC were unable to continue under normal corporate governance. Consequently, the Trustee believes that returning the remaining funds to the Bankrupt Entities for distribution is impractical and may lead to further litigation.
2. Following payment of creditor claims, the Trustee proposes to return the remaining funds to the shareholders, subject to any orders of this Court regarding the allocation of such funds. This approach has been employed in other solvent bankruptcy proceedings through a motion under section 34 of the BIA.
3. If the Wrongful Conduct Claim is admitted in full and paid from the consolidated entities, the only remaining funds will be in 222. Conversely, if the Wrongful Conduct Claim is not accepted, all remaining funds will need to be distributed to the shareholders.
4. The Trustee is seeking authorization to make such shareholder distributions, net of applicable withholdings.
5. Regardless of the amount remaining, the parties have raised the following issues that may alter the allocation of distributions to the shareholders:
 - (a) Rana has outstanding cost awards in favour of Paul, with the largest being \$525,000 (not including interest and costs of enforcement) issued by the arbitrator and subsequently enforced by an order of Justice McEwen dated February 28, 2022, a copy of which is attached hereto as **Appendix “G”**.

⁴ A copy of the valuation was provided to the parties in May 2022.

- (b) The endorsement of Justice Steele dated March 12, 2023, a copy of which is attached hereto as **Appendix “H”**, provides that Rana is to pay the costs of the Investigation Mandate for both Paul and the Receiver.
 - (A) Pursuant to the endorsement, Paul and Rana were to settle the amount of Paul’s costs or return to Court for further assistance.
 - (B) The Trustee is of the view that the costs incurred by KSV in its capacity as Receiver, and its counsel in the Receivership Proceedings and the Investigation Mandate should be allocated 60% to the Investigation Mandate and 40% to the Sale Mandate. This split results in \$667,058.00 being allocated to the Receivership Proceedings, and \$1,032,538.85 to the Investigation Mandate.
 - (c) On May 12, 2023, Lenczner issued a statement of claim against Rana seeking \$253,897.20 plus interest for unpaid legal fees. The Trustee understands that Lenczner intends to bring a motion in the Bankruptcy Proceedings seeking a solicitor’s lien and charging order over any funds to be distributed to either Rana or to Paul in connection with a distribution on account of Paul’s equity interests. A copy of the correspondence from Lenczner (without the draft notice of motion) is attached hereto as **Appendix “I”**.
6. Given the above, the Trustee is of the view that Paul is entitled to payment of the outstanding cost awards at this juncture. Certain of the awards have been outstanding for nearly four years, while Rana has been permitted to continue to file pleadings and participate in the Receivership Proceedings and the Bankruptcy Proceedings. As a result, the Trustee supports allocation of such amounts to Paul in satisfaction of the outstanding cost awards.
 7. The Trustee will respond to Lenczner’s motion when filed, but notes that any allegation that Rana assisted with the recovery of assets in the Receivership Proceeding should be examined in connection with the record in the Receivership Proceedings.
 8. While the Trustee has been attempting to minimize the litigation costs in the matter, it appears the issues noted above will require the Court’s direction. In advance of the hearing, the Trustee intends to continue to work with the parties to narrow the issues and minimize the need for court time and resources on this dispute.

6.0 Substantive Consolidation

1. RGC has historically operated on an interrelated basis, with staff providing services to each of the trucking companies and shared access to assets, notwithstanding the titling of the vehicles. In connection with the Sale Process, the Receiver undertook an extensive process to obtain titles in the name of the applicable RGC entities according to the available books and records and has generated financial statements and filed tax returns on that basis. The Trustee understands that financial statements were historically prepared for each of the entities, but certain financial statements could not be completed before the Receiver’s appointment because the shareholders had been unable to agree on the information required.

2. At the time the Receiver was appointed, ASR had access to a corporate credit facility in its name; the remaining members of the Trucking Business had no security over their assets in respect of the loan. However, an injunction had been issued prior to the Receiver's appointment, requiring ASR to continue funding Guru until a resolution was reached. A copy of the injunction order is attached as Appendix "E" to the Fifth Report, which is attached hereto as Appendix "C". The Receiver also notes that RGC was historically insured on a consolidated basis.
3. In connection with the Unequal Benefits Settlement, the brothers agreed that the intention was to receive equal benefits on a go forward basis, subject to the payment of third-party creditors.
4. Substantive consolidation is fair and reasonable in the circumstances because it facilitates the goal of returning funds to the creditors. Without substantive consolidation of the estates, certain creditors who filed their claims at ProEx would receive less than 100 cents on the dollar while funds would remain for payment to the shareholders at other entities. The only parties prejudiced by substantive consolidation are the shareholders of the business, who as noted above, previously indicated their intent to pay third party creditors in a timely manner as a condition to making further distributions to themselves and their families.

7.0 Distributions

1. In accordance with the BIA, the Trustee has reviewed the proofs of claim and consulted with the Inspectors regarding the proposed distributions.
2. At a meeting of Inspectors, on August 2, 2024, the Trustee reviewed the claims registers with the Inspectors and recommend distributions to the unsecured creditors following the expiry of the applicable notice periods, including notification to CRA.
3. On August 23, 2024, at Lenczner's request, the Trustee advised Lenczner of the distributions expected to be made. A copy of the correspondence is attached hereto as **Appendix "J"**.
4. A summary of proposed distributions to creditors is provided below.

(unaudited; \$000s)	ASR	ProEx	Guru	222	Consolidated, excluding 222
Cash available (less holdback for costs)	2,568	45	462	454	3,075
Distributions to Ordinary Creditors	(638)	(45)	(277)	-	(1,166)
Distributions to Equity Creditors	(1,930)	-	185	-	(1,909)
Surplus available for equity	-	-	-	454	-
Percentage recovery for ordinary claims	100%	18%	100%	n/a	100%
Percentage recovery for equity claims	80%	n/a	80%	n/a	72%

5. The Trustee observes that in the substantive consolidation scenario, general unsecured creditors would receive a distribution of approximately \$1.2 million, compared to approximately \$1 million in the unconsolidated scenario, due to insufficient funds to fully satisfy all claims in the latter. Specifically, in the unconsolidated scenario, ProEx's creditors would recover approximately \$45,000 on claims totaling around \$251,000. Creditors of ASR and Guru would not be impacted by the consolidation.

6. The Trustee is eager to make distributions to unsecured creditors as set out in the chart above and to facilitate a resolution of the disputes between the shareholders.

8.0 Conclusion and Recommendation

1. Based on the foregoing, the Trustee respectfully recommends that this Honourable Court make an order granting the relief sought in Section 1.2.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS TRUSTEE OF THE BANKRUPT ENTITIES
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

Appendix “A”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE
JUSTICE PENNY

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MONDAY, THE 23RD
DAY OF OCTOBER, 2023

B E T W E E N:

SWINDERPAL SINGH RANDHAWA

Applicant

- and -

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC.,
AND ASR TRANSPORTATION INC.

Respondents

**ORDER
(Assignment into Bankruptcy)**

THIS MOTION, made by KSV Restructuring Inc. in its capacity as receiver and manager (in such capacities, the “**Receiver**”) without security, of all of the assets, undertakings and property of Proex Logistics Inc. Guru Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation), 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc., (“**RGC**”) acquired for, or used in relation to a business carried on by RGC, for an Order among other things, (a) approving the

Report of the Proposed Receiver dated January 28, 2021, the Supplement to the First Report dated May 31, 2021, the Supplement to the Fourth Report dated September 13, 2021, the Eighth Report dated December 19, 2022 and the Ninth Report dated October 16, 2023 (the “**Ninth Report**”) of the Receiver and the activities of the Receiver as described therein (collectively, the “**Reports**”); (b) approving the fees and disbursements of the Receiver and its counsel as described in the affidavits of Noah Goldstein sworn October 16, 2023 and John Picone sworn October 16, 2023 (the “**Fee Affidavits**”); (c) authorizing the Receiver to make a distribution to the New Millennium Tire Centre (1519950 Ontario Inc.), on account of its secured claim; (d) assigning a subset of RGC, Proex Logistics Inc., Guru Logistics Inc., 1542300 Ontario Inc. (operated as Asr Transportation), and 2221589 Ontario Inc. (collectively, the “**Assigned Entities**”) into bankruptcy and appointing KSV as trustee in bankruptcy; and (e) upon the filing of a termination certificate terminating these receivership proceedings, discharging KSV as Receiver of RGC and releasing KSV and its counsel, was heard by judicial videoconference via Zoom at Toronto, Ontario;

ON READING the Notice of Motion of the Receiver dated October 17, 2023, the Reports and upon hearing the submissions of counsel for the Receiver and counsel for the other parties appearing on the Participant Information Form; and no one else appearing although duly served as appears from the affidavit of service of Stephanie Fernandes sworn October 17, 2023, filed.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of this motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Ninth Report.

APPROVAL OF ACTIVITIES AND FEES

3. **THIS COURT ORDERS AND DECLARES** that the Report of the Proposed Receiver dated January 28, 2021, the Supplement to the First Report dated May 31, 2021, the Supplement to the Fourth Report dated September 13, 2021, the Eighth Report dated December 19, 2022 and the Ninth Report dated October 16, 2023, and the activities of the Receiver as set out therein be and are hereby approved, provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

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

5. **THIS COURT ORDERS** that the anticipated further fees and disbursements of the Receiver and its counsel in connection with the completion by the Receiver of its remaining duties and administration of the Receivership proceedings, estimated not to exceed \$75,000 (inclusive of HST) (the “**Remaining Fees and Disbursements**”) as described in the Ninth Report be and are hereby approved, and that the Receiver and its counsel shall not be required to pass their accounts in respect of any further activities in connection with the administration of the receivership proceedings, provided, however, that if the further fees and disbursements of the Receiver and its counsel in connection with the completion by the Receiver of its remaining duties and administration of the Receivership proceedings exceed the above estimate, the Receiver shall return to Court to seek approval to pay any such amounts in excess of the Remaining Fees and Disbursements pursuant to a further Order of the Court.

DISTRIBUTION

6. **THIS COURT ORDERS** that the Receiver is hereby authorized, without further order of this Court, to make a distribution to New Millennium Tire Centre (1519950 Ontario Inc.) from funds held by the Receiver in payment of the Secured Obligations (as defined in the Ninth Report) (the “**Distribution**”) in an amount not to exceed the amount owing by the applicable RGC entity under the Secured Obligations.

7. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to take all reasonably necessary steps and actions to effect the Distribution in accordance with the provisions of this Order, and shall not incur any liability as a result of making the Distribution.

8. **THIS COURT ORDERS** that any distribution in accordance with this Order shall be permanent and indefeasible payments of the Secured Obligations.

9. **THIS COURT ORDERS** that, notwithstanding: (a) the pendency of these receivership proceedings; (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) or other applicable legislation in respect of RGC and any bankruptcy order issued pursuant to any such applications; (c) any assignment in bankruptcy made in respect of RGC; and (d) any provisions of any federal or provincial legislation, the Distributions shall be made free and clear of all encumbrances (including the charges set out in the Amended Receivership Order (the “**Charges**”)) and shall be binding on any trustee in bankruptcy that may be appointed in respect of RGC and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

ASSIGNMENT INTO BANKRUPTCY

10. **THIS COURT ORDERS AND DECLARES** that the Receiver is authorized to cause the Assigned Entities to be assigned into bankruptcy in accordance with the BIA and that KSV is authorized and empowered to act as trustee in bankruptcy of the Assigned Entities.

APPOINTMENT OF TRUSTEE IN BANKRUPTCY

11. **THIS COURT ORDERS** that, upon KSV's appointment as licensed insolvency trustee for the Assigned Entities (in such capacity, the "**Trustee**"), the Trustee may administer the bankruptcy estates of the Assigned Entities as follows:

- (a) a single court file number and title of proceeding of "In the Matter of the Bankruptcy of Randhawa Group of Companies";
- (b) the Trustee is authorized to administer the bankrupt estates of the Assigned Entities as if such estates were a single bankrupt estate for the purpose of carrying out its administrative duties and responsibilities as trustee under the BIA with respect to the administration of bankrupt estates generally, including without limitation as follows:
 - (i) the Trustee is authorized to send notice of the first meeting of creditors (the "**Notice**") in the manner prescribed by section 102 of the BIA by sending the Notice together with directions to download documents to accompany the notice set out in section 102(2) of the BIA (the "**Forms**");
 - (ii) meetings of creditors and inspectors in the bankrupt estates of the Assigned Entities may be convened through one combined advertisement

and conducted jointly provided that the results of any creditors vote shall be separately tabulated for each such bankrupt estate;

- (iii) the Trustee is authorized to use a consolidated form of proof of claim that directs creditors to identify the bankrupt estate in which a claim is made for voting and for distribution purposes;
- (iv) the Trustee is authorized to maintain a consolidated bank account with respect to the Assigned Entities' respective bankruptcy estates;
- (v) the Trustee is authorized to issue consolidated reports in respect of the bankruptcy estates of the Assigned Entities;
- (vi) the Trustee is authorized to perform a consolidated making, filing, advertising and distribution of all filings and notices in the bankrupt estates of the Assigned Entities required under the BIA; and
- (vii) a single group of inspectors shall be the inspectors for the consolidated bankruptcy estates of the Assigned Entities.

12. **THIS COURT ORDERS** that this procedural consolidation is not a substantive consolidation of the bankrupt estates of the Assigned Entities and will automatically terminate if the Trustee is replaced as licensed insolvency trustee of any, but not all, of the estates of the Assigned Entities.

13. **THIS COURT ORDERS** that any distributions from the Assigned Entities to Rana Partap Singh Randhawa (if any) and to Swinderpal Singh Randhawa shall account for the allocations contemplated in the endorsement of The Honourable Justice Steele dated March 12, 2023. If

those allocations cannot be determined without the Court's direction, they shall be brought to the attention of The Honourable Justice Steele in the manner contemplated at paragraph 30 of the endorsement.

14. **THIS COURT ORDERS** that after payment of the amounts set out in paragraphs 5 and 6 above and the fees and expenses of the Receiver and its counsel, the Receiver is authorized and directed to pay to the Trustee all remaining funds of the Assigned Entities.

GENERAL

15. **THIS COURT ORDERS** that nothing in this Order derogates from any rights that the Receiver or Trustee may have pursuant to the applicable provisions of the BIA or applicable legislation.

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

17. **THIS COURT ORDERS** that this Order is effective from today's date and it is made enforceable without any need for entry or filing.



SWINDERPAL SINGH RANDHAWA
Applicant

-and-

RANA PARTAP SINGH RANDHAWA et al.
Respondents

Court File No. CV-18-593636-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(ASSIGNMENT INTO BANKRUPTCY)**

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Lawyers for KSV Restructuring Inc. in its capacity as
Receiver

Appendix “B”



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: BK-24-03014702-0031

DATE: September 24, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: IN THE MATTER OF THE BANKRUPTCY OF PROEX LOGISTICS INC., GURU LOGISTICS, 1542300 ONTARIO INC & 2221589
BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
	PROEX LOGISTICS INC	

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
	KSV RESTRUCTURING INC.	

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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Christopher Lee Jayson Thomas	Rana Randhawa	clee@LN.Law jthomas@LN.Law
Sam Hargreaves	Lenczner Slaght LLP	SHARGREAVES@Litigate.com

ENDORSEMENT OF JUSTICE PENNY:

[1] This motion for directions by the Trustee shall proceed for one half day starting at 10:00 AM on November 27, 2024.

[2] Counsel shall agree on a timetable to ensure the matter proceeds as scheduled.

].

Penny J.

Appendix “C”



**Fifth Report of
KSV Restructuring Inc.
as Receiver and Manager of Proex Logistics
Inc., Guru Logistics Inc., 1542300 Ontario Inc.
(operated as ASR Transportation), 2221589
Ontario Inc., 2435963 Ontario Inc., Noor
Randhawa Corp., Superstar Transport Ltd.,
R.S. International Carriers Inc., Subeet
Carriers Inc., Superstar Logistics Inc.,
Continental Truck Services Inc., and ASR
Transportation Inc.**

September 24, 2021

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COURT FILE NO. CV-18-593636-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

SWINDERPAL SINGH RANDHAWA

APPLICANT

- AND -

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC.,
AND ASR TRANSPORTATION INC.

RESPONDENTS

FIFTH REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER

SEPTEMBER 24, 2021

1.0 Introduction

1. This report ("Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as receiver and manager (the "Receiver") of all the assets, undertakings and property (collectively, the "Property") of Proex Logistics Inc. ("ProEx"), Guru Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation) ("ASR"), 2221589 Ontario Inc. ("222"), 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc. ("Subeet Carriers"), Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc. (collectively, "RGC") acquired for, or used in relation to a business carried on by RGC.
2. Since 2018, Swinderpal Singh Randhawa ("Paul") and Rana Partap Singh Randhawa ("Rana") have been involved in a dispute concerning, *inter alia*, the ownership, operation and sale of RGC.

3. In the context of the dispute between Paul and Rana, on May 19, 2021, the Honourable Justice Koehnen released a decision (the “Decision”) which, *inter alia*, provided for the issuance of a receivership order authorizing and empowering KSV, as Receiver, to carry out a sale mandate and an investigation. A copy of the Decision is attached as Appendix “A”.
4. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on May 26, 2021 (the “Receivership Order”), KSV was appointed as Receiver. The Receivership Order was amended on June 4, 2021 (the “Amended Receivership Order”). A copy of the Amended Receivership Order is attached as Appendix “B”.
5. Paragraph three of the Amended Receivership Order authorizes the Receiver to:
 - a) operate and manage RGC and sell the trucking, warehousing and logistics business (the “Sale Mandate”); and
 - b) conduct an investigation of issues identified by the parties, including those identified by an arbitrator previously appointed in the dispute and by the Receiver, to ensure that the trucking business is being sold in a manner that maximizes value (the “Investigation Mandate”).

1.1 Purpose

1. The purposes of this report (the “Report”) are to:
 - a) provide an update on the Investigation Mandate;
 - b) recommend that the Receiver further investigate potential sources of recovery for RGC, including (i) retaining a valuation expert to provide an independent valuation of RGC as of October 2018 and (ii) soliciting interest from potential claims purchasers to determine if there is a market for litigation claims owned by RGC;
 - c) request that the Court order payment of the costs of the Investigation Mandate, including legal fees in respect thereof, from the proceeds of the Sale Mandate and confirm that the Receiver’s Charge is applicable to such fees; and
 - d) seek advice and directions from this Court with respect to further investigation and/or recovery actions to be undertaken.

1.2 Currency

1. All amounts in this report are expressed in Canadian Dollars, unless otherwise noted.

1.3 Restrictions

1. In preparing this Report, the Receiver has reviewed the following information:
 - a) materials previously filed with the Court in connection with the application to appoint an inspector over RGC, the application to appoint the Receiver, and within this receivership proceeding (collectively, the “Court Materials”);

- b) unaudited financial information of RGC and Motion Transport Ltd. (“Motion”), a trucking company identified as a potentially related party;
 - c) accounting records and bank statements for RGC and Motion;
 - d) interviews of certain former employees of ASR, including Paul, Rana and their legal counsel, and Dave Rawn, the former General Manager of ASR;
 - e) transcripts of the examinations conducted by the Receiver of Baldev Dhindsa (“Mr. Dhindsa”), the President of Motion, conducted on July 21, 2021 and Rana, conducted on August 19, 2021 (jointly, the “Examinations”); and
 - f) certain email and electronic records of RGC and Motion (together with (a) through (f), above, the “Information”).
2. The Receiver has not audited, or otherwise attempted to verify, the accuracy or completeness of the financial information relied on to prepare this Report in a manner that complies with Canadian Auditing Standards (“CAS”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under the CAS in respect of such information. Any party wishing to place reliance on the Information or financial information should perform its own diligence.
 3. The Receiver has not conducted a formal valuation of RGC or any of the assets referred to in this Report. As stated in section 5.0 below, the Receiver has provided preliminary observations as to the value of RGC that are qualified in their entirety by the need to conduct a formal valuation when funds are available to do so. The Receiver does not assume any responsibility or liability for losses occasioned to any party because of their reliance on the Receiver’s preliminary observations with respect to value stated herein.
 4. The Receiver’s understanding of factual matters referred to in this Report is exclusively based on the Information.
 5. In accordance with paragraph 5 of the Amended Receivership Order, Paul and Rana will both receive copies of this Report when it is served. Neither Rana nor Paul had the opportunity to review the Report in advance of it being served.

2.0 Executive Summary¹

1. The Receiver’s mandate arose out of a long-standing and contentious dispute between brothers, Paul and Rana Randhawa.
2. Following the commencement of an oppression application in 2018, the brothers entered into the October Minutes in October 2018 which provide for the division of their business assets and a reconciliation of personal benefits received by each brother from RGC. The last step in the business separation is the sale of the Trucking Business and the distribution of the proceeds thereof.

¹ Terms not defined in this section have the meanings set out in the body of this Report.

3. For reasons that are in dispute, the Trucking Business was not sold in a timely manner and in 2020, Paul retained a private investigator. The private investigator found, among other things, that certain RGC vehicles had been transferred to Motion, that Rana and his son appeared to be working for Motion, and that certain ASR assets and staff were being used to operate Motion.
4. Paul brought a motion before the Arbitrator appointed pursuant to the October Minutes for the appointment of an inspector under the OBCA. After a process that involved two motions before the Arbitrator and two contested court applications, this Court appointed KSV as Receiver to sell the Trucking Business and to investigate the issues identified by the Arbitrator.
5. Over the course of the investigation, the Receiver identified substantial evidence confirming that Rana was working with Motion and transferring RGC's assets, resources, personnel, and revenues to Motion in contravention of the Settlement Agreements and with the aim of eroding the value of RGC.
6. The Receiver is currently selling the Trucking Business through a liquidation of the assets in accordance with an auction services agreement, which received Court approval on September 16, 2021. Upon the Receiver's appointment, it was quickly determined in consultation with Rana and Paul that the business could not be sold as a going concern, as it required substantial funding, which, the brothers acknowledged, was not available. Accordingly, absent further successful litigation or an alternative resolution of the claims held by RGC, the Receiver will not be able to recover the value of the assets or opportunities lost since the execution of the October Minutes in 2018.
7. Based on the general valuation principles for companies of this size and operating in this industry, and having examined the available unaudited financial statements, the Receiver has conducted preliminary valuation analysis to determine the value of RGC as of the date of the October Minutes. The Receiver, has not, however, retained an independent valuation expert to determine the value of the Trucking Business in October 2018.
8. Assuming that creditor claims are paid in full, the only remaining stakeholders will be the shareholders of RGC. As described in detail below, the Receiver believes that there are potential claims against Rana, Motion and other related parties (the "RGC Causes of Action").
9. The Receiver is proposing to obtain additional information to determine the value of the RGC Causes of Action and to determine whether a resolution of such claims is possible. Following (i) conclusion of the auction; (ii) review of the claims filed by the claims bar date against each RGC entity; and (iii) receipt of the additional valuation information, the Receiver would return to Court with a recommendation on pursuit or realization of the RGC Causes of Action.

3.0 RGC Receivership

3.1 Background

1. On March 9, 2018, Paul commenced an oppression application (the “Application”) with the Court to address, *inter alia*, Rana’s denial that Paul was an equal owner of RGC’s trucking business (the “Trucking Business”) and certain properties owned by RGC (the “Real Estate Business”).
2. On October 1, 2018, Rana and Paul entered into Minutes of Settlement (the “October Minutes”). A copy of the October Minutes is attached as Appendix “C”. The October Minutes provide:
 - a) that Rana and Paul each own 50% of the Trucking Business and the Real Estate Business;
 - b) a process to allow Rana and Paul to monitor the Trucking Business before a sale;
 - c) a process for selling the Trucking Business and Real Estate Business and splitting the proceeds equally; and
 - d) a process for dealing with any unequal benefits that Rana or Paul received from RGC (the “Unequal Benefits”).
3. On September 13, 2019, Rana and Paul entered into an additional Minutes of Settlement to deal with the Unequal Benefits (the “UB Minutes of Settlement” and together with the October Minutes, the “Settlement Agreements”). A copy of the UB Minutes of Settlement is attached as Appendix “D”.
4. Prior to the October Minutes, the Court issued an order on consent dated April 27, 2018 (the “Injunction Order”) pursuant to which, among other things, in exchange for Paul agreeing not to come to RGC’s office in person, Rana agreed not to make any changes to, among other things, the Trucking Business while the litigation was outstanding and not to “sell, transfer or otherwise dispose of any assets owned by RGC...outside of the ordinary course”. This agreement is reflected in the Injunction Order which is attached as Appendix “E”.

3.2 Inspector Motion

1. In June 2020, Paul delivered an *ex parte* motion record (the “Inspector Motion”) to the arbitrator appointed pursuant to the October Minutes (the “Arbitrator”) seeking the appointment of an inspector under the *Ontario Business Corporations Act* (the “OBCA”) to, *inter alia*, investigate certain issues identified surrounding the Trucking Business and to provide an update on the status of the sale process for the Trucking Business. The Inspector Motion included a report (the “PI Report”) prepared by Integra Investigations Services Ltd., a private investigator engaged by Paul due to concerns about the significant deterioration in the financial condition of RGC. The PI Report identified the following:
 - a) between January 1, 2018 and June 26, 2020, ASR and Subeet Carriers directly or indirectly transferred a total of 13 vehicles to Motion, despite the Injunction Order;

- b) Rana and/or his son, Subeet Randhawa, were involved in the operations of Motion, which appeared to be a competitor of RGC; and
 - c) Motion was using ASR resources including staff, trucks, and industry contacts to service Motion customers which were previously customers of ASR.
2. On July 3, 2020, the Arbitrator granted an award, which Paul subsequently sought to have recognized by this Court. On July 17, 2020, the Honourable Justice Dietrich determined that the application to recognize the award was premature and adjourned Paul's motion to permit Rana to seek relief before the Arbitrator.
3. Following a motion on notice, the Arbitrator granted a second award on October 26, 2020, setting out further reasons for the appointment of an inspector (the "October Award"). A copy of the October Award is attached as Appendix "F". In the October Award, the Arbitrator found, among other things:
- a) Rana "perpetuated a lack of transparency into the operations of ASR, and a lack of good faith in providing financial, operational and other relevant information required to secure the sale of the Trucking Business";²
 - b) it was "highly suspicious" that ASR was paying Rana's son when he was working for Motion;³
 - c) "Rana failed to comply with his disclosure obligations" under the Minutes of Settlement. Among other things, the Arbitrator noted that it was Rana's obligation to prepare financial statements and that Rana did not do so;
 - d) it was "highly suspect that 13 pieces of ASR equipment coincidentally ended up with Motion"⁴; and
 - e) Rana provided no explanation for "why ASR's decline in revenue not only coincided with the incorporation of Motion, but greatly exceed the decline in revenue experienced by ProEx [the smaller entity in the Trucking Business that is run by Paul]"⁵.

3.3 Receivership

1. The Receiver has been appointed over all of the RGC business but understands that all of the real estate assets of the Real Estate Business were sold prior to the Receiver's appointment.⁶ Consistent with this Information and the description of the Receiver's Investigation Mandate in the Amended Receivership Order, the Receiver's investigation has focused solely on the Trucking Business.

² October Award, Appendix F to Report, at paragraph 293.

³ October Award, Appendix F to Report, at paragraph 89.

⁴ October Award, Appendix F to Report, at paragraph 339.

⁵ October Award, Appendix F to Report, at paragraph 320.

⁶ UB Minutes, Appendix D to Report, at Recital 4.

2. Based on the Arbitrator's findings and the agreement between the parties that a Receiver was necessary to complete the Sale Mandate, the Honourable Justice Koehnen appointed KSV as Receiver. The Decision provides that notwithstanding the Arbitrator's findings, the appointment of a court officer is appropriate because the Arbitrator's findings were not definitive. Instead, the Court determined only that there "were sufficient grounds to have concerns about wrongdoing to warrant investigation."⁷
3. Rana has denied all the allegations and any involvement with Motion or any ownership interest in Motion, as set out in Rana's various affidavits filed and examinations conducted as part of these proceedings. In the investigation, Rana maintained this position both informally and under oath.
4. Consistent with the Decision and pursuant to the Amended Receivership Order, Paul has agreed to fund the Investigation Mandate "until the issue of the allocation of costs has been resolved or further order of the court."⁸ The Receiver understands that this provision of the Amended Receivership Order was negotiated to resolve Rana's objections with respect to the cost of the Investigation Mandate. To-date, Paul has funded the Receiver \$150,000 in connection with the Investigation Mandate. The funding has been used to fund the Receiver's professional fees and its disbursements and to engage personnel, including IT experts, to assist with the investigation.
5. Although the Receiver has been judicious in the use of funds, the funds advanced for the investigation have been fully consumed and the Receiver will require further funding if the investigation continues. The Receiver and its counsel have incurred fees totaling approximately \$275,000 through August 31, 2021 related to the Investigation Mandate.

3.3.1 Realizations and Claims

1. On August 25, 2021, the Receiver entered into an Auction Services Agreement (the "ASA Agreement") with McDougall Auctioneers Ltd. ("McDougall"), which was approved by the Court on September 16, 2021. The ASA Agreement provides that McDougall will provide the Receiver with a guaranteed minimum payment for all RGC's trucks and trailers.
2. The Receiver is also attempting to collect certain accounts receivable owing from RGC's customers. In addition, the most recent draft financial statements of ASR, for the year ending September 30, 2018 reflect that Rana has shareholder loan obligations owing to ASR of approximately \$450,000. The Receiver has requested that Rana advise on the status of these loans and their repayment, but has not received a response to date.

⁷ Decision, Appendix A to Report, at paragraph 46.

⁸ Amended Receivership Order, Appendix B to Report, at paragraph 30.

3. On September 16, 2021, the Court approved a claims process for RGC. The claims bar date is October 31, 2021. As the claims process has only recently commenced, the Receiver does not have a full understanding of the outstanding claims against RGC, including claims by Canada Revenue Agency (“CRA”) (as discussed in further detail below). Based on the books and records of RGC and absent new information, there should be sufficient funds to repay all claims and make a distribution to the shareholders of RGC.

3.4 Status of the Investigation

1. Since its appointment, the Receiver has taken steps to complete the Investigation Mandate as expeditiously and cost-effectively as possible. Among other things, in connection with the Investigation Mandate, the Receiver has:
 - a) reviewed the Court Materials;
 - b) imaged RGC’s server and Motion’s email database;
 - c) negotiated a protocol (the “Protocol”) to permit Rana to review over 900,000 records which may constitute privileged data stored on RGC’s servers;
 - d) reviewed certain of the Remaining Data (as defined in the Protocol) which consists of over 1 million records;
 - e) reviewed certain records of Motion and RGC, including banking, customer, Ministry of Transportation and other records, including ProEx documents provided by Paul and copies of materials exchanged by Paul and Rana pursuant to the October Minutes;
 - f) prepared for and conducted the Examinations and otherwise taken evidence;
 - g) interviewed certain former ASR employees and industry contacts, including Dave Rawn, formerly the General Manager of ASR, and Doug Watt, the founder of Next Truck Sales (“Next Truck”), a truck reseller previously used by ASR; and
 - h) spoken on several occasions with legal counsel to Paul and Rana.
2. In light of the limited budget and the circumstances described below, the Receiver has not completed certain tasks that may benefit the investigation. For example, the Receiver has not:
 - a) obtained a formal valuation of the RGC business as of the date of the October Minutes;
 - b) compared the records of the ASR Petro Pass payments against the ASR truck routes to determine if ASR Petro Passes were used to pay for fuel not related to ASR’s business;
 - c) reviewed all information stored on the ASR devices or determined whether any information was deleted;

- d) reviewed any documents stored on tablets or computers used by Rana. Rana has advised the Receiver that he does not have a computer or a tablet from which he conducts his business.⁹ While Paul provided the Receiver with a record that suggests an Apple device was purchased on a business credit card, the device has not been located;¹⁰
 - e) completed a forensic review of the bank records of RGC or Motion; or
 - f) conducted examinations under oath or interviews of potential additional witnesses, including Maryam Tehrani, a former employee of ASR, and Rana's sons, Subeet Randhawa and Nimrat Randhawa.
3. Although further steps could be undertaken (including a forensic audit), the Receiver is confident that its findings are supported by the steps it has taken and that an additional investigation is not required to make the findings that are the subject of this Report.
 4. The remaining sections of this Report should be read in conjunction with the compendium of relevant documents (the "Compendium") which contains excerpts of certain supporting documents that inform the analysis contained in this Report.

3.5 Challenges encountered by the Receiver in the Investigation Mandate

3.5.1 Motion

1. On the date of the Receivership Order, May 26, 2021, Cassels Brock & Blackwell LLP ("Cassels"), counsel to the Receiver, wrote a letter to Bridge Law Professional Corporation ("Bridge Law"), counsel to Motion, requesting access to Motion's premises on May 27 or 28, 2021 to image the server.
2. On May 28, 2021, Bridge Law emailed Cassels to advise that Motion had discontinued operations and a representative could drop off boxes with the business records of Motion the following week. The Receiver advised Bridge Law that it needed to know the location of the server as it required immediate access to the server to image it. On May 31, 2021, Bridge Law emailed the Receiver "that there weren't any servers but there may have been a laptop."¹¹ Mr. Dhindsa subsequently confirmed in his affidavit sworn June 3, 2021 that the sole laptop had gone missing in summer or autumn of 2020.¹² A copy of Mr. Dhindsa's June 3, 2021 affidavit is attached as Appendix "G", with a section of Exhibit A to such affidavit included.

⁹ Email exchange between Rana and N. Goldstein of KSV dated May 27, 2021, Compendium of the Receiver dated September 24, 2021 ("**Compendium**") at Tab A.

¹⁰ Rana's business VISA credit card statement dated September 17, 2018, Compendium at Tab B.

¹¹ Email from C. Bowman to N. Goldstein and N. Levine dated May 31, 2021, Compendium at Tab C.

¹² Affidavit of Baldev Dhindsa, sworn June 3, 2021 (the "**Dhindsa Affidavit**"), Appendix G, at para 13.

3. On June 4, 2021, following the issuance of the Receiver's report on the challenges of obtaining information from Motion, the Court issued an order (the "Motion Order"):
 - a) authorizing the Receiver to examine under oath all current and former contractors, employees and directors and officers of Motion; and
 - b) requiring Motion to disclose the location of any of its electronic records.
4. A copy of the Motion Order is attached hereto as Appendix "H".
5. Since the issuance of the Motion Order, the Receiver has been provided with a single banker's box of Motion's records, Motion's bank statements, certain accounting records from Motion's accountant and access to email records of Motion. On July 21, 2021, the Receiver conducted an examination of Mr. Dhindsa.

3.5.2 ASR

1. Shortly after the Receiver's appointment, all of the ASR staff, including the accountant who had previously assisted with preparation of the financial statements, tendered their resignations. While the Receiver has retained two former employees to assist with asset sales, the process was initially delayed while the Receiver worked to gain access to information without the assistance of the office staff.
2. On July 30, 2021, the Receiver attempted to examine Rana under oath. At the examination, Rana refused to take an oath and adjourned the examination to seek directions from the Court. The full background regarding the examination is provided in the Receiver's Third Report to Court dated August 3, 2021, which is attached as Appendix "I", without appendices.
3. On August 4, 2021, the Honourable Justice Koehnen issued an endorsement requiring Rana to attend an examination under oath (the "August 4 Endorsement"). The August 4 Endorsement is attached as Appendix "J".
4. On August 19, 2021, the Receiver conducted an examination of Rana.

4.0 Findings

4.1 Principal Findings

1. A summary of the Receiver's key findings is provided below:
 - a) Rana was actively engaged with the set-up and operation of Motion to the detriment of the efforts to sell the Trucking Business, including:
 - i. representing or permitting an ASR employee to represent that Motion was "a wholly owned subsidiary of ASR";
 - ii. attempting to secure business for Motion from several of RGC's customers, including Ford Motor Company, which was ASR's largest customer, and Ventra Plastics, which was ProEx's largest customer;

- iii. causing RGC to transfer 13 vehicles to Motion, 3 of which were subsequently transferred to another company beneficially owned by Rana;
 - iv. permitting ASR vehicles and fuel cards to be used to support Motion's business; and
 - v. providing material support to Motion through his sons in the form of labour and capital; and
 - b) consistent with the Arbitrator's findings, Rana delayed the sale of the Trucking Business. Based on the findings above, the Receiver believes this was at least in part in an attempt to further his efforts to transfer business to Motion. Had the Trucking Business been sold in the manner contemplated by the Settlement Agreements in 2019, the Receiver believes, consistent with the evidence from Rana and Paul, that the Trucking Business would have been sold as a going concern. Instead, it was sold during the receivership on a liquidation basis, which in all likelihood represents a significant deterioration of value, as discussed further below.
2. Over the course of its investigation, the Receiver asked Rana to provide further evidence to address the issues identified by the Arbitrator and the Court and the Receiver independently reviewed the Information to corroborate Rana's denials of the allegations. Following his August 19, 2021 examination, Rana's counsel agreed to provide any further information to the Receiver by September 9, 2021, and on September 22, 2021 advised the Receiver that there was nothing Rana wished to bring to the Receiver's attention.¹³ At the examination, Rana also provided several undertakings to provide additional information in response to questions asked by the Receiver which he responded to on September 22, 2021.
3. The Receiver has not identified any evidence to support Rana's denial of the allegations.
4. Further details regarding these findings and other findings by the Receiver are provided below.

4.2 Motion

1. Motion was incorporated in 2018. The corporate profile lists Mr. Dhindsa as the sole director.¹⁴ Mr. Dhindsa testified that that many friends and members of his community, including Rana, are involved in the trucking industry.¹⁵

¹³ Refusals and Undertakings Chart from the Examination of Rana Randhawa on August 19, 2021 and Accompanying Productions response 19, Compendium at Tab D.

¹⁴ Corporate Profile Report re Motion Transport Ltd., current to September 22, 2021, Compendium at Tab E.

¹⁵ Transcript from Examination of Baldev Dhindsa dated July 21, 2021 ("**Examination of Dhindsa**") at p. 34, qq. 145, Compendium at Tab F.

2. Mr. Dhindsa maintained that he is the sole officer and shareholder of Motion and that Rana has no involvement in Motion. At the same time, Mr. Dhindsa had limited knowledge of the operations of Motion and was unable to explain how his business functioned on a day-to-day basis or identify the names of the parties with whom his business regularly interacted.¹⁶ Based on the evidence reviewed, the Receiver has confirmed substantial connections between Rana and Motion as described below.
3. The Receiver has not, at this time, determined or quantified benefits to Rana from his activities with Motion, but notes that Motion's total revenue disclosed to the Receiver for the period 2019-2020 was approximately \$350,000.¹⁷

4.2.1 Corporate Opportunities

1. The Receiver's investigation has confirmed that ASR, at the direction or with the knowledge of Rana, actively solicited business for Motion at the expense of RGC and in particular, ProEx, a business that was operated by Paul.
2. From a review of ASR's books and records, the Receiver identified several documents that support this finding. For example:
 - a) Ventra Plastics: on August 10, 2018,¹⁸ Tony Colvin, on behalf of ASR, sent an email to Kimberly Garcia, a representative of Ventra, ProEx's only client, with the subject "FW: ASR & Motion Prices for Ventra." A copy of the email is provided below.

From: tony@asrtransport.com <tony@asrtransport.com>

Sent: Friday, August 10, 2018 3:50 PM

To: Kimberly Garcia <kgarcia@FLEXNGATE-MI.com>

Subject: FW: ASR & Motion prices for Ventra

Hi Kim, please see attached 2 quotes, one for ASR Transport and the second for Motion Logistics Transport, which is a wholly owned subsidiary of ASR. Both quotes are in CDN funds.

Also please note that ProEx Logistics no longer part of or has anything to do with ASR Transport, and that Paul Randhawa is no longer with ASR.

Let me know if you are any questions.

Would appreciate your feedback as to how the rates look

Thanks

Tony Colvin

ASR Transportation
2896 South Sheridan Way, Suite 300
Oakville, ON, L6J 7G9
Phone : 905-829-4277

¹⁶ Examination of Dhindsa at p. 16, 17, 27-28, 66 qq. 55, 58-59, 111-113, 281, Compendium at Tab F.

¹⁷ Dhindsa Affidavit, Appendix G, Exhibit "A" at Tab 1-E, "Sales Report".

¹⁸ Email chain among K. Garcia, D. Rawn, and T. Colvin dated November 27, 2018, Compendium at Tab G.

Mr. Colvin provided Ms. Garcia with two quotes for a potential engagement, which he described in the body of the email as follows: "one for ASR Transport and the second for Motion Logistics Transport, which is a wholly owned subsidiary of ASR" (emphasis added). Mr. Colvin also notes in the email that Paul and ProEx, a company managed by Paul, are no longer affiliated with ASR.

Ms. Garcia responded to Mr. Colvin's email on August 21, 2018 and requested more information about Motion (and not ASR). On August 24, 2018, after several further emails relating to Motion's operations, Rana sent a Webex invitation to Ms. Garcia¹⁹ and, subsequently, an invitation for an in-person meeting between Rana, Mr. Colvin and Ms. Garcia, which was scheduled to take place in Michigan on September 24, 2018.²⁰

In November of 2018, Ms. Garcia and Mr. Rawn engaged in further email correspondence, with Rana on copy, wherein they discussed operational delays being incurred by Motion and did not discuss ASR or RGC at all.

At his examination, Rana was unable to explain why Motion was described as a wholly-owned subsidiary of ASR. He indicated that Mr. Colvin may have been working as an independent salesperson (from his ASR email account) and soliciting lanes on behalf of multiple carriers.²¹ The Receiver has found no evidence that Mr. Colvin worked for Motion. Rana also took the position, among other things, that because the October Minutes had not been signed in August 2018, his emails were appropriate.²²

- b) Ford: In an email dated March 15, 2019,²³ a truckload buyer for Ford Motor Company emailed Mr. Dhindsa, with Rana on copy, to advise that she would like to visit Motion's facility and better understand its ownership structure before bringing on Motion as a carrier. A copy of the email is provided below.

¹⁹ Webex Invite from Rana to K. Garcia dated August 24, 2018, Compendium at Tab H.

²⁰ In Person Meeting Invite from T. Colvin to Rana and K. Garcia dated September 24, 2018, Compendium at Tab I.

²¹ Transcript of Examination of Rana Randhawa dated August 19, 2021 ("**Examination of Rana**") at pp.124-127, qq. 384-390, 394, Compendium at Tab J.

²² Examination of Rana Randhawa at pp.126-127, q. 394, Compendium at Tab J.

²³ Email from K. Verstraete to B. Dhindsa and Rana dated March 15, 2019, Compendium at Tab K.

To: Baldev Dhindsa[Baldev.Dhindsa@outlook.com]
Cc: Rana Randhawa[rana@asrtransport.com]
From: Verstraete, Katlyn (K.)[kverstr3@ford.com]
Sent: Fri 3/15/2019 2:03:50 PM (UTC)
Subject: RE: Carrier Survey

Good morning-

Prior to bringing Motion Transport on as carrier, we would like to visit the facility to see the equipment and dispatch. We would also like a better understanding of the ownership structure.

Thank you,

Katlyn Verstraete
Transportation/Truckload Buyer
Ford Motor Company
kverstr3@ford.com
Desk: 313-390-6414
Cell: 313-618-0576

TPO... "The positive GO TO people in purchasing that creatively solve problems and deliver excellent data driven results to our customers."

From: Baldev Dhindsa <Baldev.Dhindsa@outlook.com>
Sent: Wednesday, February 27, 2019 5:01 PM
To: Verstraete, Katlyn (K.) <kverstr3@ford.com>
Subject: Carrier Survey

At his examination, Rana explained that the Ford representative may have copied him because Motion had given Ford his email address.²⁴ Rana's explanation does not address why he was added into an email chain seeking further information on the ownership structure, the equipment or the dispatch of Motion.

The Receiver notes that Ford was ASR's largest customer.²⁵

4.2.2 Sale of Assets to Motion

1. As noted in the Decision, the Arbitrator made findings regarding the transfer of assets between ASR and Motion. The Receiver has investigated the asset transfers by reviewing the relevant records, examining the transfer prices and interviewing the parties involved in the transfers.
2. The Receiver conducted a search of Ministry of Transportation of Ontario records, which revealed that between September 10, 2018 and September 20, 2019, RGC sold and Motion ultimately acquired, thirteen tractors or trailers (the "Impugned Vehicles") which are identified within Tab L of the Compendium.²⁶
3. Of the Impugned Vehicles purchased by Motion, two were purchased directly and the remainder purchased through intermediaries. Six of the Impugned Vehicles were registered as being transferred to Motion on the same day that they were sold by ASR.

²⁴ Examination of Rana at pp. 79-81 qq. 243-248, Compendium at Tab J.

²⁵ Examination of Rana at pp. 12-13 q. 21, Compendium at Tab J.

²⁶ Identification of 13 Impugned Vehicles, Compendium Tab L.

4. In Rana's affidavit filed in connection with Paul's *ex parte* motion to appoint an inspector, Rana gave evidence that he had "no involvement in Motion"²⁷ and that he did not discuss with any of the intermediary purchasers to whom they intended to sell the Impugned Vehicles.²⁸ Rana maintained this position during his examination.²⁹
5. However, on September 1, 2021, a representative of the Receiver spoke with Mr. Watt, the founder of Next Truck, who advised that in 2019, Rana requested that Next Truck act as an intermediary for a sale of a vehicle from ASR to Motion.
6. The Receiver did not engage an appraiser due to its limited budget and the limited data available, but requested that McDougall, the party that is selling RGC's equipment in accordance with the ASA Agreement, provide an estimate of the fair market value of the Impugned Vehicles at the time they were transferred from ASR to Motion. McDougall advised that the Bills of Sale were missing key information normally reflected, including the number of kilometers per vehicle, but, based on the information available, in every case, in their view, the Impugned Vehicles likely had a higher fair market value than their selling price. The Receiver would require additional information and the formal assistance of additional professionals to reach a definitive conclusion on fair market value.

4.2.3 Sale of Assets by Motion

1. Two of the Impugned Vehicles were repurchased by ASR and three were purchased by 2760111 Ontario Ltd. ("276"), an entity beneficially owned by Rana. Rana has provided the Receiver with a trust document that confirms he owns the beneficial interest in 276.³⁰ A summary of these transactions is provided within Tab N of the Compendium.³¹
2. In July 2021, the Receiver was contacted by Next Truck to advise that Rana had asked for assistance with the sale of three trailers that were owned by 276 (and previously owned by Motion). The Receiver and Rana ultimately agreed to a consent order which prohibited Rana from selling assets previously owned or operated by Motion or ASR without the consent of the Receiver. The Receiver believed that this order was necessary to maintain the status quo during the investigation.

²⁷ Affidavit of Rana Randhawa sworn July 31, 2020 (the "**Rana's July 31, 2020 Affidavit**") at para. 8, Compendium at Tab M.

²⁸ Rana's July 31, 2020 Affidavit at para 33, Compendium at Tab M.

²⁹ Examination of Rana at pp. 58-61 qq. 170-180, Compendium at Tab J.

³⁰ Refusals and Undertakings Chart from the Examination of Rana Randhawa on August 19, 2021 and Accompanying Productions at Tab C, Compendium at Tab D.

³¹ Transaction Summary re Impugned Vehicles, Compendium Tab N.

3. In his examination, Rana testified that he is the beneficial owner of 276, a corporation formed with Andre Chin for the purpose of leasing trailers. The Receiver has asked for production of the corporate documents related to 276, but understands that Rana holds no formal position with the company and that the shares are legally owned by Mr. Chin. According to Rana, Mr. Chin is not currently receiving any payment from 276, but their agreement provides that Mr. Chin will operate the company and Rana will be the beneficial owner. Rana further advised that 276 is not operating at this time.³²
4. Rana's evidence is that these vehicles acquired by Motion (and later 276) were unnecessary at ASR and required maintenance. He was unable to explain why the same assets would be beneficial to 276 if they were uneconomical to maintain at ASR or Motion.³³
5. With respect to the vehicles sold from ASR to Motion and back to ASR, Rana testified that he determined that ASR would require these vehicles and approached the reseller to cancel the proposed sales. He did not explain why the trucks had been registered to Motion and were transferred back to ASR.³⁴

4.2.4 Direct Involvement of Rana and His Contacts in Motion's Business

1. The Receiver has identified evidence that Rana directed, facilitated or was otherwise involved in the operations of Motion both directly and through his family and business contacts.
2. Notwithstanding the fact that Motion and ASR used the same vehicles and had similar customers, Rana maintained that Motion was not a competitor of ASR.³⁵
3. The Receiver's relevant findings are as follows:
 - a) Rana Randhawa's Authorization to Act for Motion: In an undated letter from Mr. Dhindsa, on behalf of Motion, to Service Ontario, Mr. Dhindsa requested that Rana be granted authorization for licensing purposes to act on Motion's behalf to register an Ontario license for vehicles identified as VIN 1M1AW07Y8DM031638 and VIN 4V4NC9GF16N446881, respectively.³⁶ In an unsigned letter dated December 20, 2019 from Mr. Dhindsa, on behalf of Motion, to Service Ontario, Mr. Dhindsa requested that Rana be granted authorization for licensing purposes to act on Motion's behalf in respect of a vehicle identified as VIN 3AKJGLDV2FSGF9918. A copy of one of these letters is provided below:

³² Examination of Rana at pp. 45-49, qq. 115-129, Compendium at Tab J.

³³ Examination of Rana at pp. 44-45, 59 qq. 110-112, Compendium at Tab J.

³⁴ Examination of Rana at pp. 38-39 q. 85, Compendium at Tab J.

³⁵ Examination of Rana at p. 65, q. 192, Compendium at Tab J.

³⁶ Undated Letter from Mr. Dhindsa to Service Ontario, Compendium at Tab O. The vehicles in this letter are two vehicles that were transferred from ASR to Motion, further undermining Rana's statements that he was unaware of the ultimate purchasers of the vehicles.



7 Islington Drive,
Brampton, ON L6P 3A6
T (905) 339-4333
F (905) 339-4334

20/12/19

SERVICE ONTARIO: To whom this may concern,

This document gives Rana Randhawa authorization to act on our behalf for Ontario licensing purposes for a 2015 Freightliner Cascadia VIN#3AKJGLDV2F5GF9918.

Regards,

Baldev Dhindsa, President/Ceo
MOTION TRANSPORT LTD.

At his examination, Rana denied any recollection of these letters.³⁷ The Receiver cannot confirm that either of these letters were provided to Service Ontario. However, the first letter, along with Motion documents from the United States Department of Transportation,³⁸ was found on Rana's smartphone following the Receiver's collection and review of data pursuant to the Protocol.³⁹

- b) Subeet Randhawa's Role at Motion and ASR: During his examination under oath, Mr. Dhindsa described Subeet's role at Motion during his employment from November of 2019 until August 2020. In particular, Mr. Dhindsa testified that Subeet managed much of Motion's paperwork and, excluding Mr. Dhindsa, was the only employee authorized to buy and sell vehicles on Motion's behalf at the time he worked for Motion.⁴⁰

³⁷ Examination of Rana at pp. 96-97, 100-101 qq. 303-310, 320-325, Compendium at Tab J.

³⁸ US Department of Transportation Authorization dated January 24, 2019, Compendium at Tab P.

³⁹ Metadata report downloaded from Relativity on September 12, 2021, Compendium at Tab Q.

⁴⁰ Examination of Dhindsa, p. 29-30, 69 qq. 119, 121, 296-298, Compendium at Tab F.

One of the red flags identified by the Arbitrator was the fact that Subeet had not been paid by Motion for his services. However, Motion's bank records show that Motion issued two cheques to Subeet, one in the amount of \$8,190 for pay and one in the amount of \$5,527.78 for "repair remit".⁴¹ The Receiver notes that these cheques were issued following Subeet's examination in the arbitration proceedings.⁴² ASR also paid a salary to Rana's sons Subeet and Nimrat, during this time, but Rana provided evidence that these payments were consistent with past practice and unrelated to Motion.⁴³

- c) Nimrat Randhawa's Loan to Motion: In 2019, Rana's son, Nimrat, loaned Motion approximately \$30,000 in cash to help fund Motion's operations. Mr. Dhindsa testified that Nimrat did not charge any interest on the loan and, although Nimrat's request for payment had ceased over a year ago, the loan remained outstanding.⁴⁴

In his examination, Rana confirmed that the money in his son's account was his money and that his son had asked for his advice or permission before making the loan to Motion.⁴⁵ Rana also confirmed that Nimrat is 20 years old (meaning that at the time of the loan, he would have been approximately 18 years old).⁴⁶

Notwithstanding Mr. Dhindsa's evidence that the loan was never repaid, Motion's banking records reflect a bank draft to Nimrat Randhawa in the amount of \$46,000 on June 29, 2020.⁴⁷ The distribution was made to Nimrat on the same day that 276 wrote a cheque for \$44,974 to Motion for the purchase of three trailers. The Receiver does not know why Motion would have made a payment to Nimrat other than as repayment of the outstanding loan. The Receiver also notes that 276's bank records show a deposit of \$46,000 to 276 on July 2, 2020 and a further cheque to Nimrat on August 21, 2020, also in the amount of \$46,000.⁴⁸

⁴¹ Email chain among Rana and MDP Accountants re "RANA and FAMILY 2020 TAX DOCUMENTS" dated April 28-29, 2021, Compendium at Tab R; Cheques #95 and #96 from Motion to Subeet Randhawa, Compendium at Tab S.

⁴² The Cheques in the Compendium at Tab S are dated August 28, 2020 while Subeet Randhawa was examined on August 25, 2020.

⁴³ Affidavit of Rana Randhawa sworn August 16, 2020 at para 6 and Exhibit "A", Compendium at Tab T; T4 Statement of Remuneration Paid to Nimrat Randhawa for year 2020, Compendium at Tab U.

⁴⁴ Examination of Dhindsa at pp. 22-24, 26 qq. 78-80, 85-88, 100-102, Compendium at Tab F. Mr. Dhindsa testified that the loan was made in cash (Examination of Dhindsa at p. 24, qq. 86-90, Compendium at Tab F), but Rana provided evidence that the loan was made by cheque (Refusals and Undertakings Chart from the Examination of Rana Randhawa on August 19, 2021 and Accompanying Productions at response 11, Compendium at Tab D). The Receiver cannot confirm this based on the current Motion records.

⁴⁵ Examination of Rana at p. 153 qq. 497-502, Compendium at Tab J.

⁴⁶ Examination of Rana at p.150, qq. 480-482, Compendium at Tab J.

⁴⁷ Cheque dated June 29, 2020 from Motion Transport Ltd. to Nimrat Randhawa, Compendium at Tab V.

⁴⁸ Bank Records of 276011 Ontario Ltd., located at Refusals and Undertakings Chart from the Examination of Rana Randhawa on August 19, 2021 and Accompanying Productions at Tab B, Compendium at Tab D.

- d) Maryam Tehrani's Role at Motion: Maryam Tehrani was an employee of ASR who departed and then returned to ASR in 2018, around the time that Motion was incorporated.⁴⁹ The Receiver located a business card for Ms. Tehrani which identifies Ms. Tehrani as the CFO of Motion, a copy of which is found within Tab W of the Compendium.⁵⁰ When presented with this business card during his examination under oath, Mr. Dhindsa testified that he had never seen the business card or heard of Ms. Tehrani, that he believed the email address on the business card to be invalid.⁵¹

At his examination, Rana denied any knowledge of Maryam's involvement in Motion.⁵²

4.2.5 Use of ASR Corporate Resources

1. The Receiver confirmed that ASR permitted the use of ASR resources for Motion's benefit. By way of example:
 - a) Mr. Rawn provided sworn evidence as to his understanding that ASR fuel cards were used to fuel Motion trucks, at Rana's authorization.⁵³ This further supports the findings in the PI Report which found that Subeet fueled a Motion vehicle at a gas station at around the same time that an ASR gas card was used at that gas station.⁵⁴
 - b) In an email dated June 17, 2019 to Mr. Rawn from an employee of a warehousing company used by ASR⁵⁵, the employee expresses that he understood "that there are 3 new trailers for Motion Transport" in its storage yard and that "they will be there for several months." Mr. Rawn, with Rana on copy, replied that storage of Motion's trailers should be invoiced to ASR.
 - c) Mr. Rawn provided sworn evidence that, at Rana's instruction, he would sometimes assist Subeet in operating Motion because Subeet did not know how to manage a trucking business.⁵⁶ By way of limited example, the Receiver uncovered an email dated January 10, 2020⁵⁷ between Subeet, on behalf of Motion, and a Motion customer relating to an upcoming engagement, on which Mr. Rawn is copied notwithstanding that the correspondence was entirely unrelated to ASR.

⁴⁹ Examination of Rana at pp. 158-159 qq. 521-523, Compendium at Tab J.

⁵⁰ Motion Transport Ltd. business card stating "Maryam Tehrani, C.F.O.", Compendium at Tab W.

⁵¹ Examination of Dhindsa at pp. 13-15 qq. 34-45, Compendium at Tab F.

⁵² Examination of Rana at p. 160, qq. 527-529, Compendium at Tab J.

⁵³ Affidavit of David Rawn sworn September 18, 2021 (the "**Rawn Affidavit**"), at para 7, Compendium at Tab X.

⁵⁴ Affidavit of D. Colbourn sworn June 26, 2020 at Appendix A, p. 207, Compendium at Tab Y.

⁵⁵ Email dated June 17, 2019 from D. Rawn to D. Hubner of Krewcorp, Compendium at Tab Z.

⁵⁶ Rawn Affidavit, para 5, Compendium at Tab X.

⁵⁷ Email dated January 10, 2020 from D. Rawn to D. Robertson and Dispatch at Motion, Compendium at Tab AA.

- d) An email dated February 28, 2020⁵⁸ from an employee of a maintenance company to accounts@asrtransport.com attaches an invoice that includes charges for services performed on a vehicle registered to Motion. At his examination, Rana offered the explanation that the invoice was likely rendered in error.⁵⁹
- e) Rana gave evidence that, beginning in or around March of 2020, ASR permitted one of its drivers, Narinder Singh, to work for Motion while receiving a salary from ASR. Rana advised that he permitted Mr. Singh to remain on ASR's payroll due to complications associated with maintaining Mr. Singh's working visa and, further, that the salary that ASR paid Mr. Singh during this period was a loan that Mr. Singh would be required to repay, which was memorialized in a loan agreement.⁶⁰ The loan agreement was entered into on June 20, 2020, months after Mr. Singh received the payments from ASR, and made no reference to any of the payments that Mr. Singh had already received. From a review of Motion's records, it appears that Mr. Singh's company, 9733771 Canada Inc., was issued cheques for "pay" as early as December 2019. However, the Receiver has not been able to confirm if Mr. Singh ever repaid the purported loan from ASR.
- f) Rana gave evidence that ASR lent a truck to Motion for use by Mr. Singh on Motion's behalf without receiving any compensation from Motion.⁶¹
- g) An email dated May 1, 2020⁶² from Motion to a customer attached two invoices for services rendered by Motion in respect of which Motion was to receive payment. The first invoice⁶³ listed the trailer utilized by Motion as Trailer #R53003, which trailer belonged to ASR, and the driver utilized by Motion as "Branden", which is believed to be Branden Goncalves, another of ASR's drivers. The second invoice⁶⁴ lists the truck and trailer utilized by Motion as Truck #191 and Trailer #R53003, respectively, both of which belonged to ASR, and the driver utilized by Motion as Narinder Singh. The carrier listed on the invoice was ASR and not Motion. At his examination, Rana explained that because the truck had an ASR decal on the side, the paperwork may have been completed incorrectly.⁶⁵
- h) Mr. Rawn advised the Receiver that he frequently observed Nicolas Peet, one of ASR's drivers, driving an ASR truck on Motion's behalf.

⁵⁸ Email dated February 28, 2020 from F. Sowdagari of Snap Diesel Emission to ASR's accounts department, Compendium at Tab BB.

⁵⁹ Examination of Rana at pp. 103-106 qq. 331-340, Compendium at Tab J.

⁶⁰ Loan Agreement dated June 20, 2020 between ASR and Narinder Singh, Compendium at Tab CC.

⁶¹ Rana's July 31, 2020 Affidavit at paras. 84-85, Compendium at Tab L; Examination of Rana, pp. 93-94 q. 297 Compendium at Tab J.

⁶² Email from Motion's Accounts Department to gppod@flstransport.com dated May 1, 2020 ("**May 1, 2020 Motion Accounts Email**"), Compendium at Tab DD.

⁶³ May 1, 2020 Motion Accounts Email, attachment M0305, Compendium at Tab EE.

⁶⁴ May 1, 2020 Motion Accounts Email, attachment M0304, Compendium at Tab FF.

⁶⁵ Examination of Rana at pp. 94-95 qq. 298-300, Compendium at Tab J.

2. The Receiver put these findings to Rana and he was unable to provide any reasonable explanation. The Receiver notes that each of these examples relates to small dollar value items, but they demonstrate a pattern of using ASR resources to the benefit of Motion, while Rana and Paul were supposed to be selling RGC.

4.3 Delay in the Sale of the Trucking Business

1. The Investigation Mandate extends to, among other things, investigation of the matters raised before the Arbitrator, including the reasons for the delay in the sale of the Trucking Business. The Arbitrator found that “Rana has perpetuated a lack of transparency into the operations of ASR, and lack of good faith into providing the financial, operational and other relevant information required to secure the sale of the Trucking Business.”⁶⁶
2. After reviewing the Court Materials, the Receiver independently investigated and made the following determinations:
 - a) the major impediment to selling the Trucking Business as a going concern was the failure to timely complete financial statements and tax returns required by potential brokers for the business;⁶⁷
 - b) from the time of the execution of the October Minutes, the RGC office, which worked under Rana’s day-to-day supervision, had the responsibility for completing the financial statements;⁶⁸
 - c) notwithstanding Paul’s understanding that the RGC office would be completing the financial statements, Paul repeatedly attempted to engage with the RGC office and RGC accountants to finalize the financial statements;⁶⁹
 - d) the Receiver gave Rana the opportunity to provide any evidence that he was not responsible for the delay in providing the financials and related tax returns and that he was working to expeditiously complete such documents; and
 - e) the Receiver believes that rather than attempting to advance the sale of ASR, Rana was working to sell assets from ASR to Motion and transfer business from ASR to Motion.

⁶⁶ October Award, Appendix F to Report, at para 293.

⁶⁷ Examination of Rana at pp. 206-210, qq. 657-659, Compendium at Tab I; Affidavit of Paul Randhawa sworn June 26, 2020 (“**Paul’s June 26, 2020 Affidavit**”), at paras 7-9, Compendium at Tab GG.

⁶⁸ See Letter from Kreaden to Lessman dated October 29, 2018 which sets out Paul’s understanding in this regard and, as far as the Receiver can tell, was not disputed by Rana at the time, Paul’s June 26, 2020 Affidavit at Exhibit 12, Compendium at Tab GG.

⁶⁹ Paul’s June 26, 2020 Affidavit at Exhibits 15, 16 and 17, Compendium at Tab GG.

3. In response to the allegations by Paul and the findings made by the Arbitrator, Rana testified that: (a) following entry into the October Minutes, he instructed his accountants to complete the financials for ASR and 222 (a real estate holding company), but that Paul had refused to sign the documents; and (b) the companies for which Paul was responsible had failed to file taxes for many years; in some instances, according to Rana, tax returns had never been filed.⁷⁰
4. The Receiver asked Rana to provide any evidence or direct the Receiver to documents that show that Paul was responsible for the delay in preparing the financial statements following entry into the Minutes of Settlement, but other than the statement that it was Paul who refused to sign the financials, Rana has not provided any evidence on this point.⁷¹
5. The evidence including the documents attached as Tab DD to the Compendium⁷² support Paul's position that he historically relied on RGC's staff to complete the financial statements for ProEx, but that following the October Minutes, he was unable to obtain timely information from the office staff. In an email dated January 9, 2019, Rana's counsel confirms to Paul's counsel that it is the obligation of RGC to prepare financial statements and tax returns for all RGC entities.⁷³
6. In response to Rana's assertion that Paul refused to sign off on ASR's 2018 financial statements, the Receiver made inquiries of Paul, who directed the Receiver to his Affidavit sworn on August 10, 2020 in which at paragraph 9 (e) states as follows "I do not know how Rana's personal expenses that ultimately were agreed to be Unequal Benefits pursuant to the UB Minutes have been accounted for in the books and records, which of course needs to be addressed in order to finalize financial statements for the sale of the RGC Trucking Business".⁷⁴
7. Had Rana been working in good faith to sell the business as required by the October Minutes, the Receiver is of the view that the business could have been sold within six months of the October Minutes.

⁷⁰ Examination of Rana at pp. 162-165 qq. 541-543, Compendium at Tab J.

⁷¹ Examination of Rana at pp. 162-165, 206-210 qq. 541-543, 657-659 Compendium at Tab J.

⁷² Paul's June 26, 2020 Affidavit at paras 32 to 43, Compendium at Tab GG.

⁷³ Paul's June 26, 2020 Affidavit at Exhibit 17, Compendium at Tab GG.

⁷⁴ Affidavit of Paul Randhawa sworn August 10, 2020 at paragraph 9(e), Compendium at Tab HH.

5.0 Initial Damages Considerations

1. For purpose of this Report only, the Receiver provides the following preliminary observations regarding the potential diminution in value as a result of the delay in the sale and the diversion of assets to Motion. Due to budget constraints, the Receiver has not at this time engaged an independent valuations expert to value the Trucking Business as of October 2018. The Receiver understands that such a valuation would cost between \$30,000 and \$40,000.
 - a) For purposes of this analysis, the Receiver assumes that the assets and opportunities diverted to Motion would have been included in the value of ASR as of the date of the October Minutes.
 - b) The Receiver consulted with the valuations group at the Receiver's firm and understands that trucking businesses of this size are typically valued based on a multiple of EBITDA, subject to certain adjustments.
 - c) The Receiver is in possession of unaudited financial statements prepared by ASR and ProEx's external accountants for the years ended September 30, 2017 ("Fiscal 2017") and 2018⁷⁵ ("Fiscal 2018"). The statements reflect EBITDA of approximately \$1.3 million for Fiscal 2017 and \$925,000 for Fiscal 2018. The Receiver understands that there are personal expenses totaling at least \$350,000 for each fiscal year included in EBITDA that would be required to be adjusted in order to calculate maintainable EBITDA.⁷⁶ Additional work will be required to update the financial statements and permit the Receiver to obtain a valuation as of October 2018.
 - d) The Receiver is currently conducting a claims process to identify the claims against RGC. Based on ASR's records, the Receiver expects that there will be between \$1 million to \$1.5 million to distribute to ASR's shareholders, which could increase based on realizations on accounts receivable, shareholder loans and/or the results of the claims process.
 - e) Rana is of the view that the value of ASR increased since 2017/2018 due to additional vehicles purchased since 2017/2018.⁷⁷ As set out above, the Receiver believes that a going concern sale in 2018 would have returned more value than a liquidation sale.

⁷⁵ As noted above, the 2018 financial statements were not finalized.

⁷⁶ Subject to preliminary review and further analysis.

⁷⁷ Refusals and Undertakings Chart from the Examination of Rana Randhawa on August 19, 2021 and Accompanying Productions response 13, Compendium at Tab D.

2. Upon conclusion of the claims process and the auction, and with the information from an independent valuator, the Receiver will be better positioned to make a recommendation on the costs and benefits of commencing litigation.
3. In light of the fact that the Receiver anticipates making distributions in an amount necessary to satisfy all creditors, the shareholders of the business are expected to be the only parties with a remaining interest in the proceeds of the liquidation and any claims owned by RGC. Given that the potential claims (described below) would be brought against Rana and other parties, the Receiver believes that Paul is likely the party with the economic interest in the outcome of the RGC Causes of Action and his views on such claims should be considered.

6.0 Potential Causes of Action and Remedies

6.1 Potential Causes of Action

1. In order to address the harm to RGC arising from the dissipation of assets and the delay in the sale of RGC, the Receiver has considered the potential causes of action available.
2. Breach of Fiduciary Duty. Under the OBCA, directors have an obligation to act in best interest of the corporation. More specifically, a director of a corporation may not, without the approval of the corporation, usurp an opportunity or advantage of the corporation, either directly or indirectly. The Receiver is of the view that, based on the facts outlined above, the corporation can assert a claim against Rana in connection with his diversion of assets and corporate opportunity to Motion. In the alternative, this claim may be available to Paul under section 246 of the OBCA.
3. Oppression. The oppression remedy prescribed under section 248 of the OBCA outlines the following grounds on which an oppression remedy can be sought:

248(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a corporation or any of its affiliates,

(a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;

(b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or

(c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer, the court may make an order to rectify the matters complained of.

Based on the facts set out above, the Receiver believes that the Receiver on behalf of RGC, may assert an oppression claim to recover any value lost during the delay in the sale of the Trucking Business. In the alternative, Paul may assert claims as a security holder.

4. Transfer at Undervalue. Section 96 of the *Bankruptcy and Insolvency Act*⁷⁸ permits a trustee in bankruptcy to declare a transfer at undervalue void as against the trustee and permits the trustee to seek recovery from the party to the transfer or any other party “privity” to the transfer. Should ASR become bankrupt, potential claims against Motion, as the transferee and Rana, as a party privity to the transfers, could be asserted.⁷⁹ Similar actions may be available under the *Fraudulent Conveyances Act* or the *Assignments and Preferences Act*.

At this time, the Receiver is not seeking authority to commence these actions. If the Receiver later determines that RGC is insolvent or was insolvent at the time of the transaction and that the vehicles were transferred at undervalue, the Receiver may take steps in that regard, or seek further direction from the Court.

6.2 Potential Resolutions

1. In order to recover the value that would have otherwise been available to RGC if the Trucking Business was sold as a going concern shortly following the October Minutes, the Receiver has identified three options:
 - a) Litigation: If authorized by the Court, the Receiver could commence one or more of the claims described above. While the Receiver believes the claims to be meritorious, there is inherent risk in litigation. Moreover, the Receiver would require any amounts in excess of those required to pay unsecured claims to be held back in order to fund the costs of any litigation, including any potential costs awards.
 - b) Sale Process: Consistent with the Sale Mandate, the Receiver could engage in a sale process with respect to the claims owned by RGC. The Receiver notes that this process may allow Rana, Motion and any other defendants to put a price on the potential risk in litigation and may allow a settlement of the claims based on the market available for the RGC Causes of Action. However, given that certain claims may be available to Paul, any such process would likely require a settlement or release of claims owned by Paul.
 - c) Mediation: Notwithstanding the acrimonious history between the parties, a mediated settlement, if possible, would avoid the time and expense of litigation. A tri-party mediation between Paul, Rana and the Receiver may be a productive use of the parties’ efforts.

6.3 Recommendation and Request for Advice and Directions

1. Based on the information available to it today, the Receiver recommends that the Court grant an order permitting the Receiver to (a) retain a valuation expert to provide an independent valuation, and (b) solicit interest from potential purchasers of the RGC Causes of Action against Rana, Motion and other parties.
2. The Receiver notes that the Sale Mandate and the Investigation Mandate are, at this stage, intertwined because the recommendations outlined herein will further the return of assets to RGC that would otherwise be captured in the Sale Mandate. The Receiver is seeking confirmation that it may use the proceeds of the Trucking Business to pay its fees and expenses in connection with the Investigation Mandate in excess of the

⁷⁸ *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

⁷⁹ Claims will need to be assessed on an entity by entity basis.

\$150,000 previously funded by Paul. As noted above, the Receiver and its legal counsel have incurred approximately \$275,000 through August 31, 2021 and expect that the additional steps set out herein will require funding of approximately \$100,000.

3. While the Receiver currently expects to make distributions to shareholders, if additional claims are identified pursuant to the claims process or the sale proceeds are significantly less than expected, realization on any RGC Causes of Action will be important to creditors of RGC to ensure that the Receiver can maximize amounts available for distribution.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
RGC
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

APPENDIX “A”

[ATTACHED]

CITATION: Randhawa v. Randhawa, 2021 ONSC 3643

COURT FILE NO.: CV-18-593636-00CL

DATE: 20210519

SUPERIOR COURT OF JUSTICE – ONTARIO

(Commercial List)

RE: SWINDERPAL SINGH RANDHAWA

Applicant

AND:

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC.,
and ASR TRANSPORTATION INC.

Respondents

BEFORE: Koehnen J.

COUNSEL: *Aaron Kreaden, Sam Dukesz* for the Applicant

Brian Kolenda, Chris Kinnear Hunter for the Respondents

Christina Bowman for Motion Transport Ltd.

HEARD: March 12, 2021

ENDORSEMENT

[1] The applicant Swinderpal Singh Randhawa and the respondent Rana Partap Singh Randhawa are brothers. They have been involved in a long, acrimonious dispute about the separation of their interests in various businesses that they once ran together. The division of their businesses has been adjudicated on several occasions by Mr. Larry Banack acting as arbitrator. The applicant was referred to as Paul and the respondent as Rana in the factums of the parties and during oral argument. I will use the same names in these reasons.

- [2] Between the two of them, Paul and Rana raised three issues for determination on this motion:
- I. Did the Arbitrator have jurisdiction to appoint an inspector under the *Ontario Business Corporations Act*¹ (the “OBCA”)?
 - II. Should the receiver appointed to sell the remaining business also be empowered to conduct an investigation that the Arbitrator envisaged that the inspector would conduct?
 - III. Who should be appointed as receiver?
- [3] For the reasons set out below, I find that the Arbitrator had jurisdiction to appoint an inspector, the receiver should have investigatory powers and Paul’s proposed receiver should be appointed.

I. Arbitrator’s Jurisdiction to Appoint an inspector

- [4] Rana submits that the Arbitrator had no jurisdiction to appoint an inspector under the OBCA because the statute reserves the power to do so to this court and because the inspector was to have the power to investigate Motion Transport Ltd., a non-party to the arbitration agreement.
- [5] I will first address the Arbitrator’s power to appoint an inspector under the OBCA and then address the implications of the inspector’s power to look into the affairs of Motion.
- [6] Paul commenced an oppression application in March 2018. The application was settled on October 1, 2018 by entering into Minutes of Settlement. The Minutes of Settlement called for the dissolution or sale of the businesses the brothers ran including the trucking business that is the subject of this motion.
- [7] Rana submits that an arbitrator has no power to appoint an inspector because s. 162 (1) of the OBCA provides that “the court may appoint an inspector” and “court” is defined as the Ontario Superior Court of Justice. Rana relies on several authorities for the proposition that an arbitrator has no power to award a statutory remedy like the appointment of an inspector.
- [8] Some confusion has arisen in this area because issues are often conflated and then reduced to a short form statement that an arbitrator has no power to grant a statutory remedy. Rather than resorting to the short form statement that an arbitrator has no power to grant a statutory remedy as Rana submits, I find it more helpful to untangle some of the issues that the cases address. Some of those separate issues include: (i) Whether an arbitrator in principle has

¹ *Ontario Business Corporations Act*, R.S.O. 1990. c. B. 16

the power to grant a statutory remedy; (ii) Whether there are reasons in a particular case that might make it inappropriate for an arbitrator to grant a statutory remedy; (iii) The scope of the particular arbitration clause at issue; and (iv) A judicial concern that a party may be deprived of a remedy if they are limited to arbitration.

- [9] As a starting point, more recent Ontario cases make it clear that statutory remedies, and in particular OBCA remedies, can be pursued through arbitration.²
- [10] The only principled reason for preventing an arbitrator from awarding a statutory remedy that Rana advanced before me was the possibility that statutory remedies might affect persons who are not signatories to the arbitration agreement.
- [11] In this regard Rana submits that an *OBCA* inspector is a court officer with specific rights and responsibilities set out in the statute. These include powers a private arbitrator could never grant including “requiring any person to produce documents or records to the inspector”, “authorizing an inspector to conduct a hearing, administer oaths and examine any person upon oath, and prescribing rules for the conduct of the hearing” and “requiring any person to attend a hearing conducted by an inspector and to give evidence upon oath”.³
- [12] To the extent that the inspector is being asked to exercise its powers vis-à-vis persons who are not party to the arbitration agreement, I agree that an arbitrator has no jurisdiction to empower an inspector to do so. If, however, the powers of the inspector are limited to investigating the signatories to an arbitration agreement, I was given no conceptual reason for which an arbitrator should be precluded from appointing an inspector. Although the OBCA might refer to the court appointing an inspector, the whole principle underlying arbitration is that parties are free to contract out of the court system and submit their disputes to an arbitrator unless precluded by statute or public policy.
- [13] In the case at hand, the Arbitrator recognized that his jurisdiction was limited to the signatories of the arbitration agreement and provided that if the inspector extended his activities beyond signatories to the arbitration agreement, the parties would have to obtain the assistance of the court. Paragraph 3 of his initial *ex parte* order provides:

I HEREBY DECLARE THAT the scope of the investigation requested to be made by the inspector and the appointment and powers of the inspector are to be determined by return motion before me or the Superior Court of Justice (Commercial List) if the inspection could potentially impact the rights of entities who are not parties to the arbitration clause contained in the Minutes and are therefore outside my jurisdiction as Arbitrator.

² *The Campaign for the Inclusion of People who are Deaf and Hard of Hearing v. Canadian Hearing Society*, 2018 ONSC 5445 at para. 58-59; *Blind Spot Holdings Ltd. v. Decast Holdings Inc.*, 2014 ONSC 1760 at para. 28.

³ *Business Corporations Act*, RSO 1990, c B.16, [s 162](#).

- [14] Seeking the court's assistance in those circumstances is a solution that would naturally impose itself in any event. Enforcement of arbitral award depends initially on the agreement of the parties. An arbitral award has no independent compulsory force. To give it compulsory force, the successful party must in any event go to a court to have the award recognized and enforced.
- [15] The arbitration agreement in question is found in paragraph 22 of the Minutes of Settlement between the parties. It provides:
- Paul and Rana each agree that any dispute arising in respect of the completion or implementation of these Minutes of Settlement, then Paul and Rana agree to appoint an arbitrator ... and any such determinations shall be made on a summary basis and be final and binding on the Parties and shall not be subject to appeal.
- [16] Apart from a minor grammatical error, the arbitration clause is clear. Paul and Rana have agreed to submit to an arbitrator "any dispute arising in respect of the completion or implementation of these Minutes of Settlement." The arbitration is not limited to the interpretation of the agreement. It is broader than that and encompasses "any dispute" that arises "in respect of the completion or implementation" of the Minutes of Settlement. The Minutes of Settlement specifically require Rana to provide Paul with information. The Arbitrator found that Rana had failed to do so.
- [17] The Minutes of Settlement impose specific obligations with respect to provision of information. Paragraph three of the Minutes provide:
- Upon the execution of these Minutes of Settlement, the Parties agree to act in good faith to provide each other with financial, operational and any other information that is required to ensure that the events described in these Minutes of Settlement proceed in an open and transparent manner, including, but not limited to, information to allow the Parties to monitor the Trucking Business and Real Estate Business while the steps contemplated by these Minutes of Settlement are being implemented.
- [18] Paragraphs 4-8 set out a process whereby the parties have time to assess the information they receive to determine whether one of them has directly or indirectly obtained an unequal benefit from the trucking business in the period following January 1, 2011. If one party asserts the other has received an unequal benefit and the parties cannot resolve that dispute, the Minutes call for the appointment of an independent accountant or arbitrator to determine the amount of the unequal benefit. The independent accountant or arbitrator is to work with the parties to determine a fair and efficient process for making that determination. If the parties cannot agree on that process, the independent accountant or arbitrator is empowered to determine the process.

- [19] In my view, the Arbitrator's appointment of the inspector was squarely within the powers he was given under the Minutes of Settlement. He was empowered to establish a process to determine any alleged unequal benefit to one of the parties. Doing so was part and parcel of implementing the Minutes of Settlement. He determined that the most efficient way of doing so was to appoint an inspector. He was squarely within his jurisdiction under the Minutes of Settlement to do so.
- [20] Rana relies on *Armstrong v. Northern Eyes Inc.*,⁴ which he submits stands for the proposition that an arbitrator has no power to award a statutory remedy. *Armstrong*, arose in the context of a shareholders' agreement that provided a specific remedy for a departing shareholder. The arbitration clause was contained in the shareholders agreement. In that context, the case is not so much about a conceptual holding that arbitrators have no power to award statutory remedies but can be more closely read as standing for the proposition that in the circumstances of that case, where the parties had contemplated a specific remedy for a departing shareholder, the arbitration agreement did not give the arbitrator the power to go beyond the contractually agreed to remedy. That is far different from saying that an arbitrator has no power to award a remedy under the OBCA, regardless of the circumstances.
- [21] The following extracts from the Divisional Court reasons make this clear:
- [34] It might also be noted that the remedies open to the arbitrator under Article 14 are comparatively close to the remedies available under OBCA s. 248(3)(f). The remedies are operationally identical in the sense that they require the majority to purchase the applicant's shares. What may differ, depending on the view that might be taken by the court in an oppression hearing, is the scope of the methodology used to achieve the valuation. If not completely identical, the remedies are comparatively close.
- [35] Where the essential character of the dispute is subject to arbitration, there is no real deprivation of ultimate remedy so long as the applicant is able to pursue an appropriate remedy through the specialized vehicle of arbitration.
- [36] Such is the case here. The applicant agreed in Article 14 that on leaving the company, he would tender his shares to be redeemed by the company at fair market value to be determined by the company's accountants. The applicant's problem is not that he lacks an appropriate remedy. His problem is that the method of valuation within the remedy to which he agreed may not be as

⁴ *Armstrong v. Northern Eyes Inc.*, 2000 CanLII 29047 (ON SCDC)

potentially advantageous to him as that which might be imposed by a court under the OBCA. There is nothing unequal or unfair, within the meaning of s. 6(3) of the Arbitration Act, in holding the applicant to his agreement. Absent the extraordinary circumstances contemplated by cases such as *Deluce*, the *Weber* principle does not oust the arbitrator simply because the applicant now prefers the potential of a valuation method that might be more advantageous to him than the method to which he agreed.

[22] Put differently, when the arbitrator in *Armstrong* said he had no authority to grant a statutory remedy, he was really saying that the arbitration agreement prescribed the remedies that were available to the parties and, since arbitration is a matter of contract, the arbitrator had no power to go beyond the contractual remedy and provide a statutory remedy.

[23] Next, Rana relies on the decision of Justice Lax in *Pandora Select Partners, LP v. Strategy Real Estate Investments Ltd.*⁵ Like *Armstrong*, *Pandora* is not so much about a general proposition to the effect that an arbitrator has no power to award remedies under the OBCA as it is about: (i) concerns that the applicant would be denied access to an OBCA remedy entirely; and (ii) the interpretation of the particular arbitration clause in that case.

[24] In *Pandora*, investors subscribed for shares in shares an OBCA company. The investors later complained that the OBCA company had not produced audited financial statements as they are required to do by the statute. The subscription agreement provided that it was to be construed with and governed by the laws of the State of New York and that:

Any controversy, claim or dispute arising out of or relating to this Subscription Agreement between the parties hereto, their assignees, their affiliates, their attorneys, or agents, shall be litigated solely in state or Federal Court in New York City....

[25] On the plain wording of the OBCA, a state or federal court in New York is not a “court” for the purposes of the OBCA and may not be entitled to grant OBCA remedies.

[26] At the same time, the subscription agreement contained a conflicting clause which called for any dispute to be resolved “exclusively by arbitration to be conducted in New York, New York in accordance with the rules of the American Arbitration Association.”

⁵ *Pandora Select Partners, LP v. Strategy Real Estate Investments Ltd.*, 2007 CanLII 8026 (ON SC)

[27] In paragraph 15 of her reasons, Justice Lax drew a distinction between the arbitration clause which governed the subscription agreement and the core obligations of the OBCA corporation. On her interpretation of the arbitration agreement, Justice Lax found that the applicants had not contracted out of the right to apply to an Ontario court for relief about the manner in which the underlying corporation was to be governed. In doing so she explained:

[15] The right of shareholders to financial reporting is solely a function of the legal relationship between a corporation and its shareholders under the OBCA. By contrast, the arbitration clause is contained in the Subscription Agreements, the purpose of which was to consummate a commercial transaction. The Subscription Agreements do not purport to apply to the core obligations which SREI has to the Applicants under the OBCA. Rather, they are primarily comprised of terms peculiar to the transaction, namely, representations and warranties between the parties that were intended “to induce” one another “to enter into” the Subscription Agreements, together with various covenants by SREI, including ones relating to compliance with U.S. securities legislation, compliance with laws, the keeping of records and books of account and the status of dividends. This would suggest that the arbitration clause is properly interpreted as applying to issues arising in the context of the transaction contemplated by the Subscription Agreements.

[28] Justice Lax continued in paragraph 16 of her reasons to express a concern that

If the arbitration clause is interpreted as prohibiting the Applicants from seeking judicial enforcement of SREI’s core obligations under the OBCA, this would mean that, merely by agreeing to include the arbitration clause in the Subscription Agreements, the Applicants have absolved SREI of its core financial disclosure obligations. In particular, if the arbitration clause prohibits the Applicants from seeking judicial enforcement of SREI’s core obligations, it is likely the case that there is no forum to which the Applicants can turn to enforce those core obligations, thereby rendering the obligation nugatory. In turn, the arbitration clause would effectively circumvent the statutory requirement of explicit written consent provided by section 148(b) to exempt SREI from its obligations under Part XII of the OBCA. The deprivation of a statutory right is a matter to be considered in determining the scope of an arbitration clause.

- [29] *Pandora* does not express a view that an arbitrator has no power to award OBCA remedies. Rather, it expresses a concern about what might happen in a foreign forum if the arbitral clause were interpreted that way and the concern that a foreign court may not have the power to award OBCA remedies.
- [30] Finally, Rana relies on the decision of the Court of Appeal for British Columbia in *ABOP LLC v. Qtrade Canada Inc.*⁶ The reasons of the motions court judge and of the Court of Appeal suggested that oppression relief was not available in the arbitration in that case. It is not entirely clear though whether this finding was grounded in a legal rule to the effect that statutory remedies are not available in arbitrations or whether it was grounded in the interpretation of the arbitration clause that applied in that case. The arbitration agreement at issue provided that a portion of the dispute was subject to arbitration but another portion of the dispute was not. The Court of Appeal disposed of the issue by holding that it would be for the arbitrator to make all necessary findings of fact. If those findings supported an oppression claim, then the applicant could continue the oppression claim in court based on the arbitrator's findings of fact.
- [31] This is similar to what happened here. The Arbitrator made a finding that the appointment of an inspector was appropriate. He specifically found, however, that Paul would have to go to the courts if the inspector's powers were intended to affect persons that had not signed the arbitration agreement.
- [32] In my view, the Arbitrator acted entirely appropriately and within his jurisdiction in authorizing the investigation and in directing the parties to the court if they wanted to expand the powers of the inspector to affect non-signatories to the arbitration agreement.

II. Should the Receiver Conduct an Investigation?

- [33] The landscape has changed somewhat since this matter was last before the Arbitrator. Both parties now agree that a receiver should be appointed to sell the trucking business. The issue separating them is whether the receiver should have investigatory powers.
- [34] The Arbitrator already determined that an investigation is needed in connection with the sale of the trucking business. Rana submits that I am not entitled to rely on any of the findings the Arbitrator made and must revisit the question of an investigatory receivership from scratch.
- [35] I disagree. Rana's position might have more force if the question before me were whether a receiver should be appointed. That, however, is not in issue. Rana agrees that a receiver should be appointed. The only point of difference is whether there should be an

⁶ *ABOP LLC v. Qtrade Canada Inc.*, 2007 BCCA 290.

investigation. It matters little whether the investigation is conducted by an inspector or by a receiver. The point is whether an investigation should occur. That issue has already been fully canvassed by the Arbitrator in a process that took many months.

- [36] As noted above, even if I were to adopt Rana's view to the effect that the Arbitrator had no jurisdiction to appoint an inspector, the decision of the British Columbia Court of Appeal in *ABOP* holds that the appropriate course of action is for the Arbitrator to make relevant findings of fact and for the court to consider whether the statutory remedy is appropriate on those facts.
- [37] The Arbitrator made ample findings of fact to justify the need for an investigation. The arbitrator has been involved with the parties since 2018. He has issued 12 endorsements or awards relating to the disputes between them. He has in his words "become very familiar with" their business dealings.
- [38] The Arbitrator rendered two decisions in respect of the appointment of an inspector. The first was an *ex parte* order dated July 3, 2020. The matter then returned to the Arbitrator for submissions by Rana. That led to a further decision dated October 26, 2020 which runs to 359 paragraphs. It was based on extensive evidence including eight affidavits and *viva voce* cross-examinations before the Arbitrator, albeit conducted virtually.
- [39] The Arbitrator provided detailed reasons for appointing an inspector which fall into two general categories.
- [40] First, Rana "perpetuated a lack of transparency" in the operation of the trucking business. This included findings of a "lack of good faith in providing financial and operational information required to secure the sale of the Trucking Business." As noted earlier, the Minutes of Settlement required Rana to give Paul information to enable him to monitor the trucking business before the sale. The Arbitrator found that "Rana has failed to comply with his disclosure obligations" under the Minutes of Settlement. Among other things, the Arbitrator noted that it was Rana's obligation to prepare financial statements and that Rana did not do so.
- [41] Second, the Arbitrator made several findings that Rana's own proposed receiver acknowledged would constitute red flags for potential fraud.
- [42] Far from casting any doubt on the *ex parte* order, Rana's participation in the with notice hearing only strengthened the Arbitrator's view about the need for an inspector.
- [43] The Arbitrator made a series of findings surrounding what appeared to be the transfer of at least 12 trucks from the brothers' business to Motion Transport Ltd. It appears that Motion acquired the trucks for the same price at which Rana had sold them, sometimes to third party, a day or two earlier. Motion was run by a good friend of Rana's, Mr. Dhinda. Mr. Dhinda says he was retired. Rana's son worked for Motion. Mr. Dhinda could not explain where Motion got the money to purchase the trucks that formerly belonged to the brothers' business. Moreover, Mr. Dhinda stated that he had no knowledge of Motion's accounting or operational issues because Rana's son "looked after that."

- [44] The need for an investigation is well-founded. Whether it is conducted by an inspector or a receiver does not matter.
- [45] In the hearing before me, Rana resisted the investigatory aspect of the receivership by: taking issue with some of the facts that the Arbitrator found; pointing to the cost of the investigation and by pointing to the delay an investigation will have on the sale. None of these provides a basis for refusing the investigation.
- [46] Rana is entitled to dispute the facts on which the Arbitrator based his order for an investigation. The Arbitrator did not make definitive findings of fact in this regard nor is he entitled to. Indeed, the whole point of appointing an inspector is because facts need to be investigated. The test for the Arbitrator was whether there were sufficient grounds to have concerns about wrongdoing to warrant an investigation. There were more than ample grounds in this regard. Rana also suggested before me that his son was no longer working at Motion. That may or may not be the case but it has nothing to do with the allegations of past misconduct levelled against Rana and his relationship with Motion.
- [47] With respect to the costs of the investigation, Paul has agreed to fund the investigation initially. If it finds wrongdoing, Paul will be compensated for the cost of the investigation out of the proceeds of sale. If it finds no wrongdoing, then the cost will remain for Paul's account.
- [48] With respect to concerns about the delay that the investigation would have on the sale, Rana's own proposed receiver stated that: the investigation could be done expeditiously;⁷ there are synergies to be gained by investigating while advancing the sales process;⁸ and if there is a concern that Rana has not acted in good faith in providing information required to sell the business, it would be prudent "investigate those issues as part of any sale."⁹ The Arbitrator expressly found that concerns about Rana's lack of good faith were valid.¹⁰
- [49] There are also ample grounds for which the Receiver should be entitled to examine the affairs of Motion. I note here that the Receiver would not be making any findings of liability but would merely be conducting a factual investigation. The Receiver does not need to disrupt Motion's business to do so. It is simply a matter of having access to Motion's records which can be easily facilitated by allowing the Receiver to image Motion's computers or other electronic storage devices.
- [50] In *Akagi v. Synergy Group (2000) Inc.*,¹¹ the Ontario Court of Appeal confirmed that the mandate of a receiver appointed under section 101 of the *Courts of Justice Act*¹² can in appropriate cases include an investigation. As Blair J.A. stated:

⁷ Nackan Cross at q. 166.

⁸ Nackan Cross at q. 172.

⁹ Nackan Cross at q. 151.

¹⁰ October Award at para. 293.

¹¹ *Akagi v. Synergy Group (2000) Inc.*, 2015 ONCA 368

¹² *Courts of Justice Act*, RSO 1990, c C.43

Indeed, whether it is labelled an “investigative” receivership or not, there is much to be said in favour of such a tool, in my view – when it is utilized in appropriate circumstances and with appropriate restraints. Clearly, there are situations where the appointment of a receiver to investigate the affairs of a debtor or to review certain transactions – including even, in proper circumstances, the affairs of and transactions concerning related non-parties – will be a proper exercise of the court’s just and convenient authority under section 101 of the Courts of Justice Act.¹³

- [51] In paragraph 98 of *Akagi*, Blair J.A. set out four themes or factors that emerged from the case law surrounding investigative receiverships.
- [52] The first is whether the appointment is necessary to alleviate a risk to the plaintiff’s right to recovery. I am satisfied that this factor has been met. Paul is entitled to 50% of the proceeds of sale. Rana is not entitled to any unequal benefit. There are a series of suspicious circumstances the Arbitrator identified that would, if substantiated, lead to an unequal benefit to Rana.
- [53] The second factor is to determine whether the objective is to gather information and “ascertain the true state of affairs” of the debtor, or a related network of entities. This is the very purpose of an investigatory receiver. The appointment order can define the Receiver’s powers to ensure that they are limited to this purpose. There is also a need to gather information because, as the Arbitrator noted, there is an informational imbalance between the parties. Correcting an informational imbalance is one key reason for appointing an investigative receiver.¹⁴
- [54] The third factor is that the Receiver does not control the debtor’s assets or operate its business, leaving the debtor to carry on its business in a manner consistent with the preservation of its business and property. This factor is of lesser importance here because the Receiver will also be empowered to sell the trucking business. As it relates to Motion, however, it is clear that the Receiver will not be operating Motion’s business but will merely be investigating certain transactions between Motion and the brothers’ trucking business or entities related to them.
- [55] Finally, the receivership should be carefully tailored to what is required to assist in the recovery while protecting the defendant’s interests, and go no further than necessary to achieve these ends. This too can be easily achieved by tailoring the order appropriately.
- [56] There is ample authority to permit an inspector to extend its investigation to non-parties. In connection with the appointment of an inspector, s. 162(1) of the OBCA allows the

¹³ *Akagi* at para. 66

¹⁴ *Akagi* at para 90.

court to make any order it thinks fit including, without limiting the generality of the foregoing:

(d) an order authorizing an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine anything and make copies of any document or record found on the premises;

(e) an order requiring any person to produce documents or records to the inspector;

(f) an order authorizing an inspector to conduct a hearing, administer oaths and examine any person upon oath, and prescribing rules for the conduct of the hearing;

(g) an order requiring any person to attend a hearing conducted by an inspector and to give evidence upon oath;

(h) an order giving directions to an inspector or any interested person on any matter arising in the investigation;

[57] The wording of these provisions makes it clear that an inspector's powers are not restricted merely to the parties to the litigation but extend to all who have relevant information.

[58] Similarly, investigatory receivers have been given powers to include non-parties within the ambit of their investigation,¹⁵ especially where the non-parties were involved in the movement of funds or assets at issue.¹⁶

[59] On the basis of the foregoing, I am satisfied that the receiver should have the investigatory powers Paul seeks.

[60] I am equally satisfied that the investigation should extend to Motion. Motion had the ability to make submissions before the Arbitrator and made submissions before me on this motion. Its submissions on the motion before me consisted of contesting some of the factual findings of the Arbitrator and of general allegations of inconvenience. As noted, however, the fact remained to be determined and all that would be required of Motion is to provide an image of its records to the investigatory receiver. If Motion does not cooperate in that regard, the steps required may be more intrusive. Whether more intrusive steps are required will initially be up to Motion to determine.

¹⁵ *Akagi* at para 90.

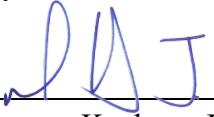
¹⁶ *DeGroot v. DC Entertainment Corp.*, 2013 ONSC 7101 at paras. 58 and 60.

III. Who should be appointed as receiver?

- [61] Paul proposes that the court appoint KSV as Receiver. Rana proposes that A. Farber and Partners Inc. be appointed. I am concerned that Farber may be conflicted based on a prior retainer by Rana. Rana had retained Farber to assist him in the litigation between the parties. Farber's representative acknowledged that this created a potential conflict.
- [62] Given past acrimony I think it is preferable to appoint KSV.

Disposition and Costs

- [63] For the reasons set out above, Paul's motion is granted and KSV will be appointed Receiver over the trucking businesses of the parties.
- [64] A draft order was included with the Caselines materials. If the respondents have any objections to that order they should notify the applicants and me by email within 48 hours. I will then set up a case conference to finalize the form of order.
- [65] Any party seeking costs of the motion may make written submissions by June 1, 2021. Responding submissions should follow by June 8, 2021 with reply due by June 14.



Koehnen J.

Date: May 19, 2021

APPENDIX “B”

[ATTACHED]

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

THE HONOURABLE MISTER)

FRIDAY, THE 4th

JUSTICE KOEHNEN)

DAY OF JUNE, 2021



SWINDERPAL SINGH RANDHAWA

Applicant

- and -

**RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS
ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963
ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR
TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC.,
SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC.,
CONTINENTAL TRUCK SERVICES INC., and ASR
TRANSPORTATION INC.**

Respondents

**AMENDED AND RESTATED ORDER
(appointing Receiver)**

THIS MOTION made by KSV Restructuring Inc. ("**KSV**"), in its capacity as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Respondent corporate entities (collectively, "**RGC**") acquired for, or used in relation to a business carried on by RGC, was heard by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis;

ON READING the Amended Notice of Motion, the Amended Motion Record containing the affidavit of Swinderpal Singh Randhawa ("**Paul**"), sworn June 26, 2020, the affidavit of Don Colbourn, sworn June 26, 2020, the affidavit of Shimshon Dukesz, sworn July 5, 2020, the affidavit of Monica Palko sworn November 11, 2020 and the

affidavit of Paul sworn January 28, 2021 (the "**Motion Record**"), the affidavits of Rana Partap Singh Randhawa ("**Rana**"), sworn January 18, 2021, and February 22, 2021, the affidavit of Allan Nackan sworn February 22, 2021, the affidavit of Baldev Dhindsa, sworn January 18, 2021, the Awards and Arbitral Order of the Arbitrator dated July 3, 2020 and October 26, 2020 granted pursuant to the arbitration clause set out in the Minutes of Settlement dated October 1, 2018 (the "**Minutes**") between Paul and Rana, the Receiver's Motion Record dated May 27, 2021, including the First Report of the Receiver dated May 27, 2021 (the "**Receiver's Motion Record**"), the Receiver's Supplemental Motion Record dated May 31, 2021 (the "**Receiver's Supplemental Motion Record**"), including the Supplement to the First Report of the Receiver dated May 31, 2021 (the "**Supplement to the First Report**"), and the Affidavits of Service of Benjamin Goodis sworn May 27, 2021 and June 1, 2021, respectively, and on hearing the submissions of counsel for Paul, counsel for KSV, counsel for Rana and counsel for Motion Transport Ltd. ("**Motion**):

SERVICE

1. THIS COURT ORDERS that the time for service of the Receiver's Motion Record and the Receiver's Supplemental Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended, KSV is hereby appointed as Receiver, without security, over all of the assets, undertakings and properties of RGC acquired for, or used in relation to a business carried on by RGC, including all proceeds thereof (the "**RGC Property**").

RECEIVER'S MANDATE

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized to: (i) operate and manage RGC and sell the trucking, warehousing and logistics

business that is owned and operated through some or all of the Respondent entities (the “**Trucking Business**”) (the “**Sale Mandate**”); and (ii) investigate and report on any financial and operational issues identified by the Parties, including those identified in the awards of Larry Banack dated July 3, 2020 and October 26, 2020, and any other matters identified during the course of the Receiver’s investigation, in order to ensure that the Trucking Business is being sold in a manner that maximizes the value of that business (the “**Investigation Mandate**”).

4. THIS COURT ORDERS that the Receiver will pursue the Sale Mandate as expeditiously as reasonably possible in order to maximize the value of the Trucking Business on sale, as determined by the Receiver in its sole discretion.

5. THIS COURT ORDERS that the Receiver shall report to the Court on an interim and final basis as to the status of the Investigation Mandate (each, a “**Report**”). Both Paul and Rana shall be provided with a copy of any such Reports. The Reports may be filed under seal if requested by the Receiver or any of the Parties (as defined below), on terms that may be agreed among the Parties or ordered by the Court.

RECEIVER’S POWERS

6. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the RGC 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 RGC Property and any and all proceeds, receipts and disbursements arising out of or from the RGC Property;
- (b) to receive, preserve, and protect the RGC Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of RGC 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 RGC, 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 RGC;
- (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 RGC or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to RGC and to exercise all remedies of RGC in collecting such monies, including, without limitation, to enforce any security held by RGC;
- (g) to settle, extend or compromise any indebtedness owing to RGC;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the RGC Property, whether in the Receiver's name or in the name and on behalf of RGC, 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 RGC, the RGC 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 RGC Property, including advertising and soliciting offers in respect of the RGC 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 RGC 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 \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

(l) to apply for any vesting order or other orders necessary to convey the RGC Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such RGC 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 RGC 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 RGC Property against title to any of the RGC 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 RGC;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of RGC, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by RGC;
- (q) to exercise any shareholder, partnership, joint venture or other rights which RGC may have;
- (r) to enter any premises owned or controlled by Motion and to take any steps the Receiver deems necessary to examine and preserve any and all of Motion's information, documents, records and electronic data, including but not limited to information relating to Motion's accounts or finance activities at any financial institution, with any trade creditor or with any other party; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons

(as defined below), including RGC and Motion, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

7. THIS COURT ORDERS that (i) Paul, Rana and Baldev Dhinsda ("**Baldev**"); (ii) Motion and RGC; (iii) all of Motion's and RGC's current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iv) 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 RGC Property or Motion Property in such Person's possession or control, shall grant immediate and continued access to any such RGC Property or Motion Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

8. 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 RGC or Motion, 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 8 or in paragraph 9 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 any privilege attaching to the Record or due to statutory provisions prohibiting such disclosure.

9. 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.

10. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords of RGC 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

11. 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 RGC OR THE RGC PROPERTY

12. THIS COURT ORDERS that no Proceeding against or in respect of RGC or the RGC 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 RGC or the RGC Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

13. THIS COURT ORDERS that all rights and remedies against RGC, the Receiver, or affecting the RGC 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 *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), and further provided that nothing in this paragraph shall (i) empower the Receiver or RGC to carry on any business which RGC is not lawfully entitled to carry on, (ii) exempt the Receiver or RGC 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

14. 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 RGC, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

15. THIS COURT ORDERS that all Persons having oral or written agreements with RGC 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 RGC 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 RGC'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 RGC 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

16. 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 RGC 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

17. THIS COURT ORDERS that all employees of RGC shall remain the employees of RGC until such time as the Receiver, on RGC'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

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

19. 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 RGC Property or the Motion 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 RGC Property or the Motion Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

20. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and

except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

21. 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 RGC 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 RGC 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.

22. THIS COURT ORDERS that the Receiver and its legal counsel shall pass their 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.

23. 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.

24. THIS COURT ORDERS that the fees and disbursements of the Receiver and its counsel shall be funded first by RGC, or if RGC does not have sufficient funds, by or on behalf of Paul and Rana equally in respect of the Sale Mandate, which amount will be repaid from the proceeds of the sale of the RGC Property. The whole of the RGC

Property shall be and hereby is charged by way of a fixed and specific charge (the "**Funding Charge**") as security for the payment of any monies advanced by or on behalf of Paul and/or Rana to fund the Sale Mandate, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, save for the Receiver's Charge and subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

25. THIS COURT ORDERS that to the extent that the Receiver concludes that funds are required for the continued operation of the Trucking Business to maximize the value to be realized as part of the Sale Mandate, the Receiver shall offer both Paul and Rana the opportunity to lend funds to the Receiver on equivalent terms, and upon such offer being made and accepted by Paul, Rana, or Paul and Rana jointly, is hereby empowered to borrow from Paul, Rana, or Paul and Rana jointly (or if none of them agree, from a third party) by way of 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 \$250,000 (or such greater amount as this Court may by further Order authorize on terms, including an appropriate rate or rates of interest, that reflect the full degree of risk to the lender(s) associated with such lending) 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 "**Operations 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, save for the Receiver's Charge, the Funding Charge and subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA. For greater certainty, nothing in this Order shall require Rana or Paul to advance funds to the Receiver, RGC or any other person to fund the operations of the Trucking Business.

26. THIS COURT ORDERS that neither the Funding Charge, the Operations 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.

27. 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, whether pursuant to the Funding Charge described in paragraph 24 above, or under the Operations Charge described in paragraph 25 above.

28. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to the Funding Charge and any and all Receiver's Certificates evidencing the same shall rank in priority to monies from time to time borrowed by the Receiver pursuant to the Operations Charge and any and all Receiver's Certificates evidencing the same, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

29. Paul will post \$100,000 with the Receiver, which shall be used to fund the initial fees and expenses of the Receiver and its counsel in respect of the Investigation Mandate. To the extent the \$100,000 is exhausted by the Receiver and its counsel, Paul will continue to post additional funds, in increments of \$25,000, to fund the fees and expenses of the Receiver and its counsel in respect of the Investigation Mandate until such time as the Investigation Mandate is completed or the Court orders otherwise.

30. Both Paul and Rana reserve their rights to claim at any time for a revised allocation of any past or future fees and disbursements paid to the Receiver or its counsel, or any other amounts ordered to be paid in connection with these proceedings and the proceedings before the Arbitrator, based on the interim and/or final results of the Sale Mandate and the Investigation Mandate. To this end, the Receiver shall hold in escrow all proceeds from the sale of the Trucking Business that are otherwise to be distributed to Paul or Rana pursuant to the October Minutes or otherwise until the issue of the allocation of costs has been resolved or further order of the court. For the avoidance of doubt, subject to further order of the Court, the Receiver may use the

proceeds of the sale of the Trucking Business to fund the costs of the receivership as set out in this order, including the fees and expenses of the Receiver and its counsel.

SERVICE AND NOTICE

31. 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 ‘<<https://www.ksvadvisory.com/insolvency-cases/case/rgc>>’.

32. 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 RGC’s creditors or other interested parties at their respective addresses as last shown on the records of RGC 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.

SEALING

33. THIS COURT ORDERS AND DECLARES that Confidential Appendix “1” to the Supplement to the First Report be and is hereby sealed and shall be treated as confidential until further order of this Court.

GENERAL

34. 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.

35. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of RGC or of Motion.

36. 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.

37. 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.

38. 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.

PLJ

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver (the "Receiver") of the assets, undertakings and properties of the corporate entities listed on Schedule "A" hereto (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 26th day of May, 2021 (the "Order") made in an action having Court file number CV-18-593636-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses. For the avoidance of doubt, the amounts borrowed under this certificate shall have the benefit of the [Funding Charge / Operations Charge] set out in the Order.

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. Other than as set out in the Order with respect to priority of monies borrowed pursuant to Receiver Certificates, and any other Order of the Court, 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__.

KSV RESTRUCTURING INC., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

Schedule "A" to Receiver Certificate

Debtors:

1. PROEX LOGISTICS INC.;
2. GURU LOGISTICS INC.;
3. 1542300 ONTARIO INC. (OPERATED AS ASR TRANSPORTATION);
4. 2221589 ONTARIO INC.;
5. 2435963 ONTARIO INC.;
6. NOOR RANDHAWA CORP.;
7. SUPERSTAR TRANSPORT LTD.;
8. R.S. INTERNATIONAL CARRIERS INC.;
9. SUBEET CARRIERS INC.;
10. SUPERSTAR LOGISTICS INC.;
11. CONTINENTAL TRUCK SERVICES INC.; and
12. ASR TRANSPORTATION INC.

SWINDERPAL SINGH RANDHAWA
Applicant

and

RANA PARTAP SINGH RANDHAWA, et al.
Respondents

Court File No.: CV-18-593636-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**AMENDED AND RESTATED ORDER
(APPOINTING RECEIVER)**

CASSELS BROCK & BLACKWELL LLP

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Lawyers for KSV Restructuring Inc. in its capacity as
Receiver

APPENDIX “E”
[ATTACHED]

Court File No. CV-18-593636-00CL

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

BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

- and -

**RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC.,
and ASR TRANSPORTATION INC.**

Respondents

APPLICATION UNDER SECTIONS 161, 207 AND 241 OF THE *BUSINESS
CORPORATIONS ACT*, R.S.O. 1990, c. B.16 AS AMENDED AND SECTIONS 35 AND 39 OF
THE *PARTNERSHIPS ACT*, RSO 1990, c P.5

MINUTES OF SETTLEMENT

WHEREAS on March 9th, 2018, the Applicant, Swinderpal Singh Randhawa ("**Paul**"), commenced the within Application seeking an Order that, among other things, recognized his 50% interest, beneficial or otherwise, in each of the Respondents, ProEx Logistics Inc. ("**ProEx**"), Guru Logistics Inc. ("**Guru**"), 1542300 Ontario Inc. (operated as ASR Transportation) ("**ASR**"), 2221589 Ontario Inc. ("**222**"), 2435963 Ontario Inc. ("**243**"), Noor Randhawa Corp. ("**Noor**"), Superstar Transport Ltd. ("**STL**"), R.S. International Carriers Inc. ("**R.S.**"), Subeet Carriers Inc. ("**Subeet**"), Superstar Logistics Inc. ("**SLI**"), Continental Truck Services Inc. ("**Continental**") and ASR Transportation Inc. ("**ASR Inc.**") (collectively, "**RGC**");

AND WHEREAS the Application also sought various relief relating to the nature of the business relationship between Paul and the Respondent, Rana Partap Singh Randhawa

("Rana"), including, but not limited to, declarations that Paul and Rana owned and operated RGC together as partners and/or 50-50 shareholders;

AND WHEREAS Paul and Rana (the "**Parties**") have agreed to resolve the issues raised in the Application in accordance with the terms set out in these Minutes of Settlement;

AND WHEREAS the principle underlying these Minutes of Settlement is the recognition of the settlement agreement reached by Paul and Rana providing that they each own a 50% interest in each of: i) the trucking, warehousing and logistics business that is owned and operated by Paul and Rana through some or all of ProEx, Guru, ASR, STL, Subeet, R.S., SLI, Continental, ASR Inc. (the "**Trucking Business**") and any other entities that Paul and Rana used to carry out the Trucking Business, including, but not limited to, ASR Warehousing and Logistics Inc.; and ii) the real estate business in respect of the Properties (as defined below) that is owned and operated by Paul and Rana through some or all of 222, Noor and 243 (the "**Real Estate Business**"), and any other entities that Paul and Rana used to carry out the Real Estate Business;

AND WHEREAS Paul and Rana agree that these Minutes of Settlement shall be interpreted in accordance with this underlying principle that they each own a 50% interest in the Trucking Business and the Real Estate Business and each share equally in all of the liabilities incurred in the ordinary course of the operation of the Trucking Business and the Real Estate Business as owners, directors or directing minds, as the case may be;

AND WHEREAS Paul and Rana represent that they each have acted in good faith and, where documents were required to be produced in respect to certain issues specified in these Minutes of Settlement, they have each produced all relevant documents, records and information in their possession or control that they believe relate to such issues, and "document" shall have the meaning as defined in rule 30.01 of the Rules of Civil Procedure;

AND WHEREAS Paul and Rana should have contributed equal approximate amounts of capital and moneys to the entities that comprise the Trucking Business and the Real Estate Business, both directly and indirectly, including through contributions of capital

and moneys made by their respective family members and any Affiliated parties, as defined in the *Business Corporations Act* (Ontario), RSO 1990, c B.16 ("**Affiliated Parties**");

AND WHEREAS Paul and Rana should have received, directly or indirectly, including through their respective family members or Affiliated Parties, equal distributions from the entities that comprise the Trucking Business and the Real Estate Business, including in terms of salary, dividends or other distributions;

AND WHEREAS to the extent that Paul or Rana directly or indirectly received an unequal distribution(s) that was subsequently used for the joint benefit of Paul and Rana (or their respective families or affiliated parties), such distributions shall be deemed to be treated as an equal distribution in proportion to the extent that it was used for the equal benefit of Paul and Rana;

AND WHEREAS the value of the services provided to the Trucking Business and the Real Estate Business by Paul and Rana (and their respective families) shall be assumed to be equal for the purpose of these Minutes of Settlement;

AND WHEREAS these Minutes of Settlement are designed to achieve an orderly sale of the Real Estate Business and the Trucking Business with the proceeds from such sales to be distributed to Paul and Rana in accordance with these Minutes of Settlement;

AND WHEREAS to achieve an orderly sale of the Real Estate Business and the Trucking Business as aforesaid, Paul and Rana (and their respective families) agree that these Minutes of Settlement and all transactions contemplated herein shall be kept confidential and not disclosed to any third parties except as required to perform the terms of these Minutes of Settlement and to achieve the best possible sale prices for the Real Estate Business and the Trucking Business in accordance with these Minutes of Settlement;

NOW THEREFORE in consideration of the terms of these Minutes of Settlement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Paul and Rana hereby agree, both in their personal capacities and in their capacity as the directing minds of each of the RGC entities that were named in the Application, hereby agree as follows:

1. For the purpose of these Minutes of Settlement, the recitals are true and form part of these Minutes of Settlement.
2. Within 3 days following the execution of these Minutes of Settlement, the Parties shall execute: i) the mutual release that is attached as **Schedule "A"** to these Minutes of Settlement; and ii) the consent to an order dismissing the Application without costs that is attached as **Schedule "B"** to these Minutes of Settlement, which mutual release and consent are to be held in escrow by the Parties' respective legal counsel pending the completion of all steps contemplated in these Minutes of Settlement.
3. Upon the execution of these Minutes of Settlement, the Parties agree to act in good faith to provide each other with financial, operational and any other information that is required to ensure that the events described in these Minutes of Settlement proceed in an open and transparent manner, including, but not limited to, information to allow the Parties to monitor the Trucking Business and Real Estate Business while the steps contemplated by these Minutes of Settlement are being implemented. Any information to be exchanged pursuant to this paragraph shall be directed through written requests to be made by and to (as the case may be) the Parties' respective counsel. If the Parties dispute the relevance of the information requested in this section, they will work together in good faith, through counsel, to resolve the disagreement in a mutually agreeable manner. All information to be provided pursuant to this paragraph shall be provided forthwith unless the information is not readily available, in which case the Party to provide the information will advise in writing that the information is not readily available and will use best efforts to provide it as expeditiously as possible.
4. Paul, on the one hand, and Rana, on the other hand, shall each have a period of 30 days following the execution of these Minutes of Settlement (the "**Initial Review Period**") to review all information concerning RGC, the Trucking Business and the Real Estate Business in the possession or control of the Parties for the purpose of assessing whether the other (directly or indirectly) obtained an unequal benefit from either the Trucking Business or the Real Estate Business, or both, in the period

following January 1, 2011 arising from any of the transactions described in paragraphs 9(a), (b) and (c) below (an “**Unequal Benefit**”).

5. Within 20 days following the end of the Initial Review Period, the Parties shall exchange information requests in writing concerning events or circumstances regarding any suspected Unequal Benefit that may have benefited Paul or Rana (as the case may be), or their respective families or any Affiliated parties (the “**Information Requests**”).
6. Within 20 days following the exchange of the Information Requests, the Parties shall provide a written response that, for each alleged Unequal Benefit, either: i) acknowledges the existence of the Unequal Benefit; or ii) provides a basis for disputing the existence of the Unequal Benefit, together with all evidence in support of that position (the “**Responses to Information Requests**”).
7. [Intentionally Deleted]
8. Unless the steps contemplated in paragraphs 4, 5 and 6 result in an agreement between Paul and Rana on the aggregate amount of all Unequal Benefits, if any, favouring Paul or Rana (the “**Aggregate Unequal Benefit**”), then the Parties shall meet and confer within 20 days following the delivery of the Responses to Information Requests (the “**Preliminary Meeting**”) for the purpose of determining whether they can reach an agreement on the determination of the Aggregate Unequal Benefit, if any. If the Parties are unable to reach an agreement at the Preliminary Meeting, they will attend at a mediation before a mediator to be funded on a joint basis to try to reach an agreement on any Aggregate Unequal Benefit. If mediation is unsuccessful, the Parties shall appoint a nationally recognized independent accounting firm (the “**Independent Accountant**”) to determine the Aggregate Unequal Benefit, if any, but if the Parties are unable to agree on the appointment of an Independent Accountant, an Arbitrator shall determine the Aggregate Unequal Benefit, if any, pursuant to the terms of these Minutes of Settlement.

9. The Independent Accountant or Arbitrator, as the case may be, shall work with the Parties to determine a fair and efficient process for making the determinations set out below in this paragraph 9. If the Parties are unable to agree on a process, the process shall be directed by the Independent Accountant or Arbitrator, which, in his or her discretion, allows him or her to fairly:

a) Determine the amounts that were paid or contributed by Paul, directly or indirectly, including through his respective family members, or Affiliated Parties, into the Trucking Business and the Real Estate Business in the period commencing on January 1, 2011 and the amounts that were paid or contributed by Rana, directly or indirectly, including through his respective family members or Affiliated Parties, into the Trucking Business and the Real Estate Business in the period commencing on January 1, 2011, provided that the amounts for determination shall also include any contributions to the purchase and equity of the Sismet Road property notwithstanding that they occurred prior to January 1, 2011 (the “**Contributions**”);

i. For greater clarity and to narrow the issues for which an Unequal Benefit may be asserted, the Parties agree as follows:

1. The only claim for an Unequal Benefit that may be asserted in respect of the Real Estate Business is a claim by Rana deriving from his assertion that he personally contributed more monies than Paul contributed (i.e., up to a maximum of \$500,000) to the purchase of the property known municipally as 1725 Sismet Road, Mississauga, Ontario (the “**Sismet Property**”) and that Paul did not contribute any funds personally to the purchase of the Sismet Property. For example, if the Parties agree or the Arbitrator accepts, Rana’s position that he made an unmatched personal contribution in the amount of \$500,000, this would correspond to approximately 15.385% of the \$3.25 million purchase price of the Sismet Property. On this basis, Rana reserves his right, based on the documents included at

Schedule "C" to these Minutes of Settlement, to assert that he is entitled to a credit in the Aggregate Unequal Benefit Analysis in the amount of \$953,870, being an amount that is 15.385% of the \$6.2 million in proceeds that were generated from the sale of the Sismet Property. Rana further reserves his right to assert any similar argument in the event that the Parties agree or the Arbitrator determines, that Rana made an unmatched personal contribution in an amount that is less than \$500,000.

2. The Parties acknowledge that Paul rejects Rana's assertion regarding his unequal contribution to the Sismet Property and that Paul reserves all rights to argue that he and Rana both made equal monetary contributions to the purchase of the Sismet Property based on the documents attached hereto as **Schedule "D"**.
3. The Parties further acknowledge that the Parties have relied on the particulars of sub-paragraphs 9(a)(i) 1 and 9(a)(i) 2 above as being accurate as a condition to agreeing to these Minutes of Settlement and accordingly the Parties represent that they have acted in good faith in attempting to disclose the full extent of their personal contributions to the Sismet Property.
4. While the Parties shall not be prevented from relying on documents not disclosed in Schedule C or Schedule D to these Minutes of Settlement in support of their positions with respect to the Sismet Property, the Party or Parties seeking to do so bears the onus to justify in writing with supporting evidence why: (a) such documentation was not disclosed in Schedule C or Schedule D to these Minutes of Settlement; (b) the omission was made in good faith and the result of inadvertence; and (c) in the event this issue must be resolved before the Arbitrator, the Arbitrator shall only give credit for an undisclosed personal

contribution supported by a previously undisclosed document if he or she is satisfied that doing so is fair as between the Parties and consistent with the principles set out in these Minutes of Settlement. Nothing in this sub-paragraph or these Minutes of Settlement more generally shall allow Rana to rely upon unmatched personal contributions totalling more than \$500,000 or allow Paul to claim an Unequal Benefit in respect of the Sismet Property.

5. The Parties hereby acknowledge that the only claim for an Unequal Benefit that will be asserted in respect of the Real Estate Business is the claim by Rana described in paragraph 9(a)(i)(1) above and that no claim for an Unequal Benefit will be asserted by either Party in respect of the other Properties, as described in paragraph 11 below.
 - b) Determine the amounts, in cash or otherwise, that were paid into or out of the Trucking Business and the Real Estate Business at the cost of or for the benefit of each of Rana and Paul, directly or indirectly, including through their respective family members, agents, friends or Affiliated Parties in the period following January 1, 2011 (the "**Personal Payments**");
 - c) Determine the existence and amounts, if any, of any transactions, in cash or otherwise, made outside of the ordinary course of the Trucking Business and the Real Estate Business in the period following January 1, 2011 and the extent to which these Other Transactions were made for the benefit of Rana or Paul, directly or indirectly, including through their respective family members, agents, friends or Affiliated Parties ("**Other Transactions**"). For greater certainty, the acquisition or purchase of all real or personal property located in India, as identified in the list of properties attached as **Schedule "E"** to these Minutes of Settlement (the "**India Properties**"), held individually or jointly by or for the benefit of Rana and Paul shall be included in Other

Transactions, subject to the following guidelines, which are intended to simplify any dispute in this regard:

- i. The Parties acknowledge that they have each disclosed what they allege to be the amount of their personal contributions to the India Properties, with Paul disclosing his alleged personal contributions in the email from A. Kreaden to D. Mende, dated September 14, 2018 at 5:31 p.m., and Rana disclosing his alleged personal contributions in the email from N. Petkov to A. Kreaden dated September 17, 2018 at 10:35 p.m. (together, the "Emails"). Copies of the Emails are attached hereto as **Schedule "F"**.
- ii. The Parties agree that they reserve their rights to challenge each other's respective positions on this issue for the purpose of claiming an Unequal Benefit.
- iii. The Parties further acknowledge that they have relied on the content of the respective Emails as being accurate as a condition to agreeing to these Minutes of Settlement and accordingly the Parties each agree and represent that they have acted in good faith in attempting to disclose the full extent of their personal contributions to the India Properties in the respective Emails.
- iv. While the Parties shall not be prevented from asserting that they made some other personal contribution to the India Properties that was not disclosed in the Emails, in order to do so, the Party or Parties seeking to do so bears the onus to justify in writing with supporting evidence why: (a) that contribution was not disclosed in the Emails; (b) the omission was made in good faith and the result of inadvertence; and (c) in the event this issue must be resolved before the Arbitrator, the Arbitrator shall only give credit for an undisclosed personal contribution if he or she is satisfied that doing so is fair as between the

Parties and consistent with the principles set out in these Minutes of Settlement.

- d) Pursuant to the principles set forth in these Minutes of Settlement, determine the sum of the Contributions, Personal Payments and Other Transactions that are attributed to each of Paul and Rana, directly or indirectly, including through their respective family members, agents, friends or Affiliated Parties, and the Aggregate Unequal Benefit, if any;
- e) Be paid jointly by Paul and Rana, but shall also have the ability to determine and award these costs, and any other costs associated with the process contemplated in this paragraph 9 of these Minutes of Settlement, to either Party based on the principles set out in rule 57.01 of Ontario's *Rules of Civil Procedure*, subject to the modification that the Arbitrator and/or Independent Accountant is encouraged to award full indemnity costs for any alleged Unequal Benefit that is asserted without reasonable corroborating documentary evidence;

Broker for the Sale of Trucking Business

10. Within 14 days following the execution of these Minutes of Settlement, Paul and Rana shall each provide a list of 3 proposed brokers and/or investment bankers with experience in the purchase and sale of trucking or related businesses to be considered to assist with the marketing and sale of the Trucking Business, following which the Parties shall, acting in good faith and in a commercially reasonable manner, use best efforts to agree on the appointment of one or more brokers and/or investment bankers (the "**Banker**"). If the Parties are unable to reach an agreement in this regard, the Banker shall be chosen by an Arbitrator pursuant to paragraph 22 of these Minutes of Settlement. Paul and Rana shall at all times act in a commercially reasonable manner in consulting with the Banker in connection with all offers received for the purpose of completing a sale of the Trucking Business as contemplated in these Minutes of Settlement.

Listing Broker for the Sale of Real Estate Assets

11. Within 14 days following the execution of these Minutes of Settlement, Paul and Rana shall, acting in good faith and in a commercially reasonable manner, use best efforts to agree on the appointment of a listing broker or brokers or if no such agreement can be reached, then the listing broker shall be appointed by an Arbitrator pursuant to paragraph 22 (the "**Listing Broker**") for the purpose of marketing and selling all of the following properties at their fair market values:

- a) The property municipally known as 7456 McLean Road West, Puslinch, Ontario;
- b) The property municipally known as Concession 7, Rear Pt Lot 25 RP, 61R7239 Parts 1 & 2, Puslinch, Ontario; and
- c) The property municipally known as Lot 2 Royal Windsor Drive, Oakville, Ontario L6J 4ZS.

(collectively, the "**Properties**" and each a "**Property**")

12. Paul and Rana shall at all times act in a commercially reasonable manner in consulting with the Listing Broker in connection with all offers received and for the purpose of completing sales of the Properties as contemplated in these Minutes of Settlement.

Sale of the Trucking Business

13. The Parties shall use commercially reasonable efforts to work with the Banker with a view to selling the Trucking Business at its fair market value and in a manner that is as tax efficient as is reasonably possible, which sale process shall proceed in parallel to the process relating to the resolution of any Unequal Benefits that is contemplated above.
14. The Banker shall only solicit and consider offers from a *bona fide* third party at arm's length to any of Paul, Rana, their family members and any Affiliate thereof (the

“Third Party”) that offers to purchase all of the Trucking Business for cash on commercially reasonable terms and conditions (a “Trucking Offer”).

15. If the Banker receives and recommends a Trucking Offer from a Third Party (a “Recommended Trucking Offer”), within 5 months of the date the Banker is appointed, that complies with the third party sale principles set forth in paragraph 20 (the “Third Party Sale Principles”) and:
 - a) both Parties reject such Recommended Trucking Offer, then the Parties shall not proceed with such Recommended Trucking Offer; or
 - b) both Parties accept the Recommended Trucking Offer, then the Parties shall use commercially reasonable efforts to complete the sale of the Trucking Business in accordance with the Recommended Trucking Offer;
16. If no Recommended Trucking Offer is received, or no Recommended Trucking Offer is accepted by the Parties within 5 months of the date the Banker is appointed, the Parties shall have 30 days to meet and confer and use best efforts to agree on how to proceed. In the absence of an agreement, the Parties shall proceed with the orderly liquidation of the Trucking Business in a manner that maximizes the Parties’ joint interest in profiting from any such liquidation, with the liquidated proceeds to be split equally amongst the Parties, subject to any Unequal Benefits. If the Parties are unable to agree on a process for conducting the liquidation contemplated in this paragraph, they shall appoint a mediator upon the conclusion of the 30 day period to assist them in agreeing to a liquidation process that is fair and reasonable to both Parties.

Sale of the Real Estate Business

17. The Parties shall use commercially reasonable efforts to work with the Listing Broker with a view to selling the Properties that comprise the Real Estate Business at fair market value and in a manner that is as tax efficient as is reasonably possible, which sale process shall proceed in parallel to the process relating to the resolution of any Unequal Benefits that is contemplated above.

18. The Listing Broker shall only solicit and consider offers from a Third Party that offers to purchase one or more of the Properties for cash on commercially reasonable terms and conditions (a “**Real Estate Offer**”).
19. If the Listing Broker receives a Real Estate Offer from a Third Party that complies with the Third Party Sale Principles and that the Listing Broker recommends to the Parties (a “**Recommended Real Estate Offer**”) and:
 - a) both Parties reject such Recommended Real Estate Offer, then the Parties shall not proceed with such Recommended Real Estate Offer; or
 - b) both Parties accept the Recommended Real Estate Offer, then the Parties shall use commercially reasonable efforts to complete the sale of the Property or Properties in accordance with the Recommended Real Estate Offer; or
 - c) one Party accepts the Recommended Real Estate Offer and another Party rejects the Recommended Real Estate Offer, then the Party rejecting the Recommended Real Estate Offer shall, at the rejecting Party’s option, proceed with any of the following alternatives:
 - i. purchase the Property or Properties that is the subject of a Recommended Real Estate Offer on the terms of the Recommended Real Estate Offer and in accordance with the buyout principles set out in paragraph 21 below (the “**Buyout Principles**”);
 - ii. purchase the shares of the other Party in the relevant RGC entity or entities owning and operating the Property or Properties that is the subject matter of the Recommended Real Estate Offer for their fair market value based on the terms of the Recommended Real Estate Offer (which, failing agreement of the Parties, shall be determined by the Arbitrator), on terms equivalent to the Recommended Real Estate Offer and in accordance with the Buyout Principles; or

- iii. challenge the Recommended Real Estate Offer in accordance with the following procedure:
1. within 48 hours of being advised in writing that the other Party wishes to accept the Recommended Real Estate Offer, the Party who does not wish to accept it shall provide in writing the reason or reason why the Recommended Real Estate Offer should not be accepted, which notice shall include all supporting evidence in support of its position (the "**Moving Submissions**");
 2. if the other Party still desires to accept the Recommended Real Estate Offer, he shall be permitted, but not required, to provide responding submissions within 24 hours of receipt of the Moving Submissions (the "**Responding Submissions**");
 3. Following the delivery of the Responding Submissions (if any), the Arbitrator shall act as quickly as possible to either: (a) determine whether he or she is able to make a determination on whether the Recommended Real Estate Offer ought to be accepted based on the goals of these Minutes of Settlement, in which case the Arbitrator shall make that determination; or (b) advise the Parties that a hearing is required to determine whether the Real Estate Offer ought to be accepted based on the goals of these Minutes of Settlement, which hearing will be confined to the submissions of counsel for the Parties and may be held by teleconference or in person, as directed by the Arbitrator;
 4. If the Arbitrator finds that the Recommended Real Estate Offer is in keeping with the goals of these Minutes of Settlement and ought to be accepted, the sale shall proceed. If the Arbitrator finds that the Recommended Real Estate Offer is not in keeping

with the goals of these Minutes of Settlement and should not be accepted, the sale shall not proceed.

Third Party Sale Principles

20. A transaction involving a sale of all or part of the Real Estate Business or all of the Trucking Business to a Third Party shall comply with the following principles:
- a) the purchase and sale shall be on commercially reasonable terms for a transaction of such nature, and will be to an arm's length party that is not Affiliated with either of the Parties;
 - b) the proceeds from the sale of any item sold pursuant to these Minutes of Settlement shall be split equally between the Parties after first accounting for any Aggregate Unequal Benefit;
 - c) the terms shall not personally favour or detriment one Party over the other in any material respect unless there is a commercially reasonable reason for same, it being understood that an offer in respect of the Trucking Business may contain a requirement that either Paul or Rana or both provide transitional services for a period post-closing on commercially reasonable terms;
 - d) to the extent that either Paul or Rana has given a personal guarantee in respect of, and for the benefit of, the sold business, the sale shall require that such personal guarantee be discharged on or before closing;
 - e) if the purchase and sale involves the sale of assets, then the RGC entity or entities that receive the proceeds of sale shall thereafter be wound up and dissolved and:
 - i. a Party entitled to an equalization payment on account of an Aggregate Unequal Benefit shall receive distributions from the wind up to satisfy same; and

- ii. once the Aggregate Unequal Benefit is satisfied, remaining assets shall be distributed equally between Rana and Paul;
- f) if the purchase and sale involves the sale of shares, then:
 - i. a Party entitled to an equalization payment on account of an Aggregate Unequal Benefit shall receive proceeds from the sale to satisfy same; and
 - ii. once the Aggregate Unequal Benefit is satisfied, then the remaining proceeds shall be allocated equally between Rana and Paul; and
- g) in the event that the Aggregate Unequal Benefit has not been determined at the time of sale, proceeds from the sale or distribution requisite to satisfy the reasonable positions of the Parties claiming an Aggregate Unequal Benefit at such time shall be held in escrow by the Arbitrator pending resolution of the Aggregate Unequal Benefit.

Buyout Principles

21. A transaction involving a purchase by one Party (the "**Purchaser**") of all or part of the Real Estate Business from the other Party (the "**Vendor**") shall comply with the following principles:
- a) The Vendor and his family shall resign from any positions with any company that is sold in a sale of the Real Estate Business (a "**Sold Company**") or sold Property, and there shall be no obligation to pay any termination or severance thereto;
 - b) To the extent that the Vendor has given a personal guarantee in respect of, and for the benefit of, any Sold Company or sold Property, the sale shall require that such guarantee be discharged on or before closing;
 - c) If the Vendor, his family or any Affiliate thereof owes the Sold Company or sold Property any amounts which have not been considered in the Aggregate

Unequal Benefit determination, then such amounts shall be paid on or prior to closing;

- d) If the purchase and sale involves the sale of the Property, then
- i. the RGC entity or entities shall sell the Property free and clear of any encumbrances or rights of others; and
 - ii. the RGC entity or entities that receive the proceeds of sale shall thereafter be wound up and dissolved and:
 1. a Party entitled to an equalization payment on account of an Aggregate Unequal Benefit shall receive distributions from the wind up to satisfy same; and
 2. once the Aggregate Unequal Benefit is satisfied, remaining assets shall be distributed equally between Rana and Paul;
 - iii. Each of Paul and Rana shall indemnify the other for any damages, losses, costs, and expenses suffered or incurred in respect of any bona fide third party claim concerning such sold RGC entity or entities, provided such was incurred in the ordinary course of the operation of that RGC entity or entities, on the basis that each agree that they share equally in all of the liabilities incurred in the ordinary course of the operation of the Real Estate Business as owners, directors or directing minds, as the case may be;
 - iv. The purchase and sale shall include such terms and documentation as may be reasonably requested by Paul or Rana for a transaction of this nature;
- e) If the purchase and sale involves the sale of shares of the Sold Company, then:
- i. the Vendor shall sell shares free and clear of any and all encumbrances or rights of others;

- ii. a Party entitled to an equalization payment on account of an Aggregate Unequal Benefit shall receive a credit on the purchase price proceeds reflecting such Aggregate Unequal Benefit;
 - iii. the Vendor shall indemnify the Purchaser and the Sold Company or Sold Companies for any damages, losses, costs and expenses suffered or incurred by the Sold Company or Companies in respect of any bona fide third party claim against such Sold Company or Companies entity or entities pertaining to facts, matters or circumstances arising as a result of any fraud or wilful misconduct of the Vendor; and
 - iv. the Vendor shall indemnify the Purchaser and the Sold Company or Companies for 50% of any damages, costs or expenses suffered or incurred by the Sold Company or Companies in respect of any bona fide third party claim against such Sold Company or Companies pertaining to facts, matters or circumstances arising prior to the closing, save for any fraud or wilful misconduct of the Purchaser.; and
 - v. the purchase and sale shall include such terms and documentation as may be reasonably requested by the Purchaser or the Vendor for a transaction of this nature.
- f) In the event that the Aggregate Unequal Benefit has not be determined at the time of sale, then proceeds from the sale or distribution requisite to satisfy the reasonable positions of the Parties claiming an Aggregate Unequal Benefit at such time shall be held in escrow pending resolution of the Aggregate Unequal Benefit.

Miscellaneous

22. Paul and Rana each agree that any dispute arising in respect of the completion or implementation of these Minutes of Settlement, then Paul and Rana agree to appoint an arbitrator from among the resident or member arbitrators associated with Arbitration Place in Toronto or alternatively any other person who is a retired judge

- of the Ontario Superior Court of Justice or Ontario Court of Appeal (the “**Arbitrator**”) to determine any such dispute acting as arbitrator pursuant to the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17 and any such determinations shall be made on a summary basis and be final and binding on the Parties and shall not be subject to appeal.
23. These Minutes of Settlement are governed in accordance with the laws of the Province of Ontario.
 24. These Minutes of Settlement, together with any documents explicitly referenced herein constitute the entire understanding and agreement between the Parties in connection with the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and discussions between the Parties, whether oral or written. However, these Minutes of Settlement may be modified on consent of the Parties or by an order of the Arbitrator if the Arbitrator is satisfied that any such amendment is necessary to give effect to the underlying principles of these Minutes of Settlement, as set out in the preamble.
 25. The Parties shall each bear their respective legal costs associated with the drafting, execution, and implementation of these Minutes of Settlement.
 26. The Parties shall agree, acting reasonably, on all disclosures to be made to third parties regarding the matters covered in these Minutes of Settlement to ensure that the sales of the Trucking Business and the Real Estate Business proceed as efficiently as possible and to achieve the best possible sale prices for the Real Estate Business and the Trucking Business in accordance with these Minutes of Settlement;
 27. The Parties agree that these Minutes of Settlement, and all schedules hereto, may be signed in counterparts by original or electronic transmission and will be valid and binding even though the Parties sign separate copies of it.
 28. The Parties agree that they fully understand the terms of these Minutes of Settlement and have had the opportunity to receive independent legal advice.

[Remainder of page intentionally left blank]

DATED at GEORGETOWN, ONT, this 1st day of October, 2018.




Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

Proex Logistics Inc.

Guru Logistics Inc.

By:



Swinderpal Singh Randhawa

By:




Swinderpal Singh Randhawa

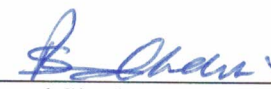
Rana Partap Singh Randhawa

Rana Partap Singh Randhawa

**1542300 Ontario Inc. (o/a ASR
Transportation)**

2221589 Ontario Inc.

By: 
Swinderpal Singh Randhawa


By: 
Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

Rana Partap Singh Randhawa

2435963 Ontario Inc.

Noor Randhawa Corp.

By: 
Swinderpal Singh Randhawa

By: 
Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

Rana Partap Singh Randhawa

Superstar Transport Ltd.

R.S. International Carriers Inc.

By:



Swinderpal Singh Randhawa

By:



Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

Rana Partap Singh Randhawa

Subeet Carriers Inc.

Superstar Logistics Inc.

By:



Swinderpal Singh Randhawa

By:



Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

Rana Partap Singh Randhawa

Continental Truck Services Inc.

ASR Transportation Inc.

By:



Swinderpal Singh Randhawa

By:



Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

Rana Partap Singh Randhawa

ASR Warehousing and Logistics Inc.

By:



Swinderpal Singh Randhawa

Rana Partap Singh Randhawa

DATED at _____, this 1ST day of October, 2018.

Swinderpal Singh Randhawa



Rana Partap Singh Randhawa

Proex Logistics Inc.

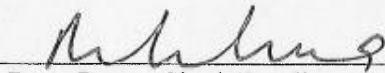
Guru Logistics Inc.

By:


By:

Swinderpal Singh Randhawa

Swinderpal Singh Randhawa



Rana Partap Singh Randhawa



Rana Partap Singh Randhawa

1542300 Ontario Inc. (o/a ASR
Transportation)


2221589 Ontario Inc.

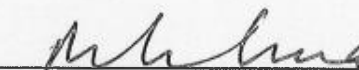
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Rana Partap Singh Randhawa


Rana Partap Singh Randhawa

2435963 Ontario Inc.


Noor Randhawa Corp.

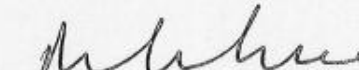
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By:

Swinderpal Singh Randhawa

Swinderpal Singh Randhawa


Rana Partap Singh Randhawa


Rana Partap Singh Randhawa

Superstar Transport Ltd.


R.S. International Carriers Inc.


By:

By:

Swinderpal Singh Randhawa

Swinderpal Singh Randhawa


Rana Partap Singh Randhawa


Rana Partap Singh Randhawa

Subeet Carriers Inc.


Superstar Logistics Inc.


By:

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Swinderpal Singh Randhawa

Swinderpal Singh Randhawa


Rana Partap Singh Randhawa


Rana Partap Singh Randhawa

Continental Truck Services Inc.


ASR Transportation Inc.

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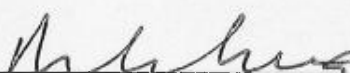
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Swinderpal Singh Randhawa

Swinderpal Singh Randhawa



Rana Partap Singh Randhawa

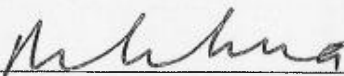


Rana Partap Singh Randhawa

ASR Warehousing and Logistics Inc.

By:

Swinderpal Singh Randhawa



Rana Partap Singh Randhawa

APPENDIX “F”
[ATTACHED]

MINUTES OF SETTLEMENT

WHEREAS the parties previously entered into minutes of settlement dated October 1st, 2018 (the "**October Minutes of Settlement**");

AND WHEREAS capitalized terms not otherwise defined herein have the meanings ascribed to them in the October Minutes of Settlement;

AND WHEREAS the Parties have entered into these minutes of settlement (the "**Unequal Benefits Minutes of Settlement**") to resolve all issues relating to the Aggregated Unequal Benefit analysis described in paragraphs 4 and 9 of the October Minutes of Settlement;

AND WHEREAS the Parties have already caused the RGC entities to sell the properties that are owned by the Real Estate Business, the proceeds of which are currently being held in trust pursuant to the October Minutes of Settlement;

AND WHEREAS these Unequal Benefits Minutes of Settlement should be read in conjunction with the October Minutes of Settlement;

NOW THEREFORE in consideration of the terms of these Unequal Benefits Minutes of Settlement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Paul and Rana hereby agree, both in their personal capacities and in their capacity as the directing minds of each of the RGC entities that were named in the Application, as follows:

1. Within 30 days of the execution of these Unequal Benefit Minutes of Settlement, Rana shall pay Paul \$1,035,000 inclusive of HST, interest, and all claims for costs of any kind existing up to now, (the "**UB Settlement Payment**"), which amount is to be paid to Stikeman Elliott LLP in trust, either by cheque or wire transfer. However, if the Parties have acted in good faith in an effort to try to obtain tax information relating to the sale of the Properties from MDP and there have been reasonable delays associated with this process, the 30 day period may be extended by further agreement of the Parties.
2. Within 30 days of the execution of these Unequal Benefits Minutes of Settlement, Rana shall cause RGC to pay Paul the amount to equalize the salary payments that were made from RGC to Rana's family in the period between September 1, 2018 and the present, which amount is to be agreed to by the Parties, acting reasonably and in good faith.
3. From the date of the execution of these Unequal Benefits Minutes of Settlement and onward, the Parties agree that they, and their respective families, shall each receive equal payments from RGC, provided that all liabilities as they generally come due of the RGC entities to third parties, such as all obligations to the Canada Revenue Agency and its provincial equivalent, are honoured on time;
4. Within 12 months of the execution of these Unequal Benefits Minutes of Settlement, the Parties shall take the following steps in respect of the Indi



properties that are listed in the schedule attached hereto as **Schedule "A"** (the **"India Schedule"**):

- a. Rana shall: i) transfer to Paul Rana's interest in the property listed in line 3 of the India Schedule; ii) cause Sukhdeep to transfer to Rajpreet Sukhdeep's interest in the property listed in line 3 of the India Schedule; and iii) transfer to Paul Rana's interest in the "joint house" listed in line 10 of the India Schedule;
 - b. Paul shall transfer to Rana Paul's interest in the property listed in line 5 of the India Schedule;
 - c. As a result of the transfers contemplated in paragraphs 4(a) and (b), neither Rana nor his family will have any interest in the properties listed in line 3 or 10 of the India Schedule, and neither Paul nor his family will have any interest in the properties listed in lines 4, 5, 6 and 7 of the India Schedule;
 - d. The Parties agree to act reasonably and in good faith to take all steps necessary to complete the transactions contemplated in this paragraph, and will consider reasonable alternatives presented by each other to achieve the most reasonably expeditious process to effect the transfers contemplated in this paragraph;
 - e. In the period pending the transfers contemplated in this paragraph, neither Party shall have access to the properties to be transferred from that party, with the only exception being that Rana shall be permitted to visit the property identified in line 10 of the India Schedule to retrieve his personal items in accordance to a protocol to be agreed upon by the Parties, through counsel.
 - f. The administrative costs of the transfers in in paragraphs 4(a) and (b) shall be paid equally between Paul and Rana.
5. Within 14 days of the execution of these Unequal Benefits Minutes of Settlement, Rana shall cause RGC to provide Paul with access to:
- a. the fuel portals identified as "TCH/Pilot/Flying J" and "Petro-Pass";
 - b. "Trans Plus Fleet Manager Dispatch System";
 - c. "Border Connect";
 - d. "Shaw Tracking GPS Communication".
6. The Parties shall continue to exchange information on the 15th day of every month, as previously ordered by the Arbitrator, with the exception that going forward this information shall include reports/documentation that is sufficient to enable Paul to monitor the petty cash that is used for RGC;
7. Three months from the date of these Unequal Benefits Minutes of Settlement, Rana shall cause RGC to provide Paul with a USB key that contains a complete



copy of the RGC Quickbooks account, and shall continue to provide an updated USB key with this information every three months thereafter;

8. The Parties agree that they will not cause RGC to be used for any Unequal Benefit going forward, including, but not limited to, using petty cash for personal benefit or using shareholder loans for personal benefit, unless as otherwise agreed to by the Parties in writing;
9. The Parties agree that these Unequal Benefits Minutes of Settlement are intended to and do resolve, in their entirety, the Aggregate Unequal Benefits issue, which includes, but is not limited to, any Unequal Benefit with regard to the India Properties, the Florida properties, the Sismet Property, and the cottage located at 428 Robins Point, Tay Township.
10. The Parties agree that Derry Millar shall mediate any disputes arising from these Unequal Benefits Minutes of Settlement or the October Minutes of Settlement, but in the absence of a resolution of any such dispute, the Arbitrator shall remain seized to resolve disputes in accordance with the October Minutes of Settlement.
11. The Parties agree that as they are "joint-owners" of 243, Noor and 222, (the **Real Estate Holdcos**) and they are each liable to ensure that the correct remittances are made on the gains resulting from the sale of the Properties to CRA. Accordingly, MDP will provide calculations, to be reviewed and approved by both Parties acting reasonably, of the appropriate instalment tax payments arising from the sale of each Property and same will be paid to CRA by the Parties from the funds currently held in trust, following which Stikeman Elliott LLP shall release the funds it holds in trust to Paul as a representative of the entities that sold the Properties and Dale and Lessmann LLP shall release the funds it holds in trust to Rana as a representative of the entities that sold the Properties, with the exception that \$1,035,000.00 that is being held in trust by Dale and Lessman LLP shall be paid to Paul on Rana's behalf in satisfaction of the obligation set out in section 1 of these Unequal Benefits Minutes of Settlement.
12. For the avoidance of doubt, the proper accounting of the proceeds from the sale of the Properties is for the Parties to determine and will be subject to the process described in paragraph 10 herein.
13. The Parties agree that the release contemplated in the October Minutes of Settlement shall continue to be held in escrow pending the sale of the Trucking Business.
14. The Parties agree that they will act in good faith to facilitate the sale of the Trucking Business as effectively and cost-efficiently as possible.
15. These Unequal Benefits Minutes of Settlement are governed in accordance with the laws of the Province of Ontario. To the extent that it is necessary for the local, regional or national laws of India to be applied to deal with a dispute regarding paragraph 4 herein, then the Arbitrator shall apply the local, regional or national laws of India to resolve the dispute regarding paragraph 4 of these Unequal Benefits Minutes of Settlement.




16. These Unequal Benefits Minutes of Settlement and the October Minutes of Settlement, together with any documents explicitly referenced in both constitute the entire understanding and agreement between the Parties in connection with the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and discussions between the Parties, whether oral or written. However, these Unequal Benefits Minutes of Settlement may be modified on consent of the Parties or by an order of the Arbitrator if the Arbitrator is satisfied that any such amendment is necessary to give effect to the underlying principles of these Unequal Benefits Minutes of Settlement.
17. The Parties shall each bear their respective legal costs associated with the drafting, execution and, unless stated to the contrary herein, the implementation of these Unequal Benefits Minutes of Settlement.

Signature pages follow



DATED at Toronto, this 13th day of September, 2019.



Swinderpal Singh Randhawa

DATED at Toronto, this 13th day of September, 2019.



Rana Partap Singh Randhawa

DATED at Toronto, this 13th day of September, 2019.

Proex Logistics Inc.

Guru Logistics Inc.

By:

By:





Swinderpal Singh Randhawa Swinderpal Singh Randhawa





Rana Partap Singh Randhawa Rana Partap Singh Randhawa

1542300 Ontario Inc. (o/a ASR
Transportation)

2221589 Ontario Inc.

By:

By:





Swinderpal Singh Randhawa Swinderpal Singh Randhawa





Rana Partap Singh Randhawa Rana Partap Singh Randhawa

2435963 Ontario Inc.

Noor Randhawa Corp.

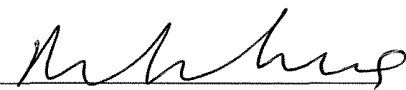
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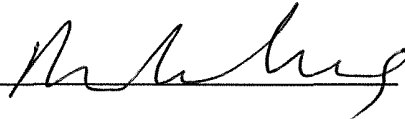
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Swinderpal Singh Randhawa Swinderpal Singh Randhawa





Rana Partap Singh Randhawa Rana Partap Singh Randhawa

Superstar Transport Ltd.

R.S. International Carriers Inc.

By:

By:





Swinderpal Singh Randhawa Swinderpal Singh Randhawa





Rana Partap Singh Randhawa Rana Partap Singh Randhawa

Subeet Carriers Inc.

Superstar Logistics Inc.

By:

By:





Swinderpal Singh Randhawa Swinderpal Singh Randhawa






Rana Partap Singh Randhawa Rana Partap Singh Randhawa

Continental Truck services Inc.

ASR Transportation Inc.

By:

By:





Swinderpal Singh Randhawa Swinderpal Singh Randhawa





Rana Partap Singh Randhawa Rana Partap Singh Randhawa

ASR Warehousing and Logistics
Inc.

By:



Swinderpal Singh Randhawa



Rana Partap Singh Randhawa

Ownership Distribution (Acres) of Land Purchased in India Jointly

Land Parcel Location Details	Total size (Acres)	Paul Family Ownership		Rana Family Ownership	
		Swinderpal	Rajpreet	Rana	Sukhdeep
3 Village Tarpai, District Amritsar, Punjab	14.25	5.75	1.375	5.75	1.375
4 Village Kotla Saidan, District Amritsar, Punjab	4.5			4.5	
5 Village Kairon Nangal / Dhade (Hadaitpur), District Amritsar, Punjab	8.25	4.125		4.125	
6 G.T. Road, Jandiala, Amritsar	0.75			0.75	
7 Mian Pandher District, Amritsar	2.125				2.125
Total Acres	29.875	11.25		18.625	

10 The joint house in India has as estimated market value of \$165,000 (9 million rupees divided by exchange rate of 54.38).

Value of Land Parcels in India Purchased Jointly

Land Parcel Location Details	Total size (Acres)	Cost/Acre (Rupees at purchase date)	C = (A x B) / 54.38 INR	
			A	B
Village Tarpai, District Amritsar, Punjab	14.25	2677000		\$ 701,494
Village Kotla Saidan, District Amritsar, Punjab	4.5	3300000		273,078
Village Kairon Nangal / Dhade (Hadaitpur), District Amritsar, Punjab	8.25	2295000		348,175
G.T. Road, Jandiala, Amritsar	0.75	23673800		326,505
Mian Pandher District, Amritsar	2.125	2000000		78,154
Total Value of Land Parcels (excluding the India House)				\$ 1,727,406
Value of India House				\$ 165,000

APPENDIX “E”
[ATTACHED]

ONTARIO
SUPERIOR COURT OF JUSTICE

JUSTICE **WILTON-SIEGEL**) FRIDAY, THE 27th DAY OF APRIL, **2018** *WMS*
)



BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

- and -

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC.,
and ASR TRANSPORTATION INC.

Respondents

APPLICATION UNDER SECTIONS 161, 207 AND 241 OF THE *BUSINESS
CORPORATIONS ACT*, R.S.O. 1990, c. B.16 AS AMENDED AND SECTIONS 35 AND 39 OF
THE *PARTNERSHIPS ACT*, RSO 1990, c P.5

ORDER

ON READING the endorsement of the Honourable Justice Hainey dated March 12, 2018, and the consent of the Applicant, Swinderpal Singh Randhawa ("Paul"), and the Respondent, Rana Partap Singh Randhawa ("Rana", together with Paul the "Parties" and each separately a "Party");

1. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in Paul's affidavit, sworn March 22, 2018 (the "Affidavit").

2. **THIS COURT ORDERS** that the remaining steps in the Application shall be completed in accordance with the timetable that is attached as Schedule "A" to this Order.

3. **THIS COURT ORDERS** that Rana shall not interfere with the ability of Paul to access all staff employed by or associated with RGC for the purpose of carrying out the business of ProEx Logistics Inc., Guru Logistics Inc., Noor Randhawa Corp., and 2435963 Ontario Inc., pending a final decision in the Application, provided that Paul shall be limited to accessing and contacting such staff by e-mail and telephone only and that Paul shall not enter or be present at the RGC Office. For greater clarity, nothing in this paragraph prevents Paul from meeting in person with drivers employed by or associated with ProEx Logistics Inc., Guru Logistics Inc., Noor Randhawa Corp., and 2435963 Ontario Inc., provided such meetings do not occur at the RGC Office.

4. **THIS COURT ORDERS** that Rana shall, if applicable, rescind or revoke any instructions that have been made to staff employed by or associated with RGC which are contrary to paragraph 3 of this Order.

5. **THIS COURT ORDERS** that Paul shall not interfere with the operations, business and economic relations of ASR pending a final decision in the Application, or a further order of this Court.

6. **THIS COURT ORDERS** that Rana shall not fundamentally change the financial operation of RGC without Paul's written consent, including, but not limited to, by causing ASR to cease funding Guru on a monthly basis, pending a final decision in the Application.

7. **THIS COURT ORDERS** that Rana shall cause ASR to fund Guru in the amount of \$7,112.00 each month, pending an agreement of the Parties or a further order of this Court.

8. **THIS COURT ORDERS** that neither of the Parties shall make any disparaging, defamatory or otherwise negative statements about the other Party, including with respect to their involvement and ownership interest in RGC, pending a final decision in the Application.

9. **THIS COURT ORDERS** that neither of the Parties shall, directly or indirectly, sell, transfer, or otherwise dispose of any of the real estate properties owned by RGC as described in the Affidavit (the "**Properties**"), or any interests RGC holds in the Properties, without the express written consent of the other Party, pending a final decision in the Application.

10. **THIS COURT ORDERS** that neither of the Parties shall mortgage, use as collateral, or otherwise encumber any of the Properties without the express written consent of the other Party, pending a final decision in the Application.

11. **THIS COURT ORDERS** that neither of the Parties shall sell, transfer, or otherwise dispose of any of the assets owned by RGC, or transfer money out of any RGC bank account outside of the ordinary course of business without the express written consent of the other Party, pending a final decision in the Application.

12. **THIS COURT ORDERS** that neither of the Parties shall pay their respective legal fees related to the Application out of RGC funds, provided that this shall not restrict the Parties' right or ability to, in the ordinary course of business, receive salary or other remuneration or to withdraw funds from RGC bank accounts.

13. **THIS COURT ORDERS** that this Order is made without prejudice to the arguments and positions the Parties may advance on the hearing of the within Application.

14. **THIS COURT ORDERS** that the Parties shall bear their own costs in connection with this Order.

Alm Siegel
WILTON-SIEGEL J.

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

APR 27 2018

PER / PAR:

MS

APPENDIX “F”
[ATTACHED]

IN THE MATTER OF AN ARBITRATION under the *Arbitration Act 1991*, SO 1991, C 1:

B E T W E E N :

SWINDERPAL SINGH RANDHAWA

Applicant

- and -

**RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., and
ASR TRANSPORTATION INC.**

Respondents

AWARD

(Hearing by Zoom Video Conference August 25 and 27, 2020)

Arbitrator: Larry Banack

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I. OVERVIEW

1. By Notice of Motion dated July 31, 2020, the Respondents, whom I will collectively refer to as “Rana”, seek the following relief:
 - a. An Order setting aside my Award and corresponding Order dated July 3, 2020 (the “*ex parte* Award and *ex parte* Order”);
 - b. The costs of this motion on a full indemnity basis, plus all applicable taxes; and
 - c. Such further and other relief as may be just.
2. This current motion is brought in response to the *ex parte* Order granting the Applicant, who I will refer to as “Paul,” *inter alia*:
 - a. A declaration that the criteria for the appointment of an inspector pursuant to sections 161-163 of the *Ontario Business Corporations Act*, RSO 1990, c B 16 (“OBCA”) have been met;
 - b. A declaration that the scope of the investigation requested to be made by the inspector and powers of the inspector be determined by return before me or the Superior Court of Justice; and
 - c. An order that Rana is restrained from directly or indirectly removing or making changes to the books and records of the Corporate Respondents (collectively known as “RGC Group”) or Motion Transport Ltd. (“Motion”), until such time as determined by the Superior Court of Justice or further order from me.
3. A copy of the *ex parte* Award and Order are attached to these reasons as Schedule “1”.
4. To understand the parties’ current circumstances, attention must be paid to their acrimonious history, much of which is contained in my Award dealing with the parties’ ‘Unequal Benefits,’ dated March 13, 2020 (the “March Award”) which is attached as Schedule “A” to the *ex parte* Award dated July 3, 2020.

II. BACKGROUND

5. The individual parties, Rana and Paul, are brothers, who have been in the process of divorcing their shared business interests since early 2018.
6. In March 2018, Paul commenced a Superior Court Application, wherein he sought, among other things, declarations that he and Rana owned and operated the RGC Group together as partners and/or 50-50 shareholders.
7. Justice Wilton-Siegel issued an Order on consent dated April 27, 2018, pursuant to which, among other things:
 - a. Rana is restrained from interfering with Paul's ability to access staff employed by or associated with RGC Group for the purpose of carrying out the business of ProEx Logistics Inc ("ProEx"), among other companies;
 - b. Paul is restrained from entering or being present at the RGC Group Office;
 - c. Paul is restrained from interfering with the operations, business, and economic relations of 1542300 Ontario Inc. (operated as ASR Transportation) ("ASR"); and
 - d. Both Paul and Rana are restrained from, directly or indirectly, selling, transferring or otherwise disposing of any of the assets owned by the RGC Group, including transferring money out of any RGC Group bank account, outside the ordinary course of business without express written consent of the other party.

The April 27, 2018 Consent Order of Justice Wilton-Siegel is attached to these reasons as Schedule 2.

8. Following Justice Wilton-Siegel's Order, the parties entered into Minutes of Settlement dated October 1, 2018 (the "October Minutes") to settle Paul's Superior Court Application.

9. According to the recitals, which paragraph 1 of the October Minutes confirms “are true and form part of these Minutes of Settlement”:

... the principle underlying [the October Minutes] is the recognition of the settlement agreement reached by Paul and Rana providing that they each own a 50% interest in each of: i) the trucking warehousing and logistics business that is owned and operated by Paul and Rana through some or all of ProEx, Guru, ASR, STL, Subeet, R.S., SLI, Continental, ASR Inc. (the “Trucking Business”) and any other entities that Paul and Rana used to carry out the Trucking Business, including but not limited to ASR Warehousing and Logistics Inc.; and ii) the real estate business in respect of the Properties (as defined below) that is owned and operated by Paul and Rana through some or all of 222, Noor and 243 (the “Real Estate Business”), and any other entities that Paul and Rana used to carry out the Real Estate Business...

[and]

... Paul and Rana agree that [the October Minutes] shall be interpreted in accordance with this underlying principle that they each own a 50% interest in the Trucking Business and the Real Estate Business and each share equally in all of the liabilities incurred in the ordinary course of the operation of the Trucking Business and the Real Estate Business as owners, directors or directing minds, as the case may be.

....

(My emphasis.)

10. The purpose of the October Minutes is described as follows:

...these Minutes of Settlement are designed to achieve an orderly sale of the Real Estate Business and Trucking Business...

11. The October Minutes also provide for the equal split of any sale proceeds from the Real Estate and Trucking Businesses, once sold, subject to an equalization of what the parties defined as any Aggregate Unequal Benefit.
12. In implementing the settlement, namely in effecting an orderly sale of the Real Estate and Trucking Businesses, the parties agreed to act in good faith in the exchange of information. Specifically, paragraph 3 of the October Minutes provides as follows:

Upon the execution of these Minutes of Settlement, the Parties agree to act in good faith to provide each other with financial, operational and any other information that is required to ensure that the events described in these Minutes of Settlement proceed in an open and transparent manner, including, but not limited to, information to allow the Parties to monitor the Trucking Business and Real Estate Business while the steps contemplated by these Minutes of Settlement are being implemented. Any information to be exchanged pursuant to this paragraph shall be directed through written requests to be made by and to (as the case may be) the Parties' respective counsel. If the Parties dispute the relevance of the information requested in this section, they will work together in good faith, through counsel, to resolve the disagreement in a mutually agreeable manner. All information to be provided pursuant to this paragraph shall be provided forthwith unless the information is not readily available, in which case the Party to provide the information will advise in writing that the information is not readily available and will use best efforts to provide it as expeditiously as possible.

(My emphasis.)

13. Shortly after execution of the October Minutes, I was jointly appointed as arbitrator in accordance with paragraph 22, which provides as follows:

22. Paul and Rana each agree that any dispute arising in respect of the completion or implementation of these Minutes of Settlement, then Paul and Rana agree to appoint an arbitrator from among the resident or member arbitrators associated with Arbitration Place in Toronto or alternatively any other person who is a retired judge of the Ontario Superior Court of Justice or Ontario Court of Appeal (the "**Arbitrator**") to determine any such dispute acting as arbitrator pursuant to the provisions of the *Arbitration Act, 1991*, S.O. 1991, c. 17 and any such determinations shall be made on a summary basis and be final and binding on the Parties and shall not be subject to appeal.

14. There is no dispute that the parties have sold the Real Estate Business.
15. The issue of any Aggregate Unequal Benefit between the parties was not resolved until my Award dated March 13, 2020, nearly a year and a half after the execution of the October Minutes.
16. Now, two years after the October Minutes, the parties still have not effected the orderly sale of the Trucking Business.
17. Immediately following the execution of the October Minutes disputes arose concerning the disclosure of information.
18. Unfortunately, disclosure issues have resurfaced continually for the past two years.
19. Notwithstanding the explicitly agreed upon obligations of good faith, the parties have proven themselves to be incapable of working cooperatively with each other, through counsel or otherwise.

20. The parties have appeared before me in person, over teleconference, and video conference on numerous occasions. I have issued approximately a dozen Endorsements and Awards, some details of which are set out at paragraphs 17-51 of the March Award.
21. Given the relief sought on this motion by Rana, it is necessary to review the subject matter of this procedural history. In particular, the following is a brief summary of the parties' disputes to date, which have necessitated my intervention:
 - a. **Endorsement dated November 27, 2018** - In anticipation of a motion delivered by Paul arising out of the parties' inability to agree on how to finance the cash flow shortage facing ProEx, one of the trucking companies operated by Paul, and in consideration of the parties' obligations to exchange information in good faith, I asked the parties agree to a direction to be provided to RGC Group staff regarding documents and records to be provided to Paul in order to address the cash flow issue.
 - b. **Endorsement dated November 29, 2018** - Following the parties inability to agree to a consent direction, I issued an Endorsement for documentary disclosure, including, *inter alia*, disclosure from Rana to Paul of online banking records for ASR, 2221589 Ontario Inc. and Subeet Carriers Inc. as well as accounts receivable records, invoices transferred from the Transplus dispatch system, and records for the amounts of available lines of credits for all RGC Group entities.
 - c. **Consent Award dated December 5, 2018** - A Consent Award was issued resolving Paul's disclosure motion and providing, *inter alia*, that ongoing financial disclosure was to be provided by the RGC Group to Paul on the 15th day of each month. The parties also agreed that if there remained a cash flow shortage they could either (1) agree to fund the cash flow shortage from personal funds or (2) make submissions to the arbitrator for an appropriate remedy "including but not limited to the liquidation of any of the entities in RGC and the appointment of a receiver/manager to deal with the cash flow

shortage issue and to run RGC until the completion of the steps contemplated by the [October Minutes].”

- d. **Inspection and Costs Award dated December 12, 2018** - In response to Paul’s motion regarding the cash flow shortage of ProEx and related disclosure, Rana delivered a motion for unfettered and unconditional access to certain documents at Paul’s lawyers’ offices. Access to the records at Paul’s lawyers’ office was awarded, along with a reciprocal direction providing Paul with access to records being stored at the RGC Group office.
- e. **Endorsement dated April 23, 2019** - A timetable was set for the Unequal Benefits Arbitration. The parties agreed that Rana had received all of the documents requested from Paul, and dates were set by which Paul would request documents to inspect and Rana would make those documents available.
- f. **Endorsement dated July 23, 2019** - The parties were unable to move the matter forward as anticipated and agreed upon in April 2019, and Rana, who had appointed new counsel, raised a new request for documents from Paul, notwithstanding the representation by prior counsel that all requested documents had been received in April 2019. A revised timetable was set working toward a hearing for the Unequal Benefits Arbitration in September 2019.
- g. **Endorsement dated September 3, 2019** - A further scheduling conference call was held to move the matter forward toward the anticipated September hearing dates. Further hearing dates were added, and various evidentiary issues addressed.
- h. **Endorsement dated September 6, 2019** - A further conference call was held to address a motion delivered by Paul concerning the identification and production of documents after the delivery of Rana’s expert report. Following the conference call wherein much of the relief sought was agreed upon between counsel, the balance of Paul’s motion was dismissed due to it being

disproportionate and not in the interests of the parties nor necessary to achieve a fair and equitable outcome.

i. Unequal Benefits Minutes of Settlement dated September 13, 2019 -

Following a last-minute mediation, the parties entered into the Unequal Benefits Minutes of Settlement dated September 13, 2019 (“UB Minutes”). In respect of the parties’ disclosure obligations, and the sale of the Trucking Business, the UB Minutes provide as follows:

5. Within 14 days of the execution of these Unequal Benefits Minutes of Settlement, Rana shall cause RGC to provide Paul with access to:

- a. the fuel portals identified as "TCH/Pilot/Flying J" and "Petro-Pass";
- b. "Trans Plus Fleet Manager Dispatch System";
- c. "Border Connect";
- d. "Shaw Tracking GPS Communication".

6. The Parties shall continue to exchange information on the 15th day of every month, as previously ordered by the Arbitrator, with the exception that going forward this information shall include reports/documentation that is sufficient to enable Paul to monitor the petty cash that is used for RGC;

7. Three months from the date of these Unequal Benefits Minutes of Settlement, Rana shall cause RGC to provide Paul with a USB key that contains a complete copy of the RGC QuickBooks account, and shall continue to provide an updated USB key with this information every three months thereafter;

....

14. The Parties agree that they will act in good faith to facilitate the sale of the Trucking Business as effectively and cost-efficiently as possible.

...

j. Amended Endorsement dated January 19, 2019 - An Endorsement was issued to deal with Rana's access to a property in India that was dealt with in the UB Minutes. I note that prior to issuing my endorsement, the parties were requested to exchange proposed protocols to address the issue of Rana's access and despite the caution to avoid extreme positions, both parties delivered unduly aggressive positions.

k. Award dated March 13, 2020 - This March Award is attached as Schedule "A" to the *ex parte* Award. The narrow issue in the award was how to effect an unequal benefit payment from Rana to Paul. In the course of determining this issue, I describe the parties' procedural history and comment on the parties' ongoing inability to comply, in good faith, with their documentary disclosure obligations.

22. The parties defined their process and disclosure obligations in respect of their common business interests in both the October Minutes and the UB Minutes. The above noted Endorsements enforced the agreed upon obligations to implement the brothers' goal of achieving an orderly sale of the remaining Trucking Business all in the context of the constraints set out in the Consent Order of Justice Wilton-Siegel dated April 27, 2018.

23. The issue of the parties' inability to provide open and transparent disclosure and access to information is a long-standing theme between the parties. It is against this backdrop that the *ex parte* Order was issued.

24. On June 30, 2020, Paul delivered an extensive *ex parte* motion record, in excess of 1200 pages, which upon review I found justified the appointment of an inspector pursuant to section 161 of the OBCA. In the *ex parte* Award I concluded:

26. In particular, I find that there is evidence of a lack of transparency and disclosure from Rana to Paul in respect of the operations and financial standing of ASR.

27. Moreover, there is some evidence that Rana has been involved with a new entity, Motion Transport Ltd (“Motion”) which was incorporated by a third party in 2018 and to which he has apparently caused ASR to sell vehicles, either directly or indirectly through intermediaries since September 2018.

28. The corporate profile report for Motion suggests that its sole officer and director is a person purportedly known to Rana, but according to Mr. Colbourn’s investigation report, this individual has never been observed at the Motion offices or observed to be engaged in any activity related to Motion. It seems Motion may be operated by Rana’s son and operated out of locations leased by ASR.

29. There is further evidence that Motion has been servicing ASR clients, and using ASR drivers, vehicles and fuel for Motion’s benefit.

30. Coupled with the evidence of a lack of transparency through the denial of records to Paul, I am satisfied that there is an appearance of oppressive conduct that warrants the appointment of an inspector.

25. On July 6, 2020 Paul delivered the *ex parte* Award and Order to Rana, along with the motion record filed in support. The parties appeared before Justice Dietrich on July 7 and 9, 2020. By Endorsement dated July 17, 2020, Justice Dietrich adjourned Paul’s motion to allow Rana to bring the present motion to vary or set aside the *ex parte* Order.

26. The evidence is described in detail below. Suffice it to say that the parties exchanged contradictory affidavits in the present motion.
27. By consent of the parties, a hearing was held on August 25 and 27, 2020 via Zoom video conference. On August 25, 2020 each of the affiants were cross-examined in real time. On August 27, 2020, the parties delivered closing submissions.
28. I have carefully considered the very comprehensive evidentiary record and fulsome submissions. I find that Rana, as outlined below, does not satisfactorily respond in his filed material to the very clear disclosure issues that are characteristic of the parties' acrimonious history as evidenced by the above-mentioned Endorsements.
29. All of the parties' disputes, including the present motion, are in some way borne out of an unwillingness to provide sufficient information necessary to implement the sale of the Trucking Business in an open and transparent way, contrary to the parties' good faith obligations under the October Minutes and the UB Minutes.
30. Prior to considering the substance of the parties' dispute, two preliminary issues were raised by counsel that need to be addressed.

III. PRELIMINARY ISSUES

A. JURISDICTION ON THE PRESENT MOTION

31. At the outset of the hearing on August 25, 2020, I requested the parties to pointedly address my jurisdiction to review the *ex parte* Award and Order dated July 3, 2020 and to make submissions on the nature of that jurisdiction, if any.

1. *Rana*

32. Rana asserts, that the *ex parte* Order must be treated as interim, and his current motion is in essence a hearing *de novo*. To treat it otherwise, Rana argues, would be a breach of the principles of natural justice, as he was not provided notice of, and therefore was not

present at, Paul's *ex parte* motion. Rana relies on section 19 of the *Arbitration Act 1991*, SO 1991, c 17 ("Arbitration Act"), which the parties cannot contract out of.

33. Section 19 of the Arbitration Act provides as follows:

19 (1) In an arbitration, the parties shall be treated equally and fairly.

(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.

34. According to Rana, not allowing him the opportunity to return before me to make submissions on the validity of the *ex parte* Order would violate section 19 of the Arbitration Act.

35. Rana also submits that I have the authority to review the *ex parte* Order pursuant to section 44(1)(b) of the Arbitration Act which provides:

44 (1) An arbitral tribunal may, on its own initiative within thirty days after making an award or at a party's request made within thirty days after receiving the award,

...

(b) amend the award so as to correct an injustice caused by an oversight on the part of the arbitral tribunal.

36. Relying on the decision of Justice Wilton-Siegel in *1210558 Ontario Inc v 1464255 Ontario Limited*, 2011 ONSC 5810 at paragraph 41, Rana asserts that it is for me, having inadvertently not included a come-back date in the *ex parte* Order, to now allow the parties to return before me to address the issue of the appointment of an inspector.

37. According to Rana, the language of the OBCA allowing for the appointment of an inspector *ex parte*, is insufficient to satisfy the principles of procedural fairness entitling him to respond to the evidence against him.

38. I deal with Rana's position that I lack jurisdiction to appoint an inspector pursuant to the OBCA and to grant Paul's injunctive relief, below.

2. Paul

39. According to Paul, there is no basis upon which I can review the *ex parte* Order on the grounds set out by Rana. Specifically, Paul notes that section 37 of the Arbitration Act provides that any Award binds the parties unless it is set aside under sections 45 or 46, neither of which are applicable.
40. Paul submits that pursuant to the October Minutes the parties contracted out of any rights of appeal provided by section 45 of the Arbitration Act. He further contends that the challenges available under section 46 must be brought before the Superior Court. Paul relies upon the language of the grounds for review in section 46, which in his submission make it clear that the arbitrator does not have jurisdiction under that provision. For example, section 46(1)(8) allows a court to set aside an award, where "an arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias.",
41. Paul further argues that it would be inconsistent for Rana, on the one hand, to suggest that I have no jurisdiction to appoint an inspector because of the reference to "the court" in section 161 of the OBCA, but on the other hand contend that I have jurisdiction to set aside an *ex parte* Award or Order under section 46 of the Arbitration Act, which also refers to "the court".
42. According to Paul, nothing in the *ex parte* Order permits Rana to come back and now challenge the appointment of an inspector. Paul submits that to allow Rana the opportunity to argue the motion *de novo* essentially guts section 161 of the OBCA, and a party's ability to appoint an inspector *ex parte*, of any meaning.
43. Paul concedes that principles of natural justice and the language of the *ex parte* Order provide Rana with standing to request to set aside the injunction, because the injunctive relief restrains Rana's conduct. He denies there was any inadvertence in excluding a come-back date in the *ex parte* Order since it was only to remain in force "until such

time as is determined by the Superior Court of Justice or further order from me.” Paul maintains that this is equivalent to a come back date.

44. Unlike an injunction, the appointment of an inspector does not restrain Rana in any way and all the submissions Rana is currently making, according to Paul, could be made when the parties deal with costs following the inspector’s report.
45. In respect of Rana’s argument that section 44 of the Arbitration Act applies, Paul submits that Rana ought to be restricted to the relief sought in his Notice of Motion, which as drafted uses the language of setting aside the *ex parte* Award and Order, consistent with section 46 of the Arbitration Act (see *Apotex v Abbott Laboratories*, 2017 ONSC 1348 at paragraph 45).
46. Ultimately, however, Paul agrees to have this matter heard by me, but states that this is not a hearing *de novo*, but rather a review of the *ex parte* Order and Award on a reasonableness standard (see *Freedman v Freedman Holdings Inc*, 2020 ONSC 2692 at paragraphs 127-128).

3. Determination – Jurisdiction to review ex parte Award

47. Having considered the parties’ fulsome submissions and authorities in respect of my jurisdiction to hear Rana’s present motion, I conclude that I have the authority to receive evidence from Rana in respect of the propriety of the *ex parte* Award and Order.
48. First and foremost, while the *ex parte* Order does not contain a specific return date in respect of the appointment of an inspector, it clearly specifies at paragraph 3 that “the scope of the investigation requested to be made by the Inspector and the appointment and powers of the Inspector are to be determined by return motion before me or the Superior Court of Justice (Commercial List) if the inspection could potentially impact the rights of entities who are not parties to the arbitration clause...”
49. By return motion before me, therefore, it is available to Rana to assert, as he has done, that no inspector can, or ought to, be appointed.

50. To conclude otherwise would violate the principles of procedural fairness.
51. I also agree that section 44(1)(b) provides me with the authority to hear the present motion. This provision allows me, on my own initiative or at the request of a party within 30 days of the *ex parte* Award, to amend the Award to correct an injustice caused by an oversight. In this case, I have concluded that Rana ought to have the ability to challenge the evidence led against him in support of the *ex parte* Award.
52. I conclude that this opportunity is provided to him on the plain language of the *ex parte* Order and in particular paragraphs 3 and 4 (the latter of which concerns the injunctive relief). To the extent that I am mistaken, and paragraph 3 is insufficient, section 44(1)(b) allows me to correct an oversight to include a specific return date and consider the issues raised in the present motion.
53. In respect of whether Rana's present motion is a hearing *de novo* or a review of the *ex parte* Award on a reasonableness standard, I conclude that it does not matter, as applying either standard it is clear that Rana's motion must fail. I have accepted the extensive records delivered by Rana, and after a comprehensive review in light of the whole record, maintain my conclusion that, among other things, on either a *de novo* or reasonableness review basis that there exist grounds for the appointment of an inspector under the OBCA. As is set out below, I also find sufficient grounds for the injunction granted.

B. ADMISSIBILITY OF NEW EVIDENCE

54. The second preliminary issue concerns the admissibility of an affidavit sworn by Amar Randhawa on August 26, 2020, after the first day of the hearing. The affidavit attached a voice recording made after the hearing began, between Amar (Paul's son) and Harpreet Kaur, an attendant at the Petro Canada on Trafalgar Road in Hornby, Ontario ("Petro Station").
55. This evidence purportedly addresses a dispute between the parties as to whether ASR resources were used to purchase fuel for a Motion truck at the Petro Station on June 6,

2020. This substantive issue is more fully dealt with below, and for reasons that follow, I conclude that it is unnecessary to admit Amar's affidavit.

1. *Paul*

56. Counsel for Paul relies on Rule 39.02 of the *Rules of Civil Procedure* as well as the test set out in *DK Manufacturing Group Ltd v Co-Operators General Insurance Company*, 2020 ONSC 1259 at paragraph 11.¹
57. According to Paul, this is evidence that directly relates to a matter raised on cross-examination of Karanvir Singh, a truck driver who works with ASR. Specifically, Paul notes that despite delivering multiple affidavits, it was only on cross-examination that Mr. Singh said that he used a fuel card provided by the Petro Station to assist Subeet Randhawa, Rana's son, with refueling a Motion truck.

2. *Rana*

58. Rana objects to the introduction of this evidence on the basis that it is hearsay evidence and Paul could have but did not summons Ms. Kaur to be examined. He notes that what

¹ In that decision Master Muir provides as follows:

[11] The courts have developed a four-part test when deciding whether leave should be granted under [Rule 39.02\(2\)](#). The law is well summarized in Master Jolley's decision in *Nexim Healthcare Consultants Inc. v. Yacoob*, 2018 ONSC 91 (Master), a decision relied upon by Co-Operators. At paragraph 9 of that decision Master Jolley states as follows:

9. The four-part test for granting leave is set out in *First Capital Realty Inc. v. Centrecorp Management Services Ltd.*, 2009 CarswellOnt 6914 (Div. Ct.): (1) is the evidence relevant; (2) does the evidence respond to a matter raised on the cross examination, not necessarily raised for the first time; (3) would granting leave to file the evidence result in non-compensable prejudice that could not be addressed by imposing costs, terms or an adjournment; and (4) did the moving party provide a reasonable or adequate explanation for why the evidence was not included at the outset. A flexible, contextual approach is to be taken in assessing the criteria relevant to [rule 39.02\(2\)](#) having regard to the overriding principle outlined in Rule 1.04 that the rules are to be interpreted liberally to ensure a just, timely resolution of the dispute. An overly rigid interpretation can lead to unfairness by punishing a litigant for an oversight of counsel. As stated by Master Muir in *Mars Canada Inc. v. Bemco Cash and Carry Inc.* 2015 ONSC 8078 at paragraph 10, "In my respectful view, the court should avoid a rigid interpretation of Rule 39.02. The flexible, contextual approach is to be preferred." As noted in P.M. Perell & J.W. Morden, *The Law of Civil Procedure in Ontario*, commenting on *First Capital Realty* and quoted in *Shah v. LG Chem, Ltd.* 2015 ONSC 776, "the Divisional Court held that all the criteria should be weighed and no one criterion was determinative."

happened at the Petro Station, how fuel was paid for, and by whom, has been in issue since the outset. Rana asks that the evidence not be admitted, or that if admitted, be given no weight.

3. Determination – Admissibility of Amar’s Affidavit

59. I advised the parties that I would take under advisement the acceptance of Amar’s affidavit and the attached recording. Having considered the disputed evidence and reviewed the comprehensive record delivered in respect of this motion, I find that it is not necessary to resolve this issue of admissibility as the impugned affidavit is not determinative of the issues before me. I have therefore not considered Amar’s affidavit or the attached audio recording in determining the present motion.

IV. ISSUES FOR DETERMINATION

60. The remaining issues to be determined in respect of Rana’s motion are:
- a. Whether I have the jurisdiction to appoint an inspector pursuant to sections 161-163 of the OBCA or sections 121 of the *Courts of Justice Act*;
 - b. If yes, whether Paul made full and frank disclosure in his *ex parte* motion record;
 - c. If yes, whether the test for the appointment of an inspector is met on the current evidentiary record; and
 - d. Whether a strong *prima facie* case and irreparable harm have been established, justifying injunctive relief.
61. Prior to turning to the parties’ submissions in respect of the substantive issues in dispute, I review some of the relevant evidence delivered.

V. EVIDENCE

62. On behalf of the Respondents, the following witnesses swore affidavits:

- a. Rana Randhawa swore two affidavits dated July 31, 2020, and August 14, 2020;
 - b. Subeet Randhawa – Rana’s son – swore an affidavit dated July 31, 2020;
 - c. Baldev Dhindsa, the sole shareholder, officer, and director of Motion swore an affidavit dated July 31, 2020; as well as
 - d. The following three ASR truck divers: Karanvir Singh swore two affidavits dated July 31, 2020 and August 16, 2020 respectively; Narinder Singh swore an affidavit dated August 1, 2020; and Nicholas Peet swore an affidavit dated August 5, 2020.
63. The Applicant, Paul, relies on his initial affidavit sworn June 26, 2020, as well as his responding affidavit sworn August 10, 2020. He also relies on the affidavit of his private investigator, Don Colbourn, sworn June 26, 2020, which attaches a private investigation report (the “Colbourn Report”) and an affidavit sworn by a member of Paul’s legal team dated August 10, 2020.
64. All of the affiants, with the exception of Paul’s counsel, were cross-examined in real-time at the hearing.
65. The issue in dispute raised by Paul in his Notice of Motion dated June 30, 2020 is the lack of transparency with which Rana has been operating ASR. Of particular concern are the details of its financial operations and the details of the relationship between ASR and Motion, if any.
66. The practical significance of the lack of transparency is that the parties have yet to sell the Trucking Business pursuant to the October Minutes. ASR is a part of the parties’ Trucking Business and, in a manner consistent with the requirements of the 2018 Consent Order of Justice Wilton-Siegel and the October Minutes, the parties are to effect its orderly sale and share the sale proceeds equally. Without insight into its operations, Paul is concerned that Rana is transferring ASR business and assets to a third party,

Motion, which will decrease the value of the Trucking Business, and therefore Paul's equal share in it.

67. As an indication of how far behind in the sale process they are, some two years after the execution of the October Minutes, the parties have yet to even complete financial statements for the last three years in respect of the Trucking Business.
68. I note that Rana did not dispute Paul's evidence that the parties had agreed to prepare financial statements in respect of the RGC Group as a preliminary step toward selling the Trucking Business. In addition, Rana did not provide any rebuttal evidence in response to Paul's allegation that Rana has not complied with the parties' agreement to complete the financial statements or their agreement to exchange draft statements prior to their final completion.
69. Below I set out the evidence most relevant to the factual issues in dispute. In numerous instances, as in the past, the testimony of Paul and Rana is simply at odds. Accordingly, I am obliged to make determinations of the matters in issue on a balance of probabilities considering the evidence presented and documents tendered as a whole, having regard for the circumstances and, importantly, the evidence that ought to have been reasonably available to the parties but was not tendered.

A. RELATIONSHIP BETWEEN ASR AND MOTION

70. Paul asserts on the basis of the Colbourn Report, that Rana and his son are working for the benefit of Motion, and not ASR, in violation of the parties' obligations to act in good faith in the operation of the Trucking Business in anticipation of its sale, pursuant to the terms of the October Minutes.
71. Subeet is not a party to the October Minutes, and therefore not bound by the obligations set out therein. However, where Subeet is engaging in conduct for the benefit of Rana, and such conduct would violate the terms of the October Minutes, I am satisfied that the evidence relating to Subeet is relevant to the present motion.

72. Motion is a company incorporated in May 2018 by Mr. Baldev Dhindsa, its sole shareholder and director, who Paul identified as a friend of Rana's from when they were both in India.
73. The Colbourn Report also identifies Motion as being the ultimate owner of a number of ASR vehicles.
74. According to Mr. Dhindsa, while Motion was incorporated in May 2018, it did not commence business operations until December 2019. Curiously, it was also Mr. Dhindsa's evidence that he has been retired since August 2017.
75. Rana categorically denies any personal involvement with Motion but admits that he knows Mr. Dhindsa who has been a long-time friend and who in the past has lent Rana money. According to Rana, Motion is owned and operated for the exclusive benefit of his friend, Mr. Dhindsa.
76. Rana denies knowing that Motion was incorporated in May 2018, or that it came to own equipment that ASR used to own. Rana says he only learned those facts in the course of this motion, despite his son, who lives with him, working for Motion since November 2019.
77. According to Rana, Motion is not a competitor, as it carries different types of loads than ASR. While Rana acknowledged that ASR and Motion get some of their work from the same customers, he denies that ASR has lost any work to Motion. No documentary evidence from ASR or Motion was tendered in this respect.
78. Rana denies having any interest in Motion or receiving any income or benefits from it. He admitted being aware that Subeet started working part-time for Motion in November 2019, a month before Mr. Dhindsa testified that Motion commenced operations.
79. Subeet is Rana's 20-year old son. He lives with Rana, has never worked full-time in the trucking industry, and allegedly only started working when Mr. Dhindsa is said to have approached him in November 2019 to work for Motion on a part-time basis.

80. Contrary to Rana, Subeet candidly acknowledged that ASR and Motion are competitors, in that they are both transport companies that service some of the same clients.
81. Both Subeet and Mr. Dhindsa testified that Rana had no advance knowledge of or hand in arranging their working relationship.
82. I find it difficult to believe that Rana was not involved in connecting his young son and long-time friend to work in the same industry, including from the same trucking yards, as ASR – the company operated exclusively by Rana.
83. It remains unclear exactly what Subeet's role at Motion was (assuming his employment has now come to an end).
84. According to Subeet, he coordinated loads and prepared invoices until February 2019, at which time he got his commercial truck driving license and thereafter added to his Motion responsibilities, driving trucks for repairs, maintenance, and refuelling. Subeet did not drive any load contracts.
85. According to the drivers that gave evidence, Subeet acted as dispatcher for the drivers.
86. Based on Mr. Dhindsa's retirement and limited knowledge of the operational details of Motion, detailed below, it seems as though Subeet has been the only person meaningfully operating the company. It is unclear how he was doing so on a part-time basis.
87. The evidence is that in exchange for his services to Motion, Subeet did not receive any salary from Motion. Rather, Subeet testified that he was banking hours until August 2020, the anticipated termination date of his employment. At the end of his employment, Subeet expected to be paid a lump sum from Motion for all of his time since November 2019.
88. Until at least April 1, 2020, however, Subeet and Rana confirmed that ASR continued to pay Subeet, which it had been doing for a number of years. The evidence is that these payments stopped at some point after the COVID-19 pandemic in the Spring of 2020, but again, no helpful evidence was put forward in this regard.

89. I find it highly suspicious that Rana's son would be working for Rana's friend, in the same industry as Rana's own company, and that ASR, not Motion, would be providing Subeet with regular monthly compensation, even if that had been an agreed upon practice prior to Subeet working for Motion. The evidence is unclear whether ASR was really compensating Subeet for the work performed by Motion, which could have easily been dispelled with documentary records pertaining to Subeet's pay from ASR, hours worked for Motion, or compensation arrangement with Motion.
90. Mr. Dhindsa's evidence did not assist in dispelling any suspicions regarding the relationship between Motion and ASR. He had what can only be described as insufficient information in respect of the business operations of Motion.
91. In particular, according to Mr. Dhindsa, though Motion was not operating for nearly a year and a half after its incorporation, it was purchasing equipment, the bulk of which coincidentally came from ASR, his long time friend's company, unbeknownst to him.
92. Similarly, Mr. Dhindsa had no explanation for Motion's financial ability to purchase equipment in 2020 when, at the same time, Mr. Dhindsa advised that business was so slow that he was negotiating the deferral of rental payments to Border Bound for use of its yard.
93. Neither Mr. Dhindsa nor Subeet tendered any documentary record for Motion, including financial records relating to the equipment purchased by Motion, and when asked about the funds used to purchase this equipment, Mr. Dhindsa advised, again without corroborating evidence, that he used personal funds.
94. In addition, when asked about the current operations of Motion, Mr. Dhindsa stated that he had no knowledge of any of the accounting or other operational processes, as Subeet looked after that. Mr. Dhindsa's evidence concerning the sharing of equipment and drivers between Motion and ASR is that all of those dealings were handled by Subeet.

95. Notwithstanding that Mr. Dhindsa was cross-examined on August 25, 2020, there is no evidence that Mr. Dhindsa had any knowledge of who would run the company after Subeet left, which according to the evidence he was scheduled to do at the end of August.
96. According to Mr. Dhindsa, the only person with knowledge of the company's operations was leaving imminently, and there was no evidence of who, if anyone, would take over. I find that evidence concerning.

B. ASR'S DECLINING REVENUE

97. Paul's concern is that during the period ASR should be prepared for sale, it is diverting business to Motion. He states that based on the QuickBooks data he has access to, ASR's steep revenue decline coincides with the period just after Justice Wilton-Siegel's April 2018 Order, restricting his access to ASR operations, which also just happens to coincide with Motion's incorporation in May 2018.
98. According to Paul, most of this decline is not due to changes in work from Ford Motor Company ("Ford"), despite Rana's statement to the contrary. He highlights that the decline in revenue occurs at the same time that ASR recorded an increase in expenses for repairs and maintenance, which does not make sense if, as suggested by Rana, ASR vehicles are operating less frequently because the work was diminishing.
99. Paul asserts that ASR's revenue decline is also much steeper than that of ProEx or what was experienced in the industry more generally, contrary to Rana's evidence.
100. Paul specifically notes that a comparison between ASR and ProEx revenues over the last few years supports his position. From 2018-2019, for example, ASR's revenues declined by nearly 20% while ProEx revenues declined 4%. The reason for the steeper decline in ProEx revenues between 2017-2018, according to Paul, is due to a joint decision of Paul and Rana to transfer the ProEx account with its customer, TST Overland Express ("TST"), to ASR. While Paul acknowledges that TST cancelled its business around the same time, the driver that previously generated the work with TST continued working with ASR, generating it revenue.

101. Rana relies on a comparison of the companies over the full period between 2017-2019, which is said to be misleading because he fails to properly account for the transfer of TST.
102. Rana did not respond to the evidence concerning TST or to Paul's concern regarding ASR's increasing repair and maintenance costs at a time that Rana asserts that business was slowing down. He denies diverting any business to Motion and highlights that ASR has completed work for approximately 188 new customers since January 1, 2018 and that it has since been awarded new lanes from the Ford.
103. In respect of ASR's declining revenue, Rana provides no expert evidence in respect of industry trends, but relies on articles and e-mails from customers which he admitted on cross-examination were solicited by an employee of ASR, who did not testify, to rebut Paul's evidence.
104. Rana points to the loss of numerous trucking lanes from Ford's Oakville Assembly Line as a specific cause of ASR's declining revenue since November 2019.
105. Rana also asserts, without documentary support other than a spreadsheet presumably prepared by ASR, that fourteen other customers, in addition to Ford, dropped freight volumes, resulting in nearly \$2 million in lost revenue.
106. According to Rana revenues only further declined in 2020 due to the impact of the COVID-19 pandemic. ASR thus had reduced work for drivers and reduced need for equipment, which Rana offers as an explanation for why he was selling equipment during this period.
107. As the sole operator of ASR, Rana has access to the full scope of ASR books and records, virtually none of which were provided to support the assertion that ASR's declining revenue is nothing more than what the industry at large has purportedly faced, including ProEx.

C. SALE OF ASR EQUIPMENT

108. Paul asserts that until he hired a private investigator, he was unaware, contrary to the Order of Justice Wilton-Siegal dated April 27, 2018, that ASR was transferring assets outside the ordinary course of business. Paul says that he knows of no legitimate business purpose for ASR to transfer over a dozen vehicles to Motion.
109. Rana states that ASR and Subeet Carriers, another RGC Group company, regularly buy and sell trucks and other equipment. He asserts that ProEx and Guru Logistics Inc, the companies operated by Paul, do the same, as it is a regular feature of the trucking industry.
110. In response to Paul's assertion that in the ordinary course of business ASR always sold vehicles at auction, not resellers, Rana only accepts that he often sold equipment by auction, but states that he has also sold many ASR trucks directly to resellers.
111. In respect of the trucks set out in the Colbourn Report as having been transferred from ASR to Motion, Rana asserts that each of these were in fact sold through resellers. Rana states that he did not discuss with any of the resellers to whom they intended to sell the trucks, and he was unaware of any intention to re-sell these trucks to Motion.
112. As noted above, Mr. Dhindsa also states that he had no knowledge that the equipment purchased by Motion used to be owned by ASR.
113. Where there was an issue of the timing of the sale to the reseller versus the registration with the Ontario Ministry of Transportation by Motion, Rana suggests that the reason the resellers were not listed as registered owners of these trucks may be because where a purchaser is also a reseller, they do not necessarily register the equipment to themselves. Instead, only the ultimate owner becomes the registered purchaser of the re-sale transaction.
114. According to Rana, each of the sales were properly recorded in QuickBooks, and provided to Paul as part of the monthly financial disclosure package.

115. The records appended to Rana's current affidavit are different from the records provided to Paul, and in particular, Rana's exhibit contains more details concerning the sale of the trucks in question, such as VIN numbers.
116. According to Rana these changes are because ASR's accountant, on her own initiative in response to some of the questions raised by Paul in his *ex parte* motion record, updated the entries in question with more detail, but did not change any of the data already contained therein. He adamantly denies requesting her to amend the entries in any way.
117. He also admits, however, that he did not provide ASR's accountant with a copy of the *ex parte* Order or advise her not to amend any of ASR's books and records in accordance with the injunctive relief set out therein. The bookkeeper was not called as a witness.
118. Finally, Rana asserts that it is wrong to suggest that these trucks were part of an attempt to sell-off ASR's equipment as ASR has bought and/or leased equipment as well. He notes four examples, which I observe are dated between December 2017 and May 2018, prior to Motion's incorporation and the most recent events upon which Paul's *ex parte* motion was based.
119. Having considered the evidence as a whole, I find it extremely implausible that there was not some communication between ASR and Motion in respect of the equipment transferred between the companies.
120. Not only do the persons in charge of day-to-day operations of each of those companies live together, they are father and son. I find it unlikely that Rana would have made the decision to sell more than a dozen assets, approach a re-seller, and sold the equipment without notifying Subeet or Mr. Dhindsa, who then just happened to approach the same resellers around the same time period, and purchase the same equipment. The fact that no documents were tendered by Subeet or Mr. Dhindsa in respect of Motion's asset purchases since 2018 only heightens my concerns.

D. THE JUNE 6, 2020 REFUELLING INCIDENT

121. According to Paul, relying on the Colbourn Report, Subeet was observed refuelling a Motion vehicle at the same time and place that an ASR fuel card was used at the Petro Station. Rana, along with his son, Subeet, and an ASR driver, Karanvir Singh, were all present.
122. Paul did not initially highlight that Mr. Singh was also at the Petro Station that day refuelling an ASR truck and reefer van.
123. According to Rana, he was only there to bring his son house keys, which Subeet had forgotten. Rana purportedly had no idea that Subeet also forgot his Motion fuel card.
124. Subeet was driving a Motion truck as part of his duties with Motion. In his affidavit he states that he paid \$150 in cash to refuel the Motion truck he was driving. Subeet attached a receipt for \$150 in fuel paid in cash at 9:40am on June 6, 2020. There is no mention of Mr. Singh in Subeet's affidavit sworn July 31, 2020.
125. Mr. Singh's initial affidavit sworn July 31, 2020 also did not mention Subeet or Rana. According to Mr. Singh, he attended at the Petro Station on June 6, 2020 to refuel an ASR truck and reefer van. Mr. Singh produced two receipts showing use of a Petro Pass at the Petro Station on June 6, 2020 at 9:11am and 9:26am respectively.
126. Following delivery of Paul's responding affidavit sworn August 10, 2020, all of the related evidence tendered on behalf of Rana changed. Paul's responding affidavit contained video footage of the incident showing Rana, Subeet, and Mr. Singh together at the Petro Station, and Mr. Singh, an ASR driver, refuelling Subeet's Motion truck.
127. Mr. Singh delivered a second affidavit sworn August 16, 2020, in which he mentions for the first time that Rana and Subeet just happened to be at the same Petro Station as him on June 6, 2020. According to Mr. Singh's revised evidence, he saw Rana at the Petro Station and went over to speak with him. That is when Subeet asked Mr. Singh to refuel his truck, because Subeet did not have his gloves. Mr. Singh also said that Subeet had

forgotten his fuel card, so he gave Mr. Singh \$150 in cash, which was then used to pay for Subeet's fuel inside the station.

128. In the video of the Petro Station incident on June 6, 2020 taken by Mr. Colbourn's associates and tendered with Paul's responding affidavit sworn August 10, 2020, Mr. Singh is seen swiping a fuel card into the pump used to refuel Subeet's Motion truck. Mr. Singh made no reference of a fuel card in either of his affidavits.
129. Under cross-examination, in response to the video, Mr. Singh's evidence changed yet again. Mr. Singh then testified for the first time that after refueling Subeet's Motion truck, he used a fuel card loaned to him by the Petro Station at the pump, following which he went into the station and used the cash given to him by Subeet to pay the charge.
130. Subeet had a similarly confusing and unsatisfactory explanation for the video of Mr. Singh swiping a fuel card at the pump. In addition to having no knowledge of the fuel card used by Mr. Singh, Subeet did not remember whether Mr. Singh later gave him a receipt for the fuel, but said that he provided a picture of a receipt to Mr. Dhindsa a few days later. No documentary evidence was tendered demonstrating that Motion funds were used to pay for the fuel purchased for its vehicle by Subeet on June 6.
131. According to Rana, the fuel card and receipts provided by Mr. Singh as part of the standard practice for drivers' costs, corroborates that Mr. Singh used the ASR card to refuel an ASR truck and reefer van around the same time that Subeet refuelled his Motion truck. Rana asserts that no ASR funds were used to refuel a Motion truck. Rana gave no evidence in respect of the \$150 cash said to have been given by Subeet to Mr. Singh.
132. I note that the timing on the video footage presented in Paul's responding affidavit does not align perfectly with the timestamps on the receipts from the Petro Station on June 6, 2020.
133. The private investigator has footage of Subeet driving his Motion truck prior to arriving at the Petro Station on a video time stamped as 9:15am, therefore after the 9:11am transaction at the Petro Station.

134. There is also footage of Subeet, Rana, and Mr. Singh standing between a fuel pump and the Motion Truck, time stamped at around 9:26am. Mr. Singh is then shown swiping a Petro Pass, sometime shortly after 9:26am.
135. In response to Rana's argument that Mr. Colbourn improperly included in his report both the 9:11am and 9:26am transactions at the Petro Station despite the fact that his investigators observed Subeet on his way to the Petro Station at 9:15am, after the first receipt for fuel purchased at the Petro Station at 9:11am, Mr. Colbourn testified that he chose to identify in his report both the 9:11am and 9:26am transactions at the Petro Station because he thought both to be important, and turned his mind to the possibility that there may be some discrepancy between the clocks of the two investigators who recorded video footage that morning and the Petro Station pump.
136. I pause here to note that I generally found Mr. Colbourn to be a helpful witness. In response to a request from Rana before the hearing, he made fulsome disclosure of the contents of his investigative file, and in my view, testified honestly and clearly as to the scope and conduct of his investigation.
137. While there is no evidence of any discrepancy between the clocks on the video cameras and the gas pump at the Petro Station, I do not find it implausible for the recording time on three different devices to be inconsistent with each other, even if only by a small margin. That said, even without the precise timing of the transactions, there remain serious concerns as to the events at the Petro Station on June 6, certainly with respect to what was caught on video.
138. What is clear is that Subeet testified that he forgot his Motion Fuel Card and Mr. Singh is seen pumping fuel into a Motion truck and then swiping a fuel card.
139. All of the evidence presented on behalf of Rana in respect of this issue is problematic, not least of which is because it has evolved in significant ways, numerous times following delivery of other evidence. While I can make no determination on the record before me in respect of the Petro Station events, there remain serious concerns as to whether ASR funds were used to purchase fuel for a Motion truck on June 6, 2020.

140. The timing and amount of ASR payments would also be readily apparent by inspection of the ASR records, which were not produced by Rana.

E. BORDER BOUND AND OTHER TRUCKING YARDS

141. Paul's concern is that prior to May 2018, ASR paid very little to Border Bound. The record shows that payments prior to May 2018 from ASR to Border Bound were less than \$250 a month. There was a sudden increase in fees, up to \$2,260 per month, coinciding with the incorporation of Motion, which raises the concern that ASR is making payments on Motion's behalf. In addition, Mr. Colbourn photographed Rana with Subeet at Border Bound on or around June 8, 2020, purportedly test driving a tractor unit owned by another company. The concern is whether Rana and Subeet were acting for the benefit of Motion or ASR.
142. Rana denies attending at the office of Motion, which he says is in fact coincidentally located at the same trucking yard, Border Bound, that ASR uses. Rana states that Border Bound is a freight broker that provides transportation services itself, arranges for transportation through a number of other trucking companies, such as ASR, and leases the use of its storage yard to a number of companies, including ASR and Motion.
143. According to Rana, ASR has paid rent to Border Bound since 2018, without a written contract. Rana states that this is not unusual and is reflected in the financial records regularly provided to Paul.
144. In response to Paul's concerns that the amounts paid by ASR to Border Bound increased inexplicably around May/June 2018, when Motion was incorporated, Rana did not provide any satisfactory response. He referred to payments being recorded under different names (Border Bound Inc versus Border Bound Warehousing), but did not explain or provide corroborating documents explaining how or why that related to the sudden increase in monthly payments.
145. Mr. Dhindsa's evidence concerning Motion's use of Border Bound was that Motion negotiated rent at Border Bound commencing around the onset of the COVID-19

pandemic in March 2020 for approximately \$1,000 per month. It is unclear from Mr. Dhindsa if Motion was using Border Bound, or any other trucking yard, prior to March 2020.

146. Mr. Dhindsa explained that Motion has been unable to pay invoices for use of Border Bound due to cash flow issues as a result of the pandemic. Mr. Dhindsa's affidavit included no documents, and it is reasonable to expect that he would have some record of communication with Border Bound, if not at least some record of fees charged, or payments made.
147. Rana states that Mr. Colbourn's observation of him, Subeet and various drivers at Border Bound does not indicate any link between ASR and Motion, both of which use the yard. According to Rana, Paul knows that multiple trucking companies pay for the use of storage yards, and he should have disclosed as much.
148. In respect of the incident on June 8, 2020, where Rana and Subeet were observed together at Border Bound, Rana and Subeet's evidence is consistent. They acknowledge that they were at Border Bound together and state that Rana on behalf of ASR was test-driving a truck owned by another tenant of Border Bound, and Subeet was only there as his son, not in his capacity as representative of Motion.
149. The coincidences between ASR and Motion are numerous. Again, I find it suspicious that ASR and Motion, which are run by father and son respectively, just happened to rent from the same trucking yard. This suspicion is compounded by the uncontroverted fact that at the time Motion is incorporated, ASR starts paying significantly more in fees to Border Bound, and despite their evidence, neither Subeet nor Mr. Dhindsa delivered any documents demonstrating any commercial relationship between Border Bound and Motion.
150. The evidence of Rana and Subeet is all the more implausible in the context of a father and son who seem to attend to various business-related tasks together, including the coincidental refueling of Subeet's Motion truck and Rana's test-driving new equipment at Border Bound.

F. LENDING/BORROWING EQUIPMENT

151. The Colbourn Report shows that ASR truck #191 was used by Narinder Singh for the benefit of Motion, between April 15 and June 12, 2020 as its trips were not reported as ASR revenue. During this same period, however, the report indicates that ASR was regularly paying Narinder. More is said about this below.
152. According to Rana and Subeet, notwithstanding the latter's limited experience, it is commonplace in the trucking industry for companies to lend trucks to other companies, like Motion, without fees, as this engenders good will that can be relied upon when ASR, for example, needs to borrow equipment from those companies.
153. Rana claims that ASR has lent equipment to Motion on this very basis. Neither Rana nor Subeet presented any detailed account of this aspect of their relationship, nor is there any documentation to corroborate this.
154. Rana's support for his position is merely that this is common practice. He states that the ASR system tracks borrowed equipment as "temporary", and since October 2018 ASR has borrowed and/or lent equipment to Coastal Pacific Express (CPX), and on occasion to Border Bound.
155. Paul's evidence in response is that it is, to the contrary, not common practice for any company to loan assets to competitors without documentation and without charging a fee. The only exception, according to Paul is where assets are exchanged with other trucking companies who are customers of ASR, in the process of completing a route as part of its service in exchange for a fee.
156. To the extent that Rana presented evidence of this practice with companies other than Motion, Paul contends that these examples fit squarely within his understanding as he described.
157. In respect of the specific assets in question, Rana states that he has not been able to verify the two trucks and/or four trailers that the Colbourn Report asserts were seen attached to

Motion trucks or trailers, but he submits that this would not be out of the ordinary, especially given the downturn in work experienced by ASR. Moreover, he acknowledges that ASR truck #191 was used by an ASR driver, Narinder Singh, while he was temporarily working for Motion. More is said about this, below.

158. Rana denies that ASR truck #224 was ever lent to Motion, and according to Rana another trailer, R53001, identified in the Colbourn Report as being having been repainted and labelled by Motion in June, had been sold to a reseller, Next Truck, in March 2020.
159. Mr. Dhindsa's only evidence was that in May 2020, at the time of Motion's purported cash-flow shortage, Motion purchased an ASR trailer for an undisclosed amount from a re-seller, Next Truck. That it had been an ASR trailer was said to be unknown to Mr. Dhindsa. The evidence from Rana demonstrates that the trailer was sold to Next Truck for \$15,500. There is no evidence documenting the transaction, let alone any evidence demonstrating from where Motion would have had the funds to purchase such expensive equipment.

G. ASR TRUCK 214 AND MOTION TRUCK 1007

160. According to the Colbourn Report, the license plate for ASR truck #214 was photographed on Motion truck 1007. This would indicate yet another inappropriate connection between Motion and ASR. Rana cannot explain how this came to be, but states that the license plate expired in February 2020 and has not been renewed because ASR truck #214 is not in working condition. The truck was towed on April 3, 2020 to a yard in Brampton and has not left the yard since.
161. Employees of the yard in Brampton sent pictures of ASR truck #214 to Rana on July 30, 2020, which show the truck with the correct front licence plate, but no rear licence plate.
162. Rana does not know how a Motion truck was photographed with the same licence plate.
163. I can make no determination in respect of the import, if any, of the misplaced license plate, and therefore I exclude this from my determination herein.

H. DRIVERS AS INDEPENDENT CONTRACTORS

164. Paul relies on Mr. Colbourn's report for his evidence that the following drivers who historically worked for ASR, have done work for Motion:
- a. Brandon Goncalvez;
 - b. Nicolas Peet, and
 - c. Narinder Singh.
165. Paul also states that Mr. Singh was seen with a Motion truck at Border Bound.
166. According to Rana, drivers regularly work for multiple companies in the trucking industry. He states that Paul knows drivers are usually independent contractors. There is therefore nothing unusual about drivers working both for ASR and Motion.
167. Rana relies on the evidence of Mr. Peet and Mr. Singh as two drivers who worked for both ASR and Motion.
168. According to Mr. Peet, he used to do long-haul drives to the United States on behalf of ASR, but following a health problem in 2018, was unable to continue that route. ASR tried to accommodate him by offering him work between Toronto and Montreal, but he preferred long-haul routes. Mr. Peet's evidence is that he started working for Motion in January 2020, prior to the Covid-19 pandemic, after what he considered to be a decline in work at ASR in the last half of 2019. Mr. Peet states that he heard of Motion through the grapevine but concedes that he was aware that Subeet is Rana's son, and also the dispatcher at Motion.
169. Mr. Peet testified that as a driver for Motion he used an ASR truck for a few weeks in March 2020 after his Motion truck broke down. Mr. Peet is unaware who made the arrangements to borrow the ASR truck, or what were the terms of that arrangement. No details or documentation related to the terms of any arrangement between Motion and ASR were provided by Rana, Subeet, or Mr. Dhindsa.

170. Due to his visa conditions, Mr. Narinder Singh is purportedly an exception to the standard of drivers being independent contractors; he was hired by ASR as an employee. After the pandemic took effect, and the Ford lanes were shut down, ASR had little work for its drivers, and according to Rana, Narinder, among others, sought out temporary work.
171. There is no dispute that Narinder worked for Motion, like Mr. Peet. It is unclear if there were any others.
172. According to Narinder, he started working for Motion in 2020 after he was told by Rana that ASR had no work for him due to the impacts of the COVID-19 pandemic. His evidence is that he went to work for Motion after he had a conversation with Subeet who advised him that Motion had work for him to do.
173. Narinder allegedly worked for Motion starting April 1, 2020 and returned to full-time work with ASR by June 22, 2020.
174. Rana stated in cross-examination that he learned of Narinder working with Motion through Subeet, but he does not remember when. According to Rana, Narinder never spoke to him about the decision to seek out a job with Motion.
175. Inconsistent with Rana's evidence, Subeet testified that he did not speak to Rana about Narinder working for Motion.
176. Again, I find it implausible that Subeet, who had only worked in the trucking industry for less than six months at that point in time, and is by all accounts running the operations of Motion, would not speak to his father when one of his father's employees sought Subeet out for additional work.
177. Rana and Subeet agree that Narinder continued to be paid by ASR while working for Motion. According to Narinder, he requested to stay on ASR's payroll while working for Motion because he believed that if removed, it would create concerns for his work visa. Rana agreed and ASR paid Narinder what Rana describes as salary advances.

178. These purported advances to Narinder were not classified in ASR's QuickBooks as advances. Moreover, aside from Narinder and Subeet's oral evidence that Narinder also received payment from Motion during this period, there was no corroborating documentary evidence, from Narinder, Subeet or Mr. Dhindsa, that Motion, in fact, paid Narinder for his work.
179. Similarly, neither Rana nor Narinder were able to provide evidence of the terms of the agreement to advance payment to Narinder from ASR when it was purportedly made in April 2020.
180. Rana relies on a loan agreement said to be entered into with Narinder and dated months later on June 20, 2020.
181. Notwithstanding the fact that it was signed after Narinder purportedly received the advances, around the same time Narinder returned to work full-time for ASR, the loan agreement refers to amounts "*to be loaned,*" and requires Narinder to repay the loaned amounts.
182. There was no documentary evidence of Narinder having repaid any money to ASR.
183. Due to the immigration concerns, Narinder states that he also requested to continue to use ASR trucks and trailers while working for Motion, which ASR agreed to. According to Narinder, both companies spoke with each other and arranged for Narinder to continue using ASR trucks.
184. Again, it is unclear who from each company came to this arrangement and there was no documentary evidence corroborating this arrangement or setting out its terms delivered by Rana, Subeet, Mr. Dhindsa, or Narinder.
185. In addition to the concerns raised by ASR lending its equipment to Motion without compensation and the suspicion that ASR drivers were providing service to Motion while being compensated by ASR, Paul states that ASR drivers being diverted to Motion is at odds with Rana's refusals, since 2019, to allow ASR drivers to assist ProEx. For

example, Paul notes that in the Spring of 2020 when Paul was concerned about having a driver shortage in anticipation of the Ford lanes reopening. Rana repeatedly advised that ASR did not have the drivers to spare, despite Narinder and Mr. Peet, both ASR drivers, doing work for Motion around the same period.

186. Without derogating from the very real concerns I have about the relationship between ASR and Motion, particularly the use of ASR drivers and equipment by Motion, in exchange for questionable, if any, compensation, I accept Rana's evidence that in anticipation of a return to work after the initial shut-down following the COVID-19 pandemic he was not able to ensure that ASR could provide drivers to ProEx, as he had no idea how many drivers would return to work and how much work ASR would have.
187. Having considered the most relevant portions of the extensive evidence, I turn to the position of the parties.

VI. POSITION OF THE PARTIES

A. RANA

1. Jurisdiction to issue the ex parte Award and Order and appoint an Inspector

188. According to Rana, I had no jurisdiction to grant any relief *ex parte* because the arbitration agreement between the parties, as set out in the October Minutes, does not expressly provide for *ex parte* jurisdiction (see *Farah v Sauvageau Holdings Inc*, 2011 ONSC 1819 at paragraph 76).
189. Without such express authority, Rana asserts that *ex parte* proceedings violate sections 19, 26(2), 26(3), and 26(4) of the Arbitration Act.
190. In addition, Rana contends that there is no jurisdiction for an arbitrator to grant relief pursuant to section 161 of the OBCA. Rana refers to the language in section 161, and specifically the reference to "the court," which he notes is defined in section 1(1) of the OBCA to mean the Superior Court of Justice.

191. The court must have exclusive jurisdiction to appoint inspectors under the OBCA, according to Rana, because an inspector is a court officer exercising statutory powers, has authority to impact third parties, and is subject to the supervisory jurisdiction of the court. It is nonsensical that the legislature would have created a type of statutory remedy such that a private arbitrator with limited jurisdiction could appoint an inspector with broader jurisdiction.
192. Rana refers me to the following jurisprudence he says supports his position and which he contends ought to have been put forward by Paul when seeking the *ex parte* Order in accordance with the latter's obligation of full and frank disclosure:
- a. *Pandora Select Partners, LP v Strategy Real Estate Investments Ltd*, 2007 CanLII 8026 ("*Pandora*"), wherein Justice Lax refused to stay an application in the Superior Court seeking appointment of an inspector under the OBCA on the basis that the Superior Court was the forum of choice in the legislation.
 - b. *Armstrong v Northern Eyes Inc*, 2000 CanLII 29047 ("*Armstrong*"), wherein the Divisional Court upheld the decision of an arbitrator that he did not have jurisdiction to grant an oppression remedy pursuant to section 248 of the OBCA because it is a statutory, not equitable remedy.
 - c. *ABOP LLC v Qtrade Canada Inc*, 2007 BCCA 290 ("*ABOP*") and *Elton v 10 Start Events Inc*, 2018 BCSC 1974 ("*Elton*"), in which, according to Rana, the British Columbia courts specifically held that arbitrators did not have jurisdiction to issue relief in the nature of a statutorily provided oppression remedy and the appointment of an inspector.
193. Rana further disagrees that the power to order the inspection of property and documents in section 18 of the Arbitration Act is applicable. Rana submits that this power can only be exercised where the property or documents in question are the subject of an arbitration, and here Paul has not commenced any proceeding for an oppression remedy, breach of the October Minutes, or anything else.

194. Finally, Rana does not concede that Paul is in fact a 50% owner of the RGC Group, but only that the October Minutes provide him with a right to a 50% share of the proceeds of the sale of the relevant businesses.

2. Paul's failure to make Full and Frank Disclosure

195. According to Rana, even if there is jurisdiction for an arbitrator to make an *ex parte* award pursuant to section 161 of the OBCA, there is sufficient ground to set aside the *ex parte* Order on the basis that Paul failed to meet the high obligations of candour and disclosure of relevant legal and factual issues known to him that favour Rana (see *Boal v International Capital Management Inc*, 2018 ONSC 2275 a paragraph 59).
196. Given the injustice of granting an *ex parte* order on the basis of deficient or misleading information, Rana argues that the following material misrepresentation and material non-disclosure is sufficient to set aside an order made without notice, even if the non-disclosure was unintentional (see *United States of America v Friedland*, [1996] OJ No 4399 at paragraph 28 and *Mosregion Investments Corp v Ukraine International Airlines*, 2009 CarswellOnt 1899 at paragraph 14, *aff'd* 2010 ONCA 715).
197. First, as indicated above, Rana asserts that Paul failed to present the clear binding precedent that arbitrators do not have the jurisdiction to grant OBCA remedies (see *Natale v Testa*, 2018 ONSC 4541 at paragraph 16).
198. Second, Rana highlights the following non-disclosure within the motion record delivered in support of Paul's *ex parte* motion:
- a. Non-disclosure of well-known practices and trends in the trucking industry, including that:
 - A. Storage yards are used by a number of trucking companies, and specifically that the Border Bound yard identified in Paul's motion record, are used by numerous companies, not just ASR and Motion suggesting some inappropriate link;

- B. The buying and selling of equipment is in the ordinary course of business, even through resellers, such that the fact that Motion purchased equipment through resellers that happened to come from ASR does not imply a link between the companies;
- C. Drivers are generally independent contractors who work for multiple companies, so it is not unusual for ASR drivers, when its workload reduced, to supplement their work by driving for Motion;
- D. It is common for companies to borrow and lend trucks to another to generate goodwill between companies, which explains why Motion used ASR equipment; and
- E. The trucking industry more broadly has experienced declining revenue in recent years due to reduced freight volume and load prices, which explains why ASR, like other companies including Paul's ProEx experienced comparable declines in revenue.

199. According to Rana, Paul also failed to make the following disclosure:

- a. Paul failed to disclose ASR records that provide an explanation for his allegation that there is some inappropriate link between ASR and Motion. For example, Paul failed to disclose QuickBooks entries that demonstrate that ASR received value for the sale of equipment to third parties, which Paul suggested in his *ex parte* motion record were surreptitiously transferred to Motion.
- b. Paul failed to disclose the ASR driver, Mr. Singh, who was at the Petro Station refueling ASR equipment on June 6, 2020 when the ASR fuel card was used.
- c. Similarly, the private investigator failed to identify that the timing of the transactions at the Petro Station as reflected on the receipts were inconsistent with the video footage presented.

- d. Paul failed to disclose his unlawful authorization of the private investigator to enter ASR trucks, constituting trespass contrary to the Code of Conduct established under the *Private Security and Investigative Services Act, 2005*, SO 2005, c 34. According to Rana, Paul is not an owner with authority to enter or authorize entry into ASR vehicles. The brothers do not operate the businesses together, and Rana notes that Paul is subject to an injunction issued by Justice Wilton-Siegel preventing him from attending at the business of ASR. Rana further notes that the private investigator himself was alive to these concerns, and refers me to an internal e-mail with the private investigator and his staff. According to Rana, it was incumbent on Paul to disclose this impropriety, absent which he has unclean hands.

200. In addition to the above non-disclosure, Rana asserts that where material facts were included in the Colbourn Report, they were not properly explained in Paul's affidavit, but rather buried as exhibits in the motion record inconsistent with the obligation of full and frank disclosure (see *830356 Ontario Inc v 156170 Canada Ltd*, 1995 CarswellOnt 4360 at paragraph 23).

201. For example, Rana asserts that:

- a. Paul fails to identify that the vehicles acquired from ASR by Motion were acquired through third party resellers as noted by the private investigator;
- b. Paul does not disclose that an ASR employee was at the Petro Station refueling ASR equipment at the time he alleges an ASR fuel card was improperly used to refuel a Motion truck;
- c. Paul's affidavit fails to acknowledge that there is no evidence of Rana operating Motion or receiving any benefit therefrom; and
- d. Paul's affidavit does not identify that the ASR trailer repainted and labelled by Motion was purchased by Motion through a reseller a month prior.

202. Rana acknowledges that there is discretion to maintain an *ex parte* order even where non-disclosure exists, but states that such an exercise of discretion is not warranted here.
203. Moreover, according to Rana, he does not bear the burden in the present motion, rather, the burden is on Paul to establish that there are grounds to permanently continue the *ex parte* Order.
204. Rana argues that Paul has not met his burden and that there are grounds to set aside the *ex parte* Order, given that Paul swore evidence highlighting an interpretation of the evidence that supports his case, but omitted to disclose in his affidavit the evidence unhelpful to his case that was either buried in the record, or in some cases not included at all.

3. There are no grounds for an Inspector

205. Rana asserts that Paul has not satisfied the test for the appointment of an inspector.
206. First, he is not a shareholder or security holder of ASR, and Rana highlights that, to date, Paul has refused to reclassify the share structure to reflect his interest.
207. Most importantly, however, Rana argues that he has provided a full explanation for the allegations of oppression raised by Paul in his motion. In particular Rana submits that:
- a. There is no evidence that the sales of equipment that ended up with Motion did not benefit ASR. In fact, these were transactions in the ordinary course of business and recorded in the ASR books;
 - b. Paul admitted in response to Rana's evidence that ProEx also loaned trucks and trailers to other companies;
 - c. The evidence is that Rana's son, Subeet was not operating Motion on behalf of ASR but in fact was hired by Motion on a part-time basis;
 - d. In respect of Paul's complaint concerning Rana's unwillingness to share ASR drivers, the evidence is that Rana simply cannot compel drivers to work for

ProEx which does city work, if those drivers would prefer or otherwise be given long haul routes. Rana refers to the evidence of Mr. Peet, who confirmed that he worked with Motion because Motion had long haul routes to the Maritimes that ASR could not compete with; and

- e. Paul had regularly received significant disclosure and instead of responding to counsel's request for details about any concerns, Paul sought *ex parte* relief pursuant to the OBCA.

208. Rana relies on the decision in *Khavari v Mizrahi*, 2016 ONSC 4934, for the proposition that at the very least there are credibility issues between the parties such that no inspector ought to be appointed.

4. There is no Basis for Injunctive Relief

209. Rana relies on the same arguments articulated above in respect of my jurisdiction to grant relief *ex parte* to argue that the injunctive relief should not be continued. He also asserts that Paul's failure to provide full and frank disclosure is equally fatal to his request for injunctive relief.

210. Additionally, Rana submits that Paul's request for ongoing injunctive relief should be denied, or not continued as there is no claim being advanced, and Rana argues that an injunction is meant to preserve records, but there is no evidence of any records being at risk of destruction. Rana testified that he does not personally maintain the books and records of ASR, and highlights that the accountant responsible also works with Paul.

211. In respect of the allegation that the books were altered after the injunction was issued in the *ex parte* Order, and in violation of its terms, Rana says that he did not direct anyone to make changes to the books, but rather that in response to some of Paul's concerns, the accountant added additional detail, but did not change any existing information, in respect of the sale of assets.

B. PAUL

212. Paul highlights the long history of a lack of cooperation between the brothers, and notes that despite all of the submissions made, Rana has not been able to advance any evidence of prejudice should an inspector be appointed to provide Paul with the information he is entitled to receive under the October Minutes.

213. In respect of the particular issues outlined above, Paul makes the following submissions.

1. *Jurisdiction to issue the ex parte Award and Order*

214. According to Paul, I have the jurisdiction to issue an *ex parte* Order and Award because, among other things, I have all the powers of equity pursuant to section 31 of the Arbitration Act. Paul asserts that Rana has not provided any authority where circumstances support an injunction on an *ex parte* basis, but the arbitrator was somehow limited in awarding such an injunction.

215. The fact that the OBCA provides a statutory remedy before the courts is also not determinative of an arbitrator's jurisdiction, according to Paul.

216. Paul submits that the same arguments advanced by Rana were rejected by the court in *The Campaign for the Inclusion of People who are Deaf and Hard of Hearing v Canada Hearing Society*, 2018 ONSC 5445 ("*The Campaign*") at paragraph 58-59.

217. Paul argues that even the authorities put forward by Rana support a finding of jurisdiction for an arbitrator to award remedies under the OBCA (see *Armstrong v Northern Eyes Inc*, 2000 CarswellOnt 1513 (On Div Ct) ("*Armstrong*"); *Butt v Express Plus Inc*, 2004 CarswellOnt 471 at paragraph 33(ONSC); and *Blind Spot Holdings Ltd v Decast Holdings Inc*, 2014 ONSC 1760 ("*Blind Spot*") at paragraph 28 .

218. Similarly, Paul submits that Rana's reliance on *Pandora* is misplaced. Rana asserts that this case supports his position that the Superior Court is the proper forum for the appointment of an inspector pursuant to the OBCA. Paul, however, highlights that Justice Lax acknowledges that an arbitration clause can be drafted to confer jurisdiction

under the OBCA, but that the clause at issue in her decision “captures disputes about the investment transaction [in that case] and not about statutory remedies.”²

219. Paul asserts, therefore, that he did not fail to put forward binding precedent, and where Rana has found cases from British Columbia to support his position concerning jurisdiction, these are not representative of the law in Ontario.
220. Paul disputes that an underlying claim is necessary for any of the relief sought in his *ex parte* motion. He highlights the number of times the parties have appeared before me for urgent relief to resolve disputes arising out of the implementation of the October Minutes or the UB Minutes. This includes when the parties sought injunction-like relief in respect of their India Property in January 2020.
221. While the inspector may be a court officer, Paul notes that this does not derogate from my jurisdiction, as the same could be said about a manager/receiver, which the parties clearly agree I have the jurisdiction to appoint as set out in the Consent Award dated December 5, 2018.
222. Finally, Paul asserts that:
 - a. I have the equitable jurisdiction to appoint a receiver with broad investigatory powers under section 101 of the *Courts of Justice Act*;
 - b. The power to appoint an inspector is consistent with the powers afforded to me under section 18 of the Arbitration Act; and
 - c. Any concerns that the inspector is not a party to the arbitration are inconsequential because the inspector would have to agree to the appointment, making him a party to the process.

² See paragraph 17.

2. Paul met his Obligations of Full and Frank Disclosure

223. Paul acknowledges that he had an obligation to make full and frank disclosure on the *ex parte* motion but disagrees with Rana's articulation of that obligation.
224. Paul relies on *Two-Tyme Recycling Inc v Woods*, 2009 CarswellOnt 7181, and asserts that the standard for disclosure is not one of perfection. Non-disclosure may result in a dissolution of the Order, but only where it would have had an impact on the original order being made. Moreover, even on a finding of material non-disclosure, there is residual discretion to maintain the *ex parte* Order. Paul notes that the purpose of the rule is to deprive the plaintiff of an advantage improperly obtained and where this principle does not apply, the rule ought not to be strictly enforced.
225. Paul asserts that none of the following evidence has been challenged, and therefore on its own justifies the *ex parte* Order:
- a. Rana's failure to provide him with drafts of ASR's financial statements prior to filing;
 - b. Rana's failure to provide Paul with access to the information portals described at paragraph 5 of the UB Minutes;
 - c. Rana's failure, in accordance with paragraph 6 of the UB Minutes, to provide Paul together with the financial disclosure set out in the October Minutes, reports/documentation sufficient to enable Paul to monitor the petty cash;
 - d. Rana's provision of monthly bank statements that are missing pages;
 - e. Paul's evidence that ASR's decline in revenue exceeds that of ProEx and the general industry decline; and
 - f. Rana's failure to explain increased fees to Border Bound following the incorporation of Motion.

226. Even if Rana's concerns regarding non-disclosure are legitimate, Paul asserts that they would not impact the result.
227. Moreover, Paul notes that there is an informational imbalance between him and Rana such that Paul cannot be expected to have had the evidence Rana is now presenting for the first time (see *East Guardian SPC v Mazur*, 2014 ONSC 6403).
228. Paul further requests that an adverse inference be drawn against Rana, as much of the evidence he has advanced is unsupported by corroborating documents that should be available to him (see *1413910 Ontario Inc v Select Restaurant Plaza Corp*, 2006 CarswellOnt 8579 at paragraph 59).
229. In response to the specific allegations of non-disclosure, Paul submits as follows:
- a. In respect of the binding legal authorities, as articulated above, the relevant authorities were disclosed and the law in Ontario is such that I do have jurisdiction to award statutory remedies pursuant to the OBCA;
 - b. In respect of well-known practices and trends in the trucking industry:
 - A. Paul does not dispute that multiple trucking companies may rent space from the same yards, but states that the concern is that suddenly in May 2018, at the same time that Motion was incorporated, ASR started paying more in monthly fees to Border Bound leading to suspicion that ASR was paying Motion's fees for use of the yard. Paul asserts that Rana has still not addressed this concern.
 - B. In respect of the sale of assets, Paul underscores that he advised the arbitrator that some assets were sold "indirectly" and therefore did not fail to disclose the role of resellers. On the other hand, Paul submits that Rana's evidence that he was unaware that the assets were sold to Motion is not believable. This is particularly so given that Rana's son is managing the operations of Motion, two assets were transferred

directly from ASR to Motion, and six of the assets were transferred to Motion on the same day that they were sold by ASR.

- C. In respect of ASR drivers working for Motion, Paul notes that he cannot be faulted for not-disclosing ASR's reduced needs for drivers because Rana had consistently represented to him that ASR had a driver shortage.
 - D. Moreover, Paul submits that expecting him to disclose that drivers are typically independent contractors is inconsistent with Rana refusing to allow him to contact "ASR drivers."
 - E. Paul denies that it is a well-known practice to lend assets to competitors (particularly where the competitor is not also a customer of ASR) without documentation and without charging a fee.
 - F. In respect of the declining revenue, Paul asserts that ASR's financials reveal declines in excess of the general trends in the industry. Rana has not provided any credible explanation for this. Nor does Rana, according to Paul, answer how ASR was spending more on maintenance and repairs at a time when operational revenues were declining. In response to Rana's suggestion that Paul failed to disclose ProEx's own revenue decline, Paul submits that ProEx's revenue decline is largely due to the decision in 2017 to move its business to ASR, and in any event, ProEx experienced a much less significant decline in its revenues than ASR has since 2018. According to Paul, Rana had no response to this evidence.
- c. In response to the allegation that Paul failed to disclose accounting records evidencing the sale of equipment by ASR, Paul notes that the records now relied upon by Rana are different than those provided to Paul, and more importantly, these entries according to Paul are buried in thousands of line entries, often misclassified or incomplete.

- d. In response to the concern that Paul failed to disclose Mr. Singh's presence at the Petro Station, Paul submits that the full evidence concerning this incident only amplifies his concern. Mr. Singh's evidence morphed from having no involvement in refueling the Motion truck to, once the video of the transaction was disclosed, having some involvement that remains unclear in the evidence.
 - e. Paul disagrees that he is not an equal owner with equal authority to authorize entry into ASR trucks and therefore disagrees that he failed to disclose material facts in not revealing that he authorized the private investigator to enter ASR trucks.
 - f. In response to the critique that Paul failed to explain why Mr. Dhindsa did not attend at Motion's office, Paul asserts that he could not be expected to have knowledge of the reasons Mr. Dhindsa was not ever seen at Border Bound. Most importantly, however, Paul notes that Mr. Dhindsa's evidence is that he retired in August 2017 and he could not explain the company's financial situation, including why it purportedly could not pay fees to Border Bound at a time when it was paying for ASR equipment. Paul also notes that Mr. Dhindsa had no documents to corroborate his evidence.
230. In response to the allegation that Paul purposely left the arbitrator with an impression of the evidence that favoured Paul while failing to disclose evidence hidden in the Colbourn Report, Paul argues:
- a. He clearly asserts in his affidavit that ASR transferred equipment both directly and indirectly, but the problem remains that somehow Motion ended up with 13 pieces of ASR equipment without notice to Paul or without any clearly identifiable notes in the books and records;
 - b. He did not fail to disclose that his suspicion that Rana and/or his son were operating Motion was based solely on photographs of the two of them in the presence of Motion vehicles, because the private investigator confirmed that

Rana's son is operating Motion, and Rana's connections, according to Paul remain inherently suspect; and

- c. It was not misleading for Paul to give evidence concerning the ASR trailer that was re-painted and labelled to become a Motion trailer. If Rana is suggesting that Paul's lack of explanation for this is misleading, it was open to him to lead evidence that the trailer always had a Motion logo, but he did not.

231. In respect of the evidence related to the movement of a single license plate from a non-operational ASR truck in Brampton onto an un-plated Motion truck in Milton, Paul asserts that he has no explanation, as he has been shut out of ASR's operations, and that the lack of explanation raises the index of suspicion necessary to justify the appointment of an inspector. In any event, Paul submits that the Order appointing an inspector is justified on the balance of the evidence.

3. There are Sufficient Grounds for the Appointment of an Inspector

232. Paul submits that, notwithstanding the evidence led by Rana, there are sufficient grounds for the appointment of the inspector. Specifically, he relies on the following in the evidentiary record:

- a. Rana does not dispute that Paul does not have direct access to ASR's books and records and is unable to oversee the preparation of its financial information;
- b. Rana does not dispute that in almost two years, he has not prepared the requisite financial statements to advance the sale of the Trucking Business;
- c. Rana does not dispute that the parties agreed to exchange draft financial statements prior to their finalization, and that Rana did not provide Paul with any drafts for ASR's 2017 or 2018 financial statements, while Paul provided Rana with drafts for ProEx's 2017 financial statements;
- d. Rana does not dispute that Paul still does not have access to the information portals set out at paragraph 5 of the UB Minutes which would enable him to

monitor ASR, contrary to the parties' good faith obligations under the October Minutes;

- e. Rana does not deny that he has failed to provide Paul with sufficient information to monitor the petty cash, contrary to the UB Minutes;
- f. Rana does not deny that certain bank statements provided to Paul as part of the monthly disclosure package were missing pages;
- g. Rana does not dispute Paul's responding evidence concerning ASR's steeper decline in revenue in comparison to ProEx and the trucking industry in general;
- h. There is no document demonstrating any legitimate relationship between ASR and Motion;
- i. Rana's son presented himself as a part-time employee of Motion who was to be paid a lump sum at the end of his service, but he presented no documents in this regard and continued to draw a salary from ASR during this period;
- j. Rana could not reconcile any of the conflicting QuickBooks records which demonstrated that ASR paid a driver, Mr. Narinder Singh, while the latter was working for Motion. Rana suggests that these payments were an advance to assist Narinder maintain his work visa but the payments are not characterized as an advance in QuickBooks and there is no corroborating documentary evidence confirming whether Narinder was also paid by Motion during this time; and
- k. Rana could not properly explain the incident at the Petro Station with his son, and Mr. Singh.

4. Injunctive Relief

233. Paul submits that the appropriate legal test was initially applied in granting injunctive relief, and objects to Rana's bald assertion that there is no evidence of irreparable harm and no evidence that Rana would alter the records of ASR.
234. Rather, Paul asserts that Rana has admitted in his affidavit that his staff did amend the books and records of ASR, which Paul submits is a clear violation of the injunction and sufficient to warrant its continuation until the inspector is done the inspection.

VII. ANALYSIS

A. JURISDICTION TO ISSUE AN EX PARTE AWARD PURSUANT TO OBCA

235. It is trite law that my jurisdiction to grant any relief is determined by the terms of the arbitration clause agreed to by the parties.
236. Paragraph 22 of the October Minutes provide as follows:

22. Paul and Rana each agree that any dispute arising in respect of the completion or implementation of these Minutes of Settlement, then Paul and Rana agree to appoint an arbitrator from among the resident or member arbitrators associated with Arbitration Place in Toronto or alternatively any other person who is a retired judge of the Ontario Superior Court of Justice or Ontario Court of Appeal (the "Arbitrator") to determine any such dispute acting as arbitrator pursuant to the provisions of the Arbitration Act, 1991, S.O. 1991, c. 17 and any such determinations shall be made on a summary basis and be final and binding on the Parties and shall not be subject to appeal.

(My emphasis.)

237. The parties evidenced their agreement to confer upon me as the appointed arbitrator, final and binding jurisdiction of “any dispute” arising in respect of the completion or implementation of the October Minutes. Since 2018 the parties have attorned to the exercise of that jurisdiction on several occasions, including for relief in the nature of injunctive relief, whether or not any underlying claim had been commenced. For example, the first motion brought by Paul in November 2018, without any underlying claim, sought to compel Rana to use RGC Group funds to finance ProEx’s cash flow shortage. Similarly, in January 2020, the parties agreed to have me adjudicate, on an urgent basis, an access issue in respect of real property in India.

1. *Authority to Grant Ex Parte Relief*

238. In light of my conclusion above at paragraphs 47-53 concerning my jurisdiction to hear Rana’s motion to review the *ex parte* Award, both parties have now had an opportunity to make submissions regarding the appointment of an inspector as contemplated in the *ex parte* Award. Therefore, any concerns of a denial of natural justice which discourages *ex parte* proceedings, have been addressed.

239. No harm nor prejudice has been caused to Rana by Paul having proceeded on an *ex parte* basis as Rana has now been afforded a full opportunity to present his position and be heard.

240. In addition, I similarly conclude that the broad language of the parties’ arbitration agreement, together with the historical circumstances of the parties’ dispute and the lack of explicit limitations on my authority, is sufficient to authorize the award of *ex parte* relief.

241. Rana argues that there is nothing in the arbitration agreement that allows a party to seek *ex parte* relief, and therefore, absent explicit authority, such relief is contrary to various provisions of the Arbitration Act. He refers me to the decision in *Farah*, above.

242. In *Farah*, the Court states that whether an arbitrator may proceed *ex parte* depends on the agreement of the parties. That case does not require such agreement to be explicit.

243. The Court in that case did find that the arbitrator lacked authority to grant *ex parte* relief, but what was determinative of the issue was not the lack of explicit authority granting *ex parte* jurisdiction as much as the fact that the parties had explicitly agreed through reference to Rules 8 and 11 of the ADR Chambers Arbitration Rules that they were prohibited from communicating *ex parte* with the tribunal, and that they were only allowed interim measures of protection on notice to all other parties (see *Farah* at paragraphs 77-79). In *Farah*, the parties turned their minds to the explicit exclusion of *ex parte* relief. That decision is not helpful to the current analysis.
244. The provisions of the Arbitration Act identified as relevant to my authority to grant *ex parte* relief are as follows:

Equality and fairness

19 (1) In an arbitration, the parties shall be treated equally and fairly.

(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.

Procedure

20 (1) The arbitral tribunal may determine the procedure to be followed in the arbitration, in accordance with this Act.

....

Hearings and written proceedings

....

26 (2) The arbitral tribunal shall give the parties sufficient notice of hearings and of meetings of the tribunal for the purpose of inspection of property or documents.

(3) A party who submits a statement to the arbitral tribunal or supplies the tribunal with any other information shall also communicate it to the other parties.

(4) The arbitral tribunal shall communicate to the parties any expert reports or other documents on which it may rely in making a decision.

....

Application of law and equity

31 An arbitral tribunal shall decide a dispute in accordance with law, including equity, and may order specific performance, injunctions and other equitable remedies.

245. In the present case, while there is no explicit grant of authority to issue *ex parte* relief, there are similarly no related limitations on my authority. Rather, the parties agreed that “any disputes arising out of the completion or implementation” of the October Minutes would be determined by arbitration on a summary basis in accordance with the Arbitration Act.

246. The parties have previously relied on this broad language to refer to me disputes requiring exceptional relief, and I find that given the lack of specific exclusion or reference to provisions in the Arbitration Act that would impede my ability to award exceptional *ex parte* relief, the parties intended to vest me with the authority, in the appropriate circumstances, to grant *ex parte* relief.

2. Authority to Grant OBCA Remedies

247. I conclude that the Ontario authorities support my arbitral jurisdiction to grant a statutory remedy pursuant to the OBCA.

248. Rana relies on the *Pandora* and *Armstrong* decisions for the proposition that arbitrators cannot grant statutory remedies under the OBCA. The secondary argument he makes is one of privity, namely that as a third party, any inspector is necessarily outside the scope of my authority, which is limited to the parties to the arbitration agreement.
249. Disposing of the second concern first, I note, and Paul concedes, that no inspector will be compelled to investigate ASR, rather the inspector will have to agree. Once the inspector agrees to the appointment, it becomes a party to these proceedings *by agreement* and therefore within the scope of my authority. In any agreement appointing the inspector, the scope of my supervisory authority can be addressed.
250. Where either party seeks relief that involves true strangers to the arbitration, like Motion, the *ex parte* Award and Order make clear, and I am reiterating here, that such relief must be sought before the Superior Court of Justice.
251. In respect of my authority to grant statutory remedies pursuant to the OBCA as between the parties to this arbitration, the weight of the Ontario jurisprudence supports a finding of authority.
252. Sections 161-162 of the OBCA refer explicitly to “the court” defined in section 1 of the OBCA to mean “the Superior Court of Justice.”
253. Section 248, which deals with the oppression remedy also refers explicitly to a complainant applying to “the court” for relief.
254. Notwithstanding this statutory language, as noted by Justice Wilton-Siegel in his 2018 decision in *The Campaign*, above, “the law is now well established that parties can agree to adjudicate oppression claims by way of arbitration...” (paragraph 59). In support of this proposition, Justice Wilton-Siegel refers to the 2014 Superior Court decision in *Blind Spot* which I return to below.
255. In *The Campaign*, similar to the present case, the applicable arbitration agreement does not explicitly refer to statutory remedies as being within the scope of the arbitrator’s

powers. As with the parties' agreement to resolve "any dispute" by arbitration in the present case, in *The Campaign*, that agreement provided for resolution by arbitration of "a dispute or controversy... arising out of or related to the articles or By-laws, or out of any aspect of the operations of the Society ...not resolved in private meetings..." (see paragraph 47).

256. In *Blind Spot*, above, the Superior Court found that where an arbitration clause provided for the arbitration of "dispute[s]... relating to the ... implementation of any of the provisions of" the Shareholders' Agreement" even where a party's complaints were "couched in the language of the oppression remedy under *OBCA* s.248" they fell within the scope of the arbitration clause.
257. The present arbitration clause applies to "any dispute arising in respect of the completion or implementation" of the October Minutes, and in my view, consistent with *The Campaign* and *Blind Spot*, is broad enough to encompass the arbitration of statutory remedies provided by the *OBCA*.
258. Rana relies on *Armstrong*, above, wherein he says the Ontario Divisional Court upheld the arbitrator's decision that he did not have jurisdiction to grant statutory remedies under the *OBCA*.
259. I note that the *Armstrong* decision was decided in 2000, well over a decade prior to *The Campaign* and *Blind Spot*. Most importantly, however, as the Divisional Court notes in *Armstrong*, neither party took any issue with the decision of the arbitrator that he lacked jurisdiction to grant remedies pursuant to the *OBCA* (see paragraph 21) – that issue was not in dispute before the Court.
260. Notwithstanding this, the Divisional Court went on to state, prescient of Justice Wilton-Siegel's 2018 determination, that "[i]t is open to shareholders, by agreement, to choose arbitration as the sole means of resolving their disputes and thus, absent extraordinary circumstances as in *Deluce Holdings*, discussed below, to oust the jurisdiction of the court to entertain oppression remedy proceedings under the *OBCA*. ..." (see paragraph 22).

261. At paragraph 26 of its decision, the Divisional Court explained that in *Deluce*, referring to *Deluce Holdings Inc v Air Canada* (1992), 12 OR (3s) 131 (Ont Gen Div [Commercial List]), there “was no general “resort to arbitration” clause...” and the Court in *Deluce* found that Air Canada’s resort to arbitration in that case was oppressive.
262. In the present case there is a general resort to arbitration clause and there is no argument, let alone evidence, that resort to arbitration for the appointment of an inspector is for any oppressive or vexatious reason, or is an abuse of process. Absent these criteria, there is no reason to interpret the parties’ arbitration agreement to exclude statutory remedies pursuant to the OBCA.
263. Hence, I conclude that the *Armstrong* decision from the year 2000 does not support Rana’s position on the facts before me in 2020.
264. Similarly, the decision in *Pandora*, is distinguishable. It was rendered in 2007, also prior to *The Campaign* and *Blind Spot*. Moreover, Justice Lax did not conclude, as suggested by Rana, that statutory remedies under the OBCA are the exclusive jurisdiction of the courts. Consistent with *Farah*, she concluded that the arbitration clause could, but did not in that case, contain language that would encompass the determination of statutory obligations and remedies pursuant to the OBCA (see paragraph 20).
265. It is important to note that in *Pandora*, the agreement in question was a subscription agreement that contained “inconsistent mechanisms for the resolution of disputes” (see paragraph 4).
266. On the one hand, it contained a choice of law and forum clause providing state and federal courts in New York with exclusive jurisdiction over the parties’ disputes which were also to be governed by New York law.
267. On the other hand, it contained an arbitration clause providing that “any dispute ... arising out of, relating to or in connection with the Company [i.e. SREI] or this subscription Agreement or the Subscriber’s investment in the Company ... shall be resolved

exclusively by arbitration to be conducted in New York, New York, in accordance with the rules of the American Arbitration Association. ...” (see paragraph 3).

268. After a dispute arose between the parties related to the purportedly inadequate financial reporting made by the company to its investors, the Applicants, subscribers in the Company, sought an Ontario oppression remedy and the appointment of an inspector pursuant to the OBCA.
269. Justice Lax determined that the arbitration clause was insufficient to oust the Ontario Court’s jurisdiction to award remedies under the OBCA, because, *inter alia*, “if the arbitration clause prohibits the Applicants from seeking judicial enforcement of SREI’s core obligations [financial disclosure under the OBCA], it is likely the case that there is no forum to which the Applicant can turn to enforce those core obligations, thereby rendering the obligation nugatory.”
270. The same concern does not apply in the present case. The arbitration clause in issue is not inconsistent. Additionally, it does not force the parties to apply foreign law in a foreign forum, and there is no concern that in referring the request to arbitration, one party will be deprived of its statutory rights.
271. For the foregoing reasons, therefore, I conclude that I do have the jurisdiction to award statutory remedies, and in particular to appoint an inspector in accordance with sections 161-163 of the OBCA.
272. Rana also referred me to the British Columbia decisions in *ABOP* and *Elton*, above. Given Paul’s request for relief pursuant to the OBCA, the British Columbia jurisprudence cannot outweigh the established legal principles arising out of Ontario case law, dealing specifically with the OBCA.
273. For the sake of completeness, however, I note:
 - a. These decisions concern the *Canada Business Corporations Act* not the OBCA and the British Columbia *Commercial Arbitration Act* not the Ontario *Arbitration Act*.

- b. While there are comments in both decisions that certain statutory rights, such as the finding of oppression and the appointment of a receiver or inspector under the *Canadian Business Corporations Act*, are within the exclusive jurisdiction of the Court, the issue before the Court was whether to stay the proceedings in favour of the parties' arbitration clause, which they did in both cases. The arbitrator's jurisdiction to award those statutory remedies was not the primary issue.
- c. At least in *Elton*, above, the British Columbia Supreme Court notes that there is a difference between the jurisprudence in British Columbia and the jurisprudence in Ontario in respect of an arbitrator's jurisdiction to award statutory remedies. Specifically, Justice DeWitt-Van Oosten of the British Columbia Supreme Court cites the *Pandora* and *Blind Spot* decisions referred to above, noting in her opinion, that "[t]he Ontario authorities appear divided on this issue [of arbitrator's jurisdiction to award statutory remedies]" (see paragraphs 81-82 in *Elton*, above).
- d. For the reasons already provided, I do not think *Pandora* and *Blind Spot* are necessarily inconsistent – Justice Lax in *Pandora* was appropriately concerned with the arbitration clause effectively denying a party its statutory rights. That is not the issue in *Blind Spot* nor in the present arbitration.

274. Given my conclusion, I do not also need to determine my authority to appoint an investigator pursuant to the *Courts of Justice Act*, which has not been considered as support for my jurisdiction.

B. ADVERSE INFERENCES

275. Before considering other arguments, I need to make a few observations concerning the evidentiary record. Specifically, I note that where a party possesses relevant evidence that it does not produce, an adverse inference may be drawn.

276. In the present case, where Rana baldly disputes an allegation put forward by Paul concerning the operations of ASR, I find it difficult to understand why he did not fortify his objection with corroborating documentary evidence. He is the person with access to all of ASR's books and records, and I find the absence of such evidence, as detailed above, concerning to say the least.
277. Paul is supposed to receive financial disclosure on the 15th of each month in respect of ASR, in exchange for this disclosure, Paul has no independent access to the books and records of ASR.
278. In his initial affidavit, Paul provided evidence concerning the incomplete monthly disclosure made by Rana, to which Rana did not respond. Moreover, Paul swore evidence concerning the ongoing lack of access to various informational portals which were supposed to have been provided to Paul as early as April 2019, and which access was a term of the UB Minutes; none of which was responded to by Rana.
279. The evidence that Rana delivered in response to Paul's concerns raise more questions than answers. As noted above, in a number of cases, where one would expect there to be documentary corroboration, none was provided, and much of Rana's evidence, and the evidence presented in support of his position, lacks an air of reality.
280. For example, Rana has asserted, without meaningful documentary support or any substantiation that one would expect to be available to him as the sole operator of ASR, the cause and source of ASR's revenue decline.
281. Specifically, the evidence relied upon by Rana includes a selection of lane cancellation notices from Ford, a spreadsheet presumably created by ASR staff detailing the decline in revenue from 2018-2019, without supporting documents, and e-mails between a representative of ASR, Mr. Dave Rawn, and a number of ASR customers wherein Mr. Rawn purports to confirm in writing a conversation ostensibly between him and the recipient of the e-mails wherein the ASR customers confirm a decrease in their freight volumes. Neither Mr. Rawn nor the recipients of his e-mails were witnesses on the present motion, and Rana confirmed that Mr. Rawn reached out to these customers in

response to the concerns raised by Paul in his *ex parte* motion record in respect of ASR's declining revenue. Rana admitted that he was not a part of the telephone conversations referenced in the e-mails and he confirmed that he has no knowledge as to what was discussed.

282. The only other documents relied upon by Rana to explain ASR's decline in revenue is a single Business Insider article from 2019 and a spreadsheet, presumably prepared by someone at ASR, comparing the decline in revenues between ASR and ProEx, without supporting documentation.
283. In addition to Rana's failure to adequately respond to the issues raised by Paul particularly given that Rana operates the day-to-day business of ASR, I find that there is an objective informational imbalance between the parties for the same reason. Paul is restrained by the Order of Justice Wilton-Siegel from attending at, or interfering with, the business of ASR. These realities necessarily impact the evidence that Paul can be expected to have delivered in support of his motion. In fact, the purpose of the *ex parte* motion was to appoint an inspector to investigate the day-to-day operations of ASR and provide Paul with the information and oversight the parties agreed to in the October Minutes precisely because Rana has not complied with the terms.
284. Rana and/or his witnesses could have, but chose not to deliver objective evidence in respect of ASR's relationship with Motion, as a result of which I make an adverse inference and presume that the evidence that has not been produced does not support Rana's position. In particular, I make an adverse inference in respect of the following:
 - a. The lack of documented or demonstrable terms of Subeet's employment with Motion,
 - b. The lack of evidence concerning Subeet's remuneration from Motion, as ASR was said to have stopped paying him sometime after the COVID-19 pandemic in the Spring of 2020,

- c. The lack of documentation related to the circumstances of the lending or transfer of equipment between ASR and Motion,
- d. The lack of evidence of Motion reimbursing Subeet \$150 for fuel said to have been paid by him in cash on June 6, 2020,
- e. The lack of evidence concerning reasons for the increased payments by ASR to Border Bound in June 2018,
- f. The lack of evidence in respect of Motion paying Narinder Singh,
- g. The lack of evidence of any contractual relationship between Border Bound and Motion, and
- h. The lack of evidence from the ASR bookkeeper who would have had firsthand knowledge of the matters to which Rana testified.

C. FULL AND FRANK DISCLOSURE

285. The parties are generally in agreement as to the applicable legal principles of disclosure when seeking *ex parte* relief.
286. The moving party “must make full and frank disclosure of the relevant facts, including facts which may explain the defendant’s position if known to the plaintiff.” See *Friedland*, above, at paragraph 30, citing *Chitel v Rothbart* (1982), 39 OR 2d 513.
287. Full and frank disclosure imposes “high obligations of candour and disclosure” and requires the moving party to present “points of fact or law known to it that favour the other side” (see *Boal*, above, at paragraph 59).
288. It is insufficient to simply attach relevant documentary evidence to the moving party’s affidavit, material facts must be revealed or highlighted. Where a party fails to comply with this duty the *ex parte* order may be set aside (see *Friedland* at paragraphs 28-29).

289. In the event of non-disclosure of a material fact, whether to set aside an *ex parte* order is determined on the basis of whether the omitted disclosure might have had an impact on the original order (see *Two Tyme*, above at paragraph 20). What is a material fact is determined objectively, not on the subjective understanding of the moving party (see *Boal*, at paragraph 59).
290. In addition to the above it is important to note that the disclosure duty is not to be applied too rigidly, and “[a] plaintiff should not be deprived of a remedy because there are mere imperfections in the affidavit or because inconsequential facts have not been disclosed” (see *Friedland* at paragraph 31).
291. Absent a finding of intentional non-disclosure, there remains a residual discretion to decline to set aside an *ex parte* order even where a failure to make full and frank disclosure is found (see *Two-Tyme* at paragraphs 20-21).
292. Rana sets out a long list of what he describes as material non-disclosure. First among them is Paul’s failure to disclose binding case law regarding my lack of jurisdiction. Given my conclusion above, I disagree that this constitutes material non-disclosure.
293. In respect of the specific allegations of factual non-disclosure, my original conclusion granting Paul relief has only been fortified upon a close review of the comprehensive responding records filed on this current motion. It is even more clear from the material filed by Rana, and the cross-examinations, that Rana has perpetuated a lack of transparency into the operations of ASR, and a lack of good faith in providing the financial, operational and other relevant information required to secure the sale of the Trucking Business.
294. For example, I note that Rana did not provide any evidence in response to the specific allegations from Paul that:
- a. Paul did not receive draft financial statements for ASR in accordance with the parties’ agreement;

- b. Rana provided incomplete banking statements as part of his monthly financial disclosure;
 - c. Rana did not provide the records sufficient to enable Paul to monitor the petty cash as required by the UB Minutes; and
 - d. Rana still has not provided Paul with full access to the information portals described at paragraph 5 of the UB Minutes.
295. Rana similarly failed to explain why repair and maintenance costs increased for ASR at a time when revenue was in decline. He also did not present any reasonable explanation or documentary record himself, or through his witnesses, to dispel the suspicion of an inappropriate link between ASR and Motion. For example, there were no details provided concerning Subeet's role with Motion, there were no records for the equipment borrowed by Motion from ASR, there were no records confirming whether ASR drivers who worked for Motion were ever paid by Motion, and there was no explanation for the increase in fees paid by ASR at Border Bound shortly after the incorporation of Motion in May 2018.
296. In noting Subeet's involvement with Motion, I have no information in respect of Subeet Carriers Inc, apparently a corporation included in the Respondent's group of companies.
297. Rana had a fulsome opportunity but failed to present evidence to contradict the allegations of Paul. I find that Rana has failed to comply with his disclosure obligations under the October Minutes and reiterated in the UB Minutes.
298. I also reject Rana's criticism of Paul's non-disclosure of aspects of Mr. Colbourn's evidence in the *ex parte* motion record. Many of Rana's allegations are unfounded. For example, contrary to Rana's assertion, Paul did identify that transfers of equipment from ASR to Motion happened both directly and indirectly, i.e. through resellers. Other purported non-disclosures are of little, if any, consequence. For example, Paul did not initially disclose Mr. Singh's presence at the Petro Station on June 6, 2020, but his being there does not assist Rana or undermine Paul's concerns at all. To the contrary, Mr. Singh

and Subeet's evidence in respect of their interaction only begs more questions as to the relationship between ASR and Motion. Furthermore, where Rana states that Paul ought to have disclosed a variety of "industry practices," to explain ASR's allegedly suspicious conduct. It is far from clear that there are in fact industry practices as identified by Rana. Even if there were, however, any purported industry practice does little to address the concerns of Rana's impropriety. I return to this below.

299. I find that the general criticisms raised by Rana are not substantive nor material to my decision. The evidence from the private investigator is not determinative in and of itself of any issue in dispute, but initiated this process within which the brothers have now had an opportunity to address suspicious operations of ASR. It is the parties' responding evidence, which I address herein, that fortify the original *ex parte* Award and Order and that I rely on in reaching my current conclusions.

300. I turn now to the specific allegations of insufficient disclosure.

1. *Well-Known Practices and Trends in the Trucking Industry*

301. Rana provided evidence of what he refers to as well-known practices and trends in the trucking industry, including the sale of assets in the ordinary course of business, the use of trucking yards by numerous trucking companies, the designation of drivers as independent contractors, and the lending and borrowing of equipment to other trucking companies.

302. Aside from Rana's evidence that these are well-known practices, he provided no expert report nor corroborating evidence for his views. However, even if demonstrated to be industry practice on the basis of cogent and admissible evidence, such practices would not establish the particular ASR conduct as being in the ordinary course of business rather than for some collateral and improper purposes.

303. For example, while I may accept that in the ordinary course of business, ASR and other trucking companies engage in the sale or purchase of assets, what is suspicious in the current circumstance is that since the incorporation of Motion in May 2018, ASR just

happened to transfer, directly or indirectly, 13 of its assets to Motion. The concern is amplified because both Rana and Mr. Dhindsa professed to have no knowledge that these assets were exchanged between their two companies, despite being friends for many years and across continents, and despite Mr. Dhindsa's company being operated by Rana's son since November 2019.

304. Similarly, Mr. Dhindsa, who said that he has been retired since August 2017, could not provide a clear answer as to what Motion was doing between May 2018 and December 2019 when it commenced business operations. Despite being the sole owner and director, Mr. Dhindsa could not explain basic aspects of Motion's finances, including how it was able to purchase assets from ASR prior to December 2019 when it first started engaging in revenue generating activity, as well as after the onset of COVID-19 at which time Mr. Dhindsa said Motion did not have sufficient funds to pay its monthly rent to Border Bound. Mr. Dhindsa similarly provided no evidence of how Motion will operate after Subeet resigns, which he has ostensibly done at the end of August, shortly after the hearing of this motion.
305. In respect of the use of the Border Bound Trucking Yard by both Motion and ASR, again, I may accept that trucking yards are typically used by numerous arm's-length trucking companies, but Rana's evidence does not help resolve the suspicion that ASR and Motion may be improperly interconnected. Specifically, according to Rana, ASR has been paying rent to Border Bound since January 1, 2017. Until May 2018, the paid rental amounts set out in the record are small, less than \$250. However, in May 2018, coinciding with the time Motion is incorporated, ASR begins paying Border Bound \$2,260 per month. Rana does not provide any explanation for that increase. That raises suspicions of whether ASR is paying rent at Border Bound for Motion, which Rana could have, but did not address.
306. Mr. Dhindsa's evidence only further muddies the water. According to Mr. Dhindsa, Motion negotiated rent at Border Bound commencing around the onset of the COVID-19 pandemic in March 2020 for approximately \$1,000 per month. However, Mr. Dhindsa advised that Motion has been unable to pay rent due to cash flow issues as a result of the

pandemic. I note that no invoices or communications between Motion and Border Bound were included with Mr. Dhindsa's affidavit.

307. Moreover, Mr. Dhindsa also confirmed that in May 2020, at the time of Motion's purported cash-flow shortage, Motion purchased an ASR trailer for an undisclosed amount from a re-seller, Next Truck, which the evidence from Rana demonstrates was sold to Next Truck for \$15,500. Remarkably, according to Mr. Dhindsa, the fact that it was an ASR trailer was unknown to him. In addition to it being implausible, in my view, that Mr. Dhindsa was unaware that the equipment being purchased originated with ASR, there is no evidence from where Motion would have had the funds to purchase such expensive equipment and if Mr. Dhindsa is otherwise to be believed Motion was, at the same time, unable to pay Border Bound. The suggestion that Mr. Dhindsa may have used his personal funds from time to time cannot be accepted as he provided no corroborating evidence.
308. Rana's evidence in respect to the borrowing and lending of equipment between ASR and Motion is similarly unsatisfying. I do not accept Rana's evidence that in the normal course of business, purportedly arms-length competitors such as ASR and Motion would lend each other equipment without any record of a fee for use or sufficient documentation and insurance arrangements. As well, I reject the evidence of Mr. Peet to the extent that he suggested that it is normal practice for competitors to lend each other equipment. He is only a driver and had no knowledge of any Motion and ASR arrangement or the terms thereunder.
309. Rana and Paul both acknowledge that there is a practice of lending or borrowing equipment where a customer is also a trucking company and may require use of a trailer or truck while completing paid work. This seems reasonable and makes commercial sense. However, this is not the situation between ASR and Motion. Despite Rana's opinion to the contrary, based on the evidence before me, including that of Subeet, I find ASR and Motion to be competitors in the trucking industry.

310. I also note that in explaining Mr. Narinder Singh's use of ASR trucks and trailers while working for Motion, the explanation was not that it was common practice in the industry, but that due to exceptional concerns related to Narinder's work visa he thought it prudent to use ASR trucks.
311. The additional evidence in respect of Narinder raises further concerns. The evidence in respect of why ASR continued to pay Narinder while he was working for Motion is less straightforward. According to Rana, Subeet, and Narinder, ASR provided Narinder with "advances" of his pay to keep him on payroll with ASR to avoid issues with his work visa. While there is a promissory note produced wherein Narinder apparently agrees to repay ASR, there is no documentary proof that repayment has been made, and more suspiciously, despite his evidence that he was also paid by Motion, neither Narinder, nor Mr. Dhindsa or Subeet provided records of any payment from Motion to Narinder.
312. I note here that I must reject the evidence of Narinder Singh. He has been beholden to Rana and ASR which are complicit in entering into questionable arrangements for immigration purposes. I find his evidence to be unreliable as a possible accommodation to his employer, Rana and ASR.
313. Mr. Peet also testified that he drove an ASR truck in March 2020 while working for Motion. While he seemed to suggest that this was not uncommon between trucking companies, there is no basis to conclude that this was any more of an industry practice than an unexplained ASR accommodation to benefit Motion, which Subeet confirmed to be a competitor
314. Lastly, while I accept that drivers may tend to be independent contractors within the trucking industry, I do not agree that Paul's failure to highlight that in the *ex parte* motion is material. The issue before me is not the drivers' characterization or ability to work for multiple companies, but whether a particular driver working for both ASR and Motion is something that ought to have been disclosed to Paul as a person contractually entitled to transparency in the business's operations and as a person with a recognized interest in the Trucking Business.

315. I find that the information dealing with the sharing of drivers between ASR and Motion, including payment arrangements and the use of ASR equipment ought to have been but was not disclosed to Paul, particularly given the evidence of ASR's "reluctance" since 2019 to allow any drivers to work for ProEx because it purportedly could not risk losing any of its drivers. I note that ASR's "reluctance" flies in the face of the April 2018 Consent Order of Justice Wilton-Siegel by which the bothers agreed that Rana is restrained from interfering with Paul's ability to access staff employed by or associated with RGC Group for the purpose of carrying out the business of ProEx.
316. For the foregoing reasons, there is insufficient evidence of what Rana contends are well-known industry practices, and even were I to accept Rana's evidence of the existence of industry wide practices, I disagree that the failure to identify such practices in Paul's *ex parte* motion constitutes material non-disclosure by Paul.

2. Remaining Material Non-Disclosure

317. In addition to the above, Rana argues that Paul ought to have disclosed the ASR declining revenue trends as well as ProEx's declining revenues, and that the failure to do so suggested improperly that ASR's decline in revenue must be due to the improper shifting of its business to Motion.
318. Considering Rana's evidence at face value does not impact the *ex parte* Award or Order.
319. Consistent with Rana's own evidence, Paul asserts that the decline in ProEx's revenue between 2017-2018 is due largely to the agreed upon transfer of its business with TST to ASR.
320. Rana provided no response to this, and therefore no explanation for why ASR's decline in revenue not only coincided with the incorporation of Motion, but greatly exceeded the decline in revenue experienced by ProEx.
321. In respect of the purported industry-wide decline in revenue, as expected, each party was able to point to secondary sources seeking to undermine the other's position. I conclude

that nothing turns on the industry revenue trends, and therefore I decline to make any finding in that respect in the absence of qualified expert evidence.

322. In respect of the allegation that Subeet, Rana's son was operating Motion, the evidence remains opaque. Subeet had no prior work experience in the trucking industry and apparently worked for Motion part time. It is clear, however, that Subeet was in fact the dispatcher for Motion and the point of contact for its drivers. Based on Mr. Dhindsa's evidence, Subeet seemed to be in charge of the day-to-day operations of Motion. Rana does not dispute that Subeet had not, at the time of the hearing, received any remuneration from Motion. It is not contested that he continued to receive monthly remuneration from ASR between at least November 2019 and March 2020. I accept that both Rana and Paul had previously advanced salaries to their children, but am concerned by the lack of transparency in respect of the arrangement between Subeet and Motion at a time when Subeet worked for Motion, but continued to receive remuneration from ASR. There are no details concerning the scope of Subeet's role and any purported remuneration from Motion, including the amount he is yet to be paid.
323. In respect of the use of ASR funds to refuel Motion trucks, and specifically the incident at the Petro Station on June 6, 2020, I similarly disagree that Paul did not make full and frank disclosure.
324. I accept that it was not initially disclosed that Mr. Singh was at the Petro Station on June 6, 2020, but his presence is not the complete answer Rana purports it to be in respect of Paul's suspicion that ASR funds were used to refuel a Motion truck.
325. In particular, Mr. Singh's evidence evolved continuously throughout these proceedings. First, he made no mention of having refueled a Motion truck for Subeet who was also at the Petro Station that morning. According to Mr. Singh's first affidavit he refueled an ASR truck and reefer van at the Petro Station at 9:11am and 9:26am. Upon disclosure of a video of Mr. Singh refueling Subeet's Motion truck in or around 9:26am, Mr. Singh revised his evidence to explain that Subeet had forgotten his gloves and asked Mr. Singh whom he just coincidentally encountered at the Petro Station, to refuel his truck.

According to Mr. Singh he was given \$150 cash from Subeet for the fuel, which was used to pay for the fuel inside the station.

326. Upon further challenge, because Mr. Singh can be seen on a video swiping a card at the pump, Mr. Singh changed his evidence again, suggesting that he borrowed a pass card from the attendant that morning to use to swipe at the pump and then he went into the station to pay cash.
327. Needless to say, I am not able to accept any of Mr. Singh's evidence on this point and find it of no consequence that his presence was not highlighted in Paul's initial affidavit. I am similarly unconcerned by Paul's failure to note the timing discrepancies between the video surveillance and the fuel receipts on June 6, 2020. At minimum, Subeet, Rana and Mr. Singh were at the Petro Station refuelling a Motion truck around 9:26am, being the same time that a receipt was issued for the use of the ASR fuel card. Subeet's evidence that he submitted a receipt to Motion for reimbursement was simply not corroborated and is inconsistent with the versions of events advanced by others.
328. Finally, in respect of the issue concerning the private investigator's access into ASR vehicles, I understand Rana's concerns regarding the lawful authority to do so, but decline to set aside the *ex parte* Order on that basis. I am in no position to assess whether the access was an unlawful trespass.
329. There is no question that the parties intended to share in the ownership, including the benefits and liabilities of each of the entities of the RGC Group, equally. The October Minutes are explicit that this principle of equality governs the parties' settlement agreement.
330. Whether or not this is sufficient at law to enable Paul to authorize entry into ASR property is irrelevant for the present purposes. I find that Paul had ostensible entitlement and believed he had the authority to do so. Moreover, I conclude that Paul did not intentionally hide the fact that he authorized investigators to enter ASR trucks. It is clear that he was the instructing client, whether through counsel or otherwise, and upon request

he made full disclosure of Mr. Colbourn's file to Rana, and readily acknowledged that he provided the authorization to investigate ASR's equipment.

331. Nothing in my Award or Order relies on the evidence of Mr. Colbourn purportedly retrieved improperly, and even if there was an unlawful trespass that may have constituted non-disclosure, its non-disclosure was not intentional and even if disclosed, it would not have altered my determination, and in any event, I would exercise my discretion not to set aside the *ex parte* Award and Order on that basis.
332. I cannot agree that Paul failed to provide full and frank disclosure as required of all material facts. His affidavit and the corresponding exhibits were comprehensive and set out the information reasonably known to Paul at that time. I recognize that certain facts were contained in the comprehensive motion record but not highlighted in Paul's affidavit, however the standard on the *ex parte* motion is not one of perfection, and I do not find that those facts, if highlighted would have had any impact on the original order.
333. Even if some of the omissions in Paul's affidavit may have been material, having now considered the evidence as a whole, including that of Rana which fortifies Paul's claim for relief, I would in any event exercise my discretion to not set aside the *ex parte* Award and Order.

D. THERE ARE GROUNDS TO APPOINT AN INSPECTOR

334. I am satisfied on the record before me that Paul has standing under the OBCA given his 50% interest in RGC, including ASR, "as owner, director or directing mind."
335. Specifically, the October Minutes provide that:

Paul and Rana agree that [the October Minutes] shall be interpreted in accordance with this underlying principle that they each own a 50% interest in the Trucking Business and the Real Estate Business and each share equally in all of the liabilities incurred in the ordinary course of the operation of the Trucking Business and the Real Estate

Business as owners, directors or directing minds, as the case may be.

(My emphasis.)

336. Having carefully reviewed the comprehensive response delivered by Rana, I remain convinced, perhaps more so now, that on the face of the material submitted “there is good reason to think that the conduct complained of may have taken place” (*Jones v Mizzi*, 2016 ONSC 4907 (*Jones*) at paragraph 13, citing *Consolidated Enfield Corp v Blair*, 1994 CarswellOnt 249 at paragraph 83).
337. Paul has made out a *prima facie* case of oppressive conduct.
338. Rana, despite being given a fulsome opportunity to do so, failed to respond to the allegations of obstructing Paul’s oversight of the financial operations of ASR, and the declining revenues evidenced by the reporting Paul has received.
339. In addition, however, the evidence in respect of ASR’s relationship with Motion raises more serious questions. It is clear that Motion has been operated by Rana’s son, Subeet, for all intents and purposes since November 2019. Mr. Dhindsa, the purported owner and director, provided no documentary records to assist in the present motion, and had little awareness of the operations of his own company. On his own evidence, Subeet takes care of that. There is no documentary evidence corroborating Subeet’s employment or termination from Motion, nor is there any corroborating evidence that Subeet was ever paid by Motion for his service during the same period he was being paid by ASR. Similarly, given the evidence of Mr. Dhindsa that he retired in August 2017, I find it unlikely that Mr. Dhindsa is operating Motion independently. In light of this, I find it highly suspect that 13 pieces of ASR equipment coincidentally ended up with Motion during periods of time when Mr. Dhindsa confirmed that Motion had either not begun business operations, or was experiencing cash-flow issues preventing it from paying routine operating costs, let alone making sufficient revenue to afford costly equipment.

340. In addition if it is to be found that the ASR transactions by Rana were not in the ordinary course of business, that might be a breach of the April 2018 Consent Order of Justice Wilton-Siegel, by which the brothers agreed that both Paul and Rana are restrained from, directly or indirectly, selling, transferring or otherwise disposing of any of the assets owned by the RGC Group, including transferring money out of any RGC Group bank account, outside the ordinary course of business without express written consent of the other party.
341. Further, there are unresolved and undocumented questions concerning increased ASR payments to Border Bound, ASR payments to Narinder Singh and Subeet while working for Motion, and ASR vehicles used by Motion.
342. On balance there are substantive reasons for me to believe there is more than an arms-length competitive relationship between ASR and Motion that Rana would not acknowledge. An inspector's investigation could confirm or dispel that belief and afford to Paul disclosure of information to which he is entitled.
343. In respect of Rana's argument that the *ex parte* Order be set aside due to credibility concerns on both sides, I find that he has failed to identify legitimate credibility concerns in respect of Paul. Rana seems to rely on his same allegations of non-disclosure to suggest that Paul is not credible. For the same reasons articulated above, I reject this argument.
344. In reaching a conclusion I am mindful of the agreement and aspirations of this family seeking a full and final divorce of their business investments through "good faith" actions recognizing that they "each own a 50% interest in the Trucking Business and ... each share in all the liabilities incurred in the ordinary course of operation...". Where there are additional concerns arising out of the evidence on this now hotly contested motion, I am well satisfied on a balance of probabilities that the foregoing meets the requirements for the appointment of an inspector under the OBCA.

E. INJUNCTIVE RELIEF

345. For the same reasons set out above, I reject Rana's arguments in respect of my jurisdiction to grant Paul's *ex parte* injunctive relief and conclude that there are sufficient grounds to continue the injunctive relief until an inspector has been appointed and ASR's records preserved for use in the investigation.
346. As set out in the *ex parte* Award, the test for injunctive relief is well-established.
347. Paul is to establish on a balance of probabilities that: (1) there is a serious issue to be tried in the underlying arbitration; (2) he would suffer irreparable harm if the injunction is not granted; and (3) the balance of convenience favours granting the injunction. See *RJR MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311.
348. Rana objects to the injunction granted by the *ex parte* Award on two grounds: (1) the lack of an underlying claim, and (2) no evidence of irreparable harm.
349. I have been provided with no legal authority that requires a separate underlying action to have been commenced prior to injunctive relief being granted. In any event, the parties have authorized me to arbitrate their dispute arising out of the implementation of the October Minutes.
350. The October Minutes also require the parties to exchange financial, operational and any other information in good faith to ensure that an orderly sale of the Trucking Business proceeds in an open and transparent manner.
351. There is serious doubt as to whether Rana has provided the requisite information and cooperated in effecting the sale of the Trucking Business in accordance with the October Minutes.
352. Given the long history of obfuscation and Rana's own evidence that he did not provide ASR's accountant with the *ex parte* Order, or with instructions not to amend the books and records of ASR, there is a real concern that Paul would suffer irreparable harm if the records are altered or destroyed prior to the appointment and finding of the inspector

needed to assess whether there has been wrongdoing by Rana or to effect the sale of the Trucking Business.

353. Moreover, as explained at paragraph 40 of the *ex parte* Award, the balance of convenience favours granting the injunction:

The injunction is only for short period of time until the parties return before me or appear in Superior Court to determine the relevant scope of the investigation. Most importantly, it only requires Rana to do that which he has already agreed to do in the October Minutes, namely “act in good faith to provide [Paul] with financial, operational and any other information that is required to ensure that the events described in [the October Minutes] proceed in an open and transparent manner, including, but not limited to, information to allow the Parties to monitor the Trucking Business ... while the steps contemplated by [the October Minutes] are being implemented.”

354. I note that Paul initially agreed to provide security for the costs of the inspector should the appointment of the inspector be determined to not have been reasonable. In his responding affidavit, he revises this position, suggesting that if I Award the appointment of the inspector on the basis of the present comprehensive records of which both parties had notice, he would request that the costs of the inspector be paid by the RGC Group, or the individual parties equally, subject to any determination of costs following the results of the investigation. I decline to do so.

355. Pending the outcome of the inspection, the costs of the inspector shall be borne by Paul as initially determined subject to further costs submissions upon completion of the inspection if the parties are unable to then agree upon financial responsibility for the inspector’s services.

356. In order to ensure this matter does not languish, the parties shall have 30 days from the date of this Award, unless extended on consent of the parties or by further Award, to

secure the appointment of the inspector and to determine the scope of the inspection, either by return before me or the Superior Court of Justice if a party seeks to empower the inspector vis-à-vis strangers to this arbitration.

357. Paul shall have the same 30-day period to seek an extension of any injunctive relief, if so advised.
358. As an end note, I find it incredible that the relief ordered herein is necessary to have the parties abide by their agreements to date. It is time for a concerted effort by all professional advisors to assist the parties to promptly “achieve an orderly sale” of the Trucking Business as agreed in the October Minutes. In the absence of an effective effort and expeditious action, I may be spoken to, to fix a procedural timetable for the purpose of the sale of the Trucking Business and the balance of any outstanding obligations.

VIII. CONCLUSION

359. For the foregoing reasons, I dismiss Rana’s motion and conclude that:

- a. Rana has standing pursuant to the explicit language of the *ex parte* Order, or in the alternative section 44(1)(b) of the Arbitration Act to bring the present motion;
- b. It is not necessary to resolve the issue of admissibility of Amar Randhawa’s August 26, 2020 affidavit as it is not determinative of the issues before me;
- c. I had the authority to issue the *ex parte* Award and Order;
- d. I do have the jurisdiction to award statutory remedies, and in particular to appoint an inspector in accordance with sections 161-163 of the OBCA;
- e. Paul made full and frank disclosure of all material facts and even if he did not, I would exercise my discretion not to set aside the *ex parte* Award and Order, particularly in the context of and reflection upon the evidence addressed by Rana;

- f. Paul has standing under the OBCA given his 50% interest in RGC, including ASR, “as owner, director or directing mind” and has made out a *prima facie* case of oppressive conduct such that grounds exist for the appointment of an inspector pursuant to sections 161-163 of the OBCA;
- g. Paul shall pay the costs of the inspector subject to further costs submissions upon completion of the inspection if the parties are unable to then agree upon financial responsibility for the inspector’s services;
- h. The parties shall have 30 days from the date of this Award, unless extended on consent of the parties or by further Award, to secure the appointment of the inspector and to determine the scope of the inspection, either by return before me or the Superior Court of Justice if a party seeks to empower the inspector vis-à-vis strangers to this arbitration;
- i. Paul shall have the same 30-days from the date of this Award to seek an extension of any injunctive relief, if so advised; and
- j. Costs associated with this Award, including the costs of the *ex parte* Award and Order, shall be determined following completion of the inspection contemplated herein or upon submission if the inspector is not appointed within 30 days of this Award.

Dated at Toronto, this 26th day of October, 2020.



LARRY BANACK

APPENDIX “G”

[ATTACHED]

**ONTARIO
SUPERIOR COURT OF JUSTICE**
(Commercial List)

BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

-and-

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. OPERATED AS ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., and ASR TRANSPORTATION INC.

Respondents

AFFIDAVIT OF BALDEV DHINDSA

Affirmed June 3, 2021

I, Baldev Dhindsa, of the City of Brampton, in the Regional Municipality of Peel, SOLEMNLY AFFIRM:

1. I am the principal of Motion Transport Ltd. ("**MTL**"), and as such have personal knowledge of the matters to which I herein depose. Where my affidavit is based on information and belief, I have identified the source thereof and verily believe it to be true.
2. I make this affidavit in response to the receiver's motion for production, disclosure and the right to examine personnel connected to MTL.

PRODUCTION AND DISCLOSURE

3. As I have tried to indicate to the receiver, through my lawyer, Christina Bowman ("**Ms. Bowman**"), Motion Transport Ltd. was a very small operation and was only in business from May 2019 to March 2021.

4. Attached to my affidavit affirmed January 18, 2021 were MTL's financial statements and backup documentation from May 2019 to April 2020. Attached hereto and marked as **Exhibit 'A'** to this affidavit is a true copy of MTL's responding record, including my affidavit affirmed January 18, 2020 with the exhibits.
5. Exhibits C through D are MTL's financial records and accompanying source documents from the commencement of business in May 2019 to April 2020.
6. As the Profit and Loss Statement at Tab 'F' indicates, MTL only made approximately \$10,000 in its first year of operations.
7. As a result of the impact of Covid on the business and its general lack of profitability, MTL is no longer in operation.
8. It no longer has a physical office and all but one vehicle has been sold.

EQUIPMENT

9. With respect to the receiver's observation that the Ministry of Transportation's ("**MTO**") records show that MTL still owns six pieces of equipment, tractors and trailers: due to Covid, the Ministry's records, are not in fact up to date.
10. Until the previous owner's plates are brought into the Ministry's offices, which has been difficult to do since MTO offices have been closed for much of the last 15 months, the transfer of some pieces of equipment has not been recorded in the Ministry's records.
11. The Ministry has continuously extended the validity of various licenses and other things, including "license plate sticker validation", due to Covid and currently extensions are in effect to June 30, 2021. Attached hereto and marked as **Exhibit**

'B' is a true copy of a page from the MTO's website outlining the services which are extended.

12. Since approximately August 2020, there has only been one truck running and as of March 2021, it also ceased operation so MTL is no longer doing business. This truck is still registered in MTL's name; it is a 2015 black Volvo bearing unit number 1006. I am happy to provide the bills of sale if they are not already attached to my January 18, 2021 affidavit. Also, MTL's bank statements will show the payments for the equipment. Given the very brief time frame in which this motion was brought, I was not able to review and assemble the bills of sale relevant to these sales and bank statements in order to attach them to this affidavit but I can do so and provide them to the receiver if it helps.

MTL's "servers"

13. The receiver has requested access to MTL's "servers". The only electronic device that MTL used for its operations was a single laptop computer. The laptop went missing in the summer or autumn of 2020. I did not buy another.

14. The 'server' which the receiver may be referring to with respect to the financial statements, must be those of MTL's accountant, Swift Accounting. MTL has a single banker's box of paper financial records for the period of May 2019 to April 2020 which were the basis for the accountant's generation of the financial statements ("Box").

PAPER RECORDS

15. I have, through my lawyer Christina Bowman, offered to provide that Box of documents to the receiver but Ms. Bowman advises that shortly after making that offer, this motion was served on her office and no response with respect to the Box was received from the receiver's office.

16. The Box is currently at the accountant's offices.

17. Ms. Bowman has provided the contact information for the accountant to the receiver's lawyer and Ms. Bowman advises me that she has provided a copy of Justice Koehnen's order to the accountant. I have advised MTL's accountant that it may be contacted by the receiver in order for it to attend at the accountant's offices and take whatever copies of MTL's financial records, electronic or paper, that it deems necessary. Attached hereto and marked as **Exhibit 'C'** is a true copy of correspondence from Ms. Bowman to the receiver's lawyer, Natalie of June 3, 2021.

18. The receiver also wants to be able to examine me and essentially anyone else connected to MTL. I have no objection to being examined if the receiver believes that I can help but I think that MTL's accountant will be a better person to answer the receiver's questions about MTL's finances.

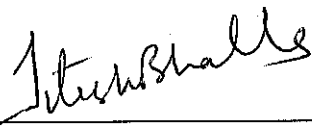
COSTS

19. I would ask that any and all costs including professional fees including counsel and venue fees be paid by the receiver.

20. I do not know what else I or MTL can provide to the receiver to help with its investigation.

21. I make this affidavit in response to the receiver's motion returnable June 4, 2021, for disclosure and other relief and for no other or improper purpose.

Affirmed before me at the City)
of Mississauga, on this 3rd)
day of June, 2021)



A Commissioner, etc.)



BALDEV DHINDSA

SWINDERPAL SINGH RANDHAWA
Applicant

-and-

RANA RANDHAWA ET AL.
Respondents

Court file No.: CV-18-593636-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

RESPONDING AFFIDAVIT OF BALDEV DHINDSA
for the non-party,
Motion Transport Ltd.

Bridge Law Professional Corporation
Lawyers
13 – 7015 Tranmere Drive
Mississauga, ON L5S 1T7

Christina Bowman (LSUC# 50694U)

T. 905-673-7222

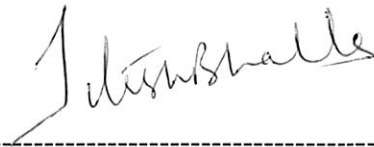
F. 1-877-719-1629

E. cbowman@bridgelawyers.ca

Lawyers for the Respondent,
Motion Transport Ltd.

TAB A

This is exhibit 'A' referred to in the
affidavit of Baldev Dhindsa affirmed before
me this 3rd day of June, 2021

A handwritten signature in black ink, appearing to read "Jitesh Bhalla", written over a horizontal dashed line.

Jitesh Bhalla

Commissioner for taking affidavits

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

-and-

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. OPERATED AS ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., and ASR TRANSPORTATION INC.

Respondents

**RESPONDING MOTION RECORD OF THE NON-PARTY,
MOTION TRANSPORT LTD.**

Returnable March 12, 2021

January 18, 2021

Bridge Law Professional Corporation
Lawyers
13 -7015 Tranmere Drive
Mississauga, ON L5S 1T7

Christina Bowman
cbowman@bridgelawyers.ca

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F. 1-877-719-1629

Lawyers for the Non-Party,
Motion Transport Ltd.

INDEX

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

-and-

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. OPERATED AS ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., and ASR TRANSPORTATION INC.

Respondents

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TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

-and-

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. OPERATED AS ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., and ASR TRANSPORTATION INC.

Respondents

AFFIDAVIT OF BALDEV DHINDSA

Affirmed January 18, 2021

I, Baldev Dhindsa, of the City of Brampton, in the Regional Municipality of Peel,

SOLEMNLY AFFIRM:

1. I am the principal of Motion Transport Ltd. ("**MTL**"), and as such have personal knowledge of the matters to which I herein depose. Where my affidavit is based on information and belief, I have identified the source thereof and verily believe it to be true.
2. I make this affidavit further to my affidavit affirmed July 9, 2020 in response to the applicant's motion and attached hereto as **Exhibit 'A'** as well as my affidavit sworn July 31, 2020 and attached hereto as **Exhibit 'B'**.

THE ARBITRATION

3. The applicant's motion seeks to obtain an order for an inspector to examine all of MTL's books and records. He relies on affidavits that were filed in an arbitration between himself and his brother, Rana Randhawa.
4. Neither I nor MTL are parties to that arbitration. While I did give some evidence in that arbitration (I swore an affidavit and was cross-examined), I did not participate in any of the other proceedings. My lawyers could not ask questions of any of the witnesses or make any arguments to the Arbitrator.
5. I have reviewed the two Awards of the Arbitrator. The allegations that the Applicant has made in support of those Awards are absolutely false. The suggestion that Rana or his companies have diverted business to MTL for his benefit (or for any reason) is false. Neither Rana nor anyone connected to him have any interest in MTL. Until September 2020, his son Subeet did work for MTL, but he no longer works for us and has no role with the company.

MTL'S FINANCIAL RECORDS

6. The applicant's motion seeks to obtain an order for an inspector to examine all of MTL's books and records. Attached hereto and marked respectively as **Exhibits 'C'** through **'Q'** are MTL's financial records and accompanying source documents from the commencement of business operations May 2019 to April 2020 as follows:

E#	Document Name
C	Transaction Report January 2018 to April 2020 (2 pages)
D	Balance Sheet (1 page)
E	Sales Report (7 pages)

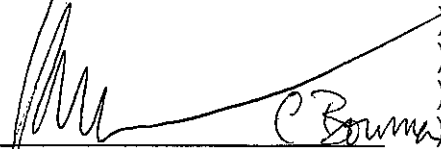
F	Profit and Loss Statement (1 page)
G	Equipment summary supporting documents (18 pages)
H	Invoices
I	Fuel Report and supporting documents (17 pages)
J	Insurance summary and supporting documents (5 pages)
K	Rent summary and supporting documents (3 page)
L	Repairs and Maintenance and supporting document (14 pages)
M	Sub Contractors (1 page)
N	Dues and Subscriptions and supporting documents (13 pages)
O	Business Taxes and supporting documents (3 pages)
P	Accounts Payable Aging Summary (1 page)
Q	Accounts Receivable Agging Summary (1 page)

7. After being served with the Applicant's material for this motion, I asked MTL's bookkeeper and accountants to organize the financial records. That took some time and they were only able to provide them to my lawyers beginning in late December.
8. As can be seen from the attached Profit and Loss statement, MTL only made approximately \$10,000 in its first year of operations.
9. One of the Applicant's allegations is that MTL has solicited the applicant's clients. Attached hereto and marked as **Exhibit 'R'** is a spread sheet listing MTL's clients, as listed in the above Sales Report but summarizing the revenues generated by each client of MTL.
10. I do not know whether any of MTL's clients are also clients of ASR> That would not be unusual given the nature of the trucking industry. MTL gets most of its loads from what are known as load brokers, as do many trucking companies in

the industry. Load brokers facilitate shippers finding trucking companies to drive their loads. Trucking companies also use load brokers in other ways. For instance, when a trucking company cannot handle all of its loads with its own drivers, it may solicit other trucking companies, sometimes through a load broker, to take those loads.

11. At paragraph 45 of the applicant's affidavit sworn August 10, 2020, the Applicant alleges that a truck and a trailer were transferred directly from ASR to Motion. Contrary to that allegation, I purchased these assets directly at an auction on August 3, 2018. The invoices for both pieces of equipment, from Iron Planet Canada Ltd., are attached above at Exhibit 'G', page numbers 43 and 44.
12. Given the information and supporting documentation I have provided in both this affidavit and my earlier affidavits, I do not understand on what basis the Applicant seeks an order for an inspector against MTL. MTL is a small company with a very small payroll. It took my bookkeeping staff and accountants many hours over the course of many weeks to organize the documentation attached to this affidavit, at considerable expense to MTL. Based on what I understand an inspector would do, I expect it will take up even more of the company's limited resources to have to be subject to that.
13. I make this affidavit in response to the applicant's motion for an inspector's order against MTL and for no other or improper purpose.

Affirmed before me at the City)
Of Mississauga, on this 9th)
day of January 18, 2021)


A Commissioner, etc.


BALDEV DHINDSA

SWINDERPAL SINGH
RANDHAWA
Applicant

-and-

RANA RANDHAWA ET AL.
Respondents

Court file No.: CV-18-593636-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

**SECOND RESPONDING AFFIDAVIT
OF BALDEV DHINDSA**

for the non-party,
Motion Transport Ltd.
January 18, 2021

Bridge Law Professional Corporation
Lawyers
13 – 7015 Tranmere Drive
Mississauga, ON L5S 1T7

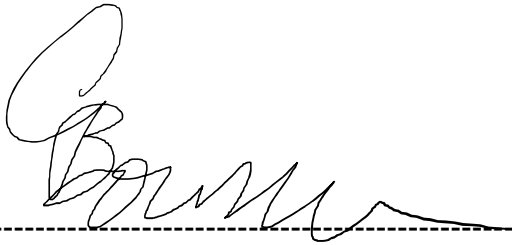
Christina Bowman (LSUC# 50694U)

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E. cbowman@bridgelawyers.ca

Lawyers for the Respondent,
Motion Transport Ltd.

TAB E

This is exhibit ' E' referred to in the
affidavit of Baldev Dhindsa affirmed before
me this 18th day of January, 2021

A handwritten signature in black ink, appearing to read "Bowman", is written over a horizontal dashed line.

Christina Bowman

Commissioner for taking affidavits

Motion Transport Ltd.

TRANSACTION REPORT

May 2019 - April 2020

DATE	TRANSACTION TYPE	#	NAME	ACCOUNT	AMOUNT	BALANCE
11/10/2019	Invoice	M0001	Ippolito Transportation Inc.	Services	\$1,075.00	1,075.00
13/10/2019	Invoice	M0002	Ippolito Transportation Inc.	Services	\$750.00	1,825.00
15/10/2019	Invoice	M0003	Ippolito Transportation Inc.	Services	\$1,000.00	2,825.00
16/10/2019	Invoice	M0004	Ippolito Transportation Inc.	Services	\$700.00	3,525.00
18/10/2019	Invoice	M0005	Ippolito Transportation Inc.	Services	\$1,000.00	4,525.00
19/10/2019	Invoice	M0007	Ippolito Transportation Inc.	Services	\$1,000.00	5,525.00
19/10/2019	Invoice	M0006	Ippolito Transportation Inc.	Services	\$750.00	6,275.00
01/11/2019	Invoice	M0009	Ippolito Transportation Inc.	Services	\$1,075.00	7,350.00
01/11/2019	Invoice	M0010	TRAFFIC TEAM INC.	Services	\$700.00	8,050.00
01/11/2019	Invoice	M0011	INTERLOAD TRUCK SERVICE LTD	Services	\$600.00	8,650.00
01/11/2019	Invoice	M0008	EG GRAY TRANSPORTATION LTD	Services	\$500.00	9,150.00
07/11/2019	Invoice	M0013	S.V.S Transportation Inc.	Services	\$5,000.00	14,150.00
07/11/2019	Invoice	M0012	Ippolito Transportation Inc.	Services	\$1,100.00	15,250.00
07/11/2019	Invoice	M0014	S.V.S Transportation Inc.	Services	\$1,000.00	16,250.00
07/11/2019	Invoice	M0016	EG GRAY TRANSPORTATION LTD	Services	\$900.00	17,150.00
13/11/2019	Invoice	M0019	Ippolito Transportation Inc.	Services	\$1,075.00	18,225.00
13/11/2019	Invoice	M0015	Ippolito Transportation Inc.	Services	\$1,017.70	19,242.70
13/11/2019	Invoice	M0018	EG GRAY TRANSPORTATION LTD	Services	\$900.00	20,142.70
13/11/2019	Invoice	M0017	FLS Transport	Services	\$850.00	20,992.70
13/11/2019	Invoice	M0020	Ippolito Transportation Inc.	Services	\$750.00	21,742.70
18/11/2019	Invoice	M0021	Ippolito Transportation Inc.	Services	\$1,075.00	22,817.70
18/11/2019	Invoice	M0024	Ippolito Transportation Inc.	Services	\$1,075.00	23,892.70
18/11/2019	Invoice	M0025	EG GRAY TRANSPORTATION LTD	Services	\$900.00	24,792.70
18/11/2019	Invoice	M0022	Ippolito Transportation Inc.	Services	\$700.00	25,492.70
18/11/2019	Invoice	M0023	S.V.S Transportation Inc.	Services	\$300.00	25,792.70
21/11/2019	Invoice	M0026	Ippolito Transportation Inc.	Services	\$1,000.00	26,792.70
21/11/2019	Invoice	M0028	Ippolito Transportation Inc.	Services	\$1,000.00	27,792.70
21/11/2019	Invoice	M0027	Ippolito Transportation Inc.	Services	\$900.00	28,692.70
21/11/2019	Invoice	M0029	FLS Transport	Services	\$886.97	29,579.67
25/11/2019	Invoice	M0030	Ippolito Transportation Inc.	Services	\$1,075.00	30,654.67
25/11/2019	Invoice	M0031	VITESSE TRUCKING SERVICES INC,	Services	\$800.00	31,454.67
26/11/2019	Invoice	M0032	Ippolito Transportation Inc.	Services	\$1,000.00	32,454.67
26/11/2019	Invoice	M0033	Ippolito Transportation Inc.	Services	\$750.00	33,204.67
29/11/2019	Invoice	M0034	Ippolito Transportation Inc.	Services	\$1,000.00	34,204.67
29/11/2019	Invoice	M0035	BSD TRANSPORT	Services	\$725.00	34,929.67
29/11/2019	Invoice	M0036	S.V.S Transportation Inc.	Services	\$400.00	35,329.67
05/12/2019	Invoice	M0037	MK FREIGHT BROKERS INC.	Services	\$800.00	36,129.67
05/12/2019	Invoice	M0038	CHARGER LOGISTICS INC.	Services	\$750.00	36,879.67
05/12/2019	Invoice	M0039	CHARGER LOGISTICS INC.	Services	\$750.00	37,629.67
05/12/2019	Invoice	M0040	S.V.S Transportation Inc.	Services	\$400.00	38,029.67
07/12/2019	Invoice	M0043	Ippolito Transportation Inc.	Services	\$1,000.00	39,029.67
07/12/2019	Invoice	M0046	Ippolito Transportation Inc.	Services	\$1,000.00	40,029.67
07/12/2019	Invoice	M0047	Ippolito Transportation Inc.	Services	\$1,000.00	41,029.67
07/12/2019	Invoice	M0045	EG GRAY TRANSPORTATION LTD	Services	\$1,000.00	42,029.67
07/12/2019	Invoice	M0041	CHARGER LOGISTICS INC.	Services	\$750.00	42,779.67
07/12/2019	Invoice	M0044	AJIT TRANSPORT INC.	Services	\$750.00	43,529.67
07/12/2019	Invoice	M0048	CHARGER LOGISTICS INC.	Services	\$750.00	44,279.67
07/12/2019	Invoice	M0042	CHARGER LOGISTICS INC.	Services	\$750.00	45,029.67

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12/12/2019	Invoice	M0150	Day&Ross Inc.	Services	\$1,700.00	46,729.67
12/12/2019	Invoice	M0053	FLS Transport	Services	\$1,050.00	47,779.67
12/12/2019	Invoice	M0052	Ippolito Transportation Inc.	Services	\$1,000.00	48,779.67
12/12/2019	Invoice	M0050	CHARGER LOGISTICS INC.	Services	\$750.00	49,529.67
12/12/2019	Invoice	M0051	CHARGER LOGISTICS INC.	Services	\$750.00	50,279.67
12/12/2019	Invoice	M0054	CHARGER LOGISTICS INC.	Services	\$750.00	51,029.67
12/12/2019	Invoice	M0055	CHARGER LOGISTICS INC.	Services	\$750.00	51,779.67
12/12/2019	Invoice	M0049	Leaple Packaging	Services	\$450.00	52,229.67
13/12/2019	Invoice	M0083	Ippolito Transportation Inc.	Services	\$1,000.00	53,229.67
13/12/2019	Invoice	M0082	CHARGER LOGISTICS INC.	Services	\$750.00	53,979.67
13/12/2019	Invoice	M0084	Ippolito Transportation Inc.	Services	\$750.00	54,729.67
13/12/2019	Invoice	M0081	CHARGER LOGISTICS INC.	Services	\$735.00	55,464.67
14/12/2019	Invoice	M0058	Ippolito Transportation Inc.	Services	\$1,000.00	56,464.67
14/12/2019	Invoice	M0059	FLS Transport	Services	\$800.00	57,264.67
14/12/2019	Invoice	M0056	CHARGER LOGISTICS INC.	Services	\$750.00	58,014.67
14/12/2019	Invoice	M0057	CHARGER LOGISTICS INC.	Services	\$750.00	58,764.67
17/12/2019	Invoice	M0061	CHARGER LOGISTICS INC.	Services	\$800.00	59,564.67
17/12/2019	Invoice	M0063	CHARGER LOGISTICS INC.	Services	\$750.00	60,314.67
17/12/2019	Invoice	M0062	CHARGER LOGISTICS INC.	Services	\$750.00	61,064.67
17/12/2019	Invoice	M0060	CHARGER LOGISTICS INC.	Services	\$650.00	61,714.67
18/12/2019	Invoice	M0066	Ippolito Transportation Inc.	Services	\$1,000.00	62,714.67
18/12/2019	Invoice	M0067	ON TIME TRANSPORT	Services	\$800.00	63,514.67
18/12/2019	Invoice	M0064	CHARGER LOGISTICS INC.	Services	\$750.00	64,264.67
18/12/2019	Invoice	M0065	CHARGER LOGISTICS INC.	Services	\$750.00	65,014.67
19/12/2019	Invoice	M0069	Ippolito Transportation Inc.	Services	\$1,075.00	66,089.67
19/12/2019	Invoice	M0068	Leaple Packaging	Services	\$450.00	66,539.67
23/12/2019	Invoice	M0070	Ippolito Transportation Inc.	Services	\$900.00	67,439.67
23/12/2019	Invoice	M0071	CHARGER LOGISTICS INC.	Services	\$750.00	68,189.67
23/12/2019	Invoice	M0072	CHARGER LOGISTICS INC.	Services	\$750.00	68,939.67
27/12/2019	Invoice	M0080	MAG International Services and Transports	Services	\$1,400.00	70,339.67
27/12/2019	Invoice	M0078	Ippolito Transportation Inc.	Services	\$1,000.00	71,339.67
27/12/2019	Invoice	M0073	Ippolito Transportation Inc.	Services	\$1,000.00	72,339.67
27/12/2019	Invoice	M0076	Ippolito Transportation Inc.	Services	\$1,000.00	73,339.67
27/12/2019	Invoice	M0074	CHARGER LOGISTICS INC.	Services	\$750.00	74,089.67
27/12/2019	Invoice	M0075	CHARGER LOGISTICS INC.	Services	\$750.00	74,839.67
27/12/2019	Invoice	M0077	Ippolito Transportation Inc.	Services	\$750.00	75,589.67
27/12/2019	Invoice	M0079	Ippolito Transportation Inc.	Services	\$750.00	76,339.67
02/01/2020	Invoice	M0085	Ippolito Transportation Inc.	Services	\$1,075.00	77,414.67
02/01/2020	Invoice	M0087	Ippolito Transportation Inc.	Services	\$1,000.00	78,414.67
02/01/2020	Invoice	M0086	Ippolito Transportation Inc.	Services	\$750.00	79,164.67
02/01/2020	Invoice	M0088	S.V.S Transportation Inc.	Services	\$400.00	79,564.67
06/01/2020	Invoice	M0089	Ippolito Transportation Inc.	Services	\$1,075.00	80,639.67
06/01/2020	Invoice	M0090	Ippolito Transportation Inc.	Services	\$1,000.00	81,639.67
07/01/2020	Invoice	M0091	CHARGER LOGISTICS INC.	Services	\$750.00	82,389.67
07/01/2020	Invoice	M0092	CHARGER LOGISTICS INC.	Services	\$750.00	83,139.67
08/01/2020	Invoice	M0093	MAG International Services and Transports	Services	\$1,400.00	84,539.67
08/01/2020	Invoice	M0094	Forbes-Hewlett Logistics Inc.	Services	\$750.00	85,289.67
09/01/2020	Invoice	M0095	FLS Transport	Services	\$926.25	86,215.92

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10/01/2020	Invoice	M0096	Titanium Logistics Inc.	Services	\$2,675.00	88,890.92
10/01/2020	Invoice	M0097	Connors Transfer Ltd.	Services	\$1,100.00	89,990.92
10/01/2020	Invoice	M0098	Ippolito Transportation Inc.	Services	\$1,000.00	90,990.92
13/01/2020	Invoice	M0100	ON TIME TRANSPORT	Services	\$750.00	91,740.92
13/01/2020	Invoice	M0099	Kooi Trucking Inc.	Services	\$650.00	92,390.92
15/01/2020	Invoice	M0101	MAG International Services and Transports	Services	\$1,400.00	93,790.92
15/01/2020	Invoice	M0103	Ippolito Transportation Inc.	Services	\$1,075.00	94,865.92
15/01/2020	Invoice	M0102	EG GRAY TRANSPORTATION LTD	Services	\$1,050.00	95,915.92
15/01/2020	Invoice	M0104	Ippolito Transportation Inc.	Services	\$1,000.00	96,915.92
16/01/2020	Invoice	M0105	Ippolito Transportation Inc.	Services	\$1,000.00	97,915.92
16/01/2020	Invoice	M0106	Ippolito Transportation Inc.	Services	\$1,000.00	98,915.92
16/01/2020	Invoice	M0107	Ippolito Transportation Inc.	Services	\$750.00	99,665.92
20/01/2020	Invoice	M0116	MAG International Services and Transports	Services	\$1,400.00	101,065.92
21/01/2020	Invoice	M0115	Titanium Logistics Inc.	Services	\$2,450.00	103,515.92
21/01/2020	Invoice	M0114	Connors Transfer Ltd.	Services	\$1,250.00	104,765.92
21/01/2020	Invoice	M0112	Ippolito Transportation Inc.	Services	\$1,075.00	105,840.92
21/01/2020	Invoice	M0111	Ippolito Transportation Inc.	Services	\$1,000.00	106,840.92
21/01/2020	Invoice	M0109	FLS Transport	Services	\$985.64	107,826.56
21/01/2020	Invoice	M0108	EG GRAY TRANSPORTATION LTD	Services	\$900.00	108,726.56
21/01/2020	Invoice	M0110	FLS Transport	Services	\$850.00	109,576.56
21/01/2020	Invoice	M0113	S.V.S Transportation Inc.	Services	\$750.00	110,326.56
24/01/2020	Invoice	M0119	Ippolito Transportation Inc.	Services	\$970.00	111,296.56
24/01/2020	Invoice	M0118	Ippolito Transportation Inc.	Services	\$727.50	112,024.06
24/01/2020	Invoice	M0117	Ippolito Transportation Inc.	Services	\$0.00	112,024.06
27/01/2020	Invoice	M0120	Titanium Logistics Inc.	Services	\$2,500.00	114,524.06
27/01/2020	Invoice	M0121	Titanium Logistics Inc.	Services	\$2,450.00	116,974.06
27/01/2020	Invoice	M0124	Wellington Motor Freight	Services	\$1,600.00	118,574.06
27/01/2020	Invoice	M0123	SpeedX Transport	Services	\$1,400.00	119,974.06
27/01/2020	Invoice	M0122	Ippolito Transportation Inc.	Services	\$970.00	120,944.06
28/01/2020	Invoice	M0125	FLS Transport	Services	\$1,000.00	121,944.06
31/01/2020	Invoice	M0127	Ippolito Transportation Inc.	Services	\$1,042.75	122,986.81
31/01/2020	Invoice	M0126	Ippolito Transportation Inc.	Services	\$970.00	123,956.81
31/01/2020	Invoice	M0128	ON TIME TRANSPORT	Services	\$750.00	124,706.81
31/01/2020	Invoice	M0129	EG GRAY TRANSPORTATION LTD	Services	\$550.00	125,256.81
03/02/2020	Invoice	M0131	ON TIME TRANSPORT	Services	\$1,000.00	126,256.81
03/02/2020	Invoice	M0133	Ippolito Transportation Inc.	Services	\$970.00	127,226.81
03/02/2020	Invoice	M0132	S.V.S Transportation Inc.	Services	\$925.00	128,151.81
03/02/2020	Invoice	M0130	Scotlynn Commodities	Services	\$800.00	128,951.81
05/02/2020	Invoice	M0137	ON TIME TRANSPORT	Services	\$1,000.00	129,951.81
05/02/2020	Invoice	M0136	Ippolito Transportation Inc.	Services	\$970.00	130,921.81
05/02/2020	Invoice	M0138	Ippolito Transportation Inc.	Services	\$970.00	131,891.81
05/02/2020	Invoice	M0135	ON TIME TRANSPORT	Services	\$900.00	132,791.81
05/02/2020	Invoice	M0139	FLS Transport	Services	\$800.00	133,591.81
05/02/2020	Invoice	M0134	Bell City Transport Systems 2012 INC.	Services	\$800.00	134,391.81
06/02/2020	Invoice	M0140	Bell City Transport Systems 2012 INC.	Services	\$1,100.00	135,491.81
06/02/2020	Invoice	M0141	Bell City Transport Systems 2012 INC.	Services	\$800.00	136,291.81
07/02/2020	Invoice	M0143	Ippolito Transportation Inc.	Services	\$1,042.75	137,334.56
07/02/2020	Invoice	M0144	EG GRAY TRANSPORTATION LTD	Services	\$1,000.00	138,334.56

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07/02/2020	Invoice	M0142	FLS Transport	Services	\$925.00	139,259.56
10/02/2020	Invoice	M0148	Ippolito Transportation Inc.	Services	\$970.00	140,229.56
10/02/2020	Invoice	M0146	Scotlynn Commodities	Services	\$800.00	141,029.56
10/02/2020	Invoice	M0147	FLS Transport	Services	\$800.00	141,829.56
10/02/2020	Invoice	M0145	Scotlynn Commodities	Services	\$750.00	142,579.56
12/02/2020	Invoice	M0149	Titanium Logistics Inc.	Services	\$2,500.00	145,079.56
13/02/2020	Invoice	M0152	EG GRAY TRANSPORTATION LTD	Services	\$1,000.00	146,079.56
13/02/2020	Invoice	M0151	ON TIME TRANSPORT	Services	\$900.00	146,979.56
18/02/2020	Invoice	M0156	Titanium Logistics Inc.	Services	\$1,200.00	148,179.56
18/02/2020	Invoice	M0160	Bell City Transport Systems 2012 INC.	Services	\$1,100.00	149,279.56
18/02/2020	Invoice	M0153	Ippolito Transportation Inc.	Services	\$970.00	150,249.56
18/02/2020	Invoice	M0154	Ippolito Transportation Inc.	Services	\$970.00	151,219.56
18/02/2020	Invoice	M0162	Ippolito Transportation Inc.	Services	\$970.00	152,189.56
18/02/2020	Invoice	M0166	Ippolito Transportation Inc.	Services	\$970.00	153,159.56
18/02/2020	Invoice	M0164	JBT Transport	Services	\$850.00	154,009.56
18/02/2020	Invoice	M0155	FLS Transport	Services	\$800.00	154,809.56
18/02/2020	Invoice	M0163	ON TIME TRANSPORT	Services	\$800.00	155,609.56
18/02/2020	Invoice	M0167	FLS Transport	Services	\$800.00	156,409.56
18/02/2020	Invoice	M0157	Scotlynn Commodities	Services	\$800.00	157,209.56
18/02/2020	Invoice	M0161	FLS Transport	Services	\$800.00	158,009.56
18/02/2020	Invoice	M0158	ON TIME TRANSPORT	Services	\$750.00	158,759.56
18/02/2020	Invoice	M0159	ON TIME TRANSPORT	Services	\$750.00	159,509.56
18/02/2020	Invoice	M0165	D4 Logistics	Services	\$750.00	160,259.56
21/02/2020	Invoice	M0171	Titanium Logistics Inc.	Services	\$2,800.00	163,059.56
21/02/2020	Invoice	M0168	Patriot Freight Services	Services	\$2,200.00	165,259.56
21/02/2020	Invoice	M0175	Day&Ross Inc.	Services	\$1,400.00	166,659.56
21/02/2020	Invoice	M0169	Connors Transfer Ltd.	Services	\$1,175.00	167,834.56
21/02/2020	Invoice	M0172	Ippolito Transportation Inc.	Services	\$970.00	168,804.56
21/02/2020	Invoice	M0173	Ippolito Transportation Inc.	Services	\$970.00	169,774.56
21/02/2020	Invoice	M0174	Ippolito Transportation Inc.	Services	\$727.50	170,502.06
21/02/2020	Invoice	M0170	Kingworld Truckline	Services	\$600.00	171,102.06
24/02/2020	Invoice	M0179	Wellington Motor Freight	Services	\$2,500.00	173,602.06
24/02/2020	Invoice	M0176	Sunbury Transport Limited	Services	\$1,600.00	175,202.06
24/02/2020	Invoice	M0178	ON TIME TRANSPORT	Services	\$800.00	176,002.06
24/02/2020	Invoice	M0177	TRAFFIC TEAM INC.	Services	\$750.00	176,752.06
25/02/2020	Invoice	M0199	Day&Ross Inc.	Services	\$2,300.00	179,052.06
25/02/2020	Invoice	M0201	Ippolito Transportation Inc.	Services	\$1,115.50	180,167.56
25/02/2020	Invoice	M0200	Ippolito Transportation Inc.	Services	\$1,042.75	181,210.31
25/02/2020	Invoice	M0203	ON TIME TRANSPORT	Services	\$850.00	182,060.31
25/02/2020	Invoice	M0180	FLS Transport	Services	\$800.00	182,860.31
25/02/2020	Invoice	M0198	S.V.S Transportation Inc.	Services	\$600.00	183,460.31
26/02/2020	Invoice	M0181	Titanium Logistics Inc.	Services	\$2,500.00	185,960.31
26/02/2020	Invoice	M0182	Falco Logistics	Services	\$1,700.00	187,660.31
26/02/2020	Invoice	M0185	EG GRAY TRANSPORTATION LTD	Services	\$1,300.00	188,960.31
26/02/2020	Invoice	M0184	Ippolito Transportation Inc.	Services	\$970.00	189,930.31
26/02/2020	Invoice	M0183	Ippolito Transportation Inc.	Services	\$970.00	190,900.31
27/02/2020	Invoice	M0186	Rangi Brothers Logistics Inc.	Services	\$2,200.00	193,100.31
27/02/2020	Invoice	M0187	EG GRAY TRANSPORTATION LTD	Services	\$650.00	193,750.31

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28/02/2020	Invoice	M0190	ON TIME TRANSPORT	Services	\$1,625.00	195,375.31
28/02/2020	Invoice	M0191	Sunbury Transport Limited	Services	\$1,600.00	196,975.31
28/02/2020	Invoice	M0188	Ippolito Transportation Inc.	Services	\$1,042.75	198,018.06
28/02/2020	Invoice	M0189	Ippolito Transportation Inc.	Services	\$727.50	198,745.56
02/03/2020	Invoice	M0195	Cargo County Group	Services	\$2,450.00	201,195.56
02/03/2020	Invoice	M0196	Sunbury Transport Limited	Services	\$1,600.00	202,795.56
02/03/2020	Invoice	M0197	Ippolito Transportation Inc.	Services	\$970.00	203,765.56
02/03/2020	Invoice	M0192	ON TIME TRANSPORT	Services	\$800.00	204,565.56
02/03/2020	Invoice	M0193	FLS Transport	Services	\$800.00	205,365.56
02/03/2020	Invoice	M0194	FLS Transport	Services	\$800.00	206,165.56
04/03/2020	Invoice	M0202	Sunbury Transport Limited	Services	\$1,600.00	207,765.56
06/03/2020	Invoice	M0204	Ippolito Transportation Inc.	Services	\$970.00	208,735.56
09/03/2020	Invoice	M0205	Grand Carriers	Services	\$4,200.00	212,935.56
09/03/2020	Invoice	M0206	Grand Carriers	Services	\$4,200.00	217,135.56
09/03/2020	Invoice	M0207	Coastal Pacific Xpress Inc.	Services	\$2,000.00	219,135.56
09/03/2020	Invoice	M0211	Ippolito Transportation Inc.	Services	\$1,721.75	220,857.31
09/03/2020	Invoice	M0208	Ippolito Transportation Inc.	Services	\$970.00	221,827.31
09/03/2020	Invoice	M0210	FLS Transport	Services	\$800.00	222,627.31
09/03/2020	Invoice	M0209	FLS Transport	Services	\$800.00	223,427.31
13/03/2020	Invoice	M0215	Grand Carriers	Services	\$4,200.00	227,627.31
13/03/2020	Invoice	M0213	Titanium Logistics Inc.	Services	\$2,800.00	230,427.31
13/03/2020	Invoice	M0212	Titanium Logistics Inc.	Services	\$2,400.00	232,827.31
13/03/2020	Invoice	M0214	Maectrans Logistics Inc.	Services	\$1,550.00	234,377.31
13/03/2020	Invoice	M0217	Ippolito Transportation Inc.	Services	\$970.00	235,347.31
13/03/2020	Invoice	M0218	Ippolito Transportation Inc.	Services	\$970.00	236,317.31
13/03/2020	Invoice	M0216	ON TIME TRANSPORT	Services	\$900.00	237,217.31
16/03/2020	Invoice	M0221	Grand Carriers	Services	\$4,200.00	241,417.31
16/03/2020	Invoice	M0224	Ippolito Transportation Inc.	Services	\$1,721.75	243,139.06
16/03/2020	Invoice	M0222	Bell City Transport Systems 2012 INC.	Services	\$1,100.00	244,239.06
16/03/2020	Invoice	M0220	Ippolito Transportation Inc.	Services	\$970.00	245,209.06
16/03/2020	Invoice	M0223	Scotlynn Commodities	Services	\$800.00	246,009.06
16/03/2020	Invoice	M0219	ON TIME TRANSPORT	Services	\$750.00	246,759.06
17/03/2020	Invoice	M0225	Ippolito Transportation Inc.	Services	\$970.00	247,729.06
17/03/2020	Invoice	M0226	FLS Transport	Services	\$800.00	248,529.06
20/03/2020	Invoice	M0227	Grand Carriers	Services	\$4,200.00	252,729.06
20/03/2020	Invoice	M0228	Grand Carriers	Services	\$4,200.00	256,929.06
20/03/2020	Invoice	M0229	Ippolito Transportation Inc.	Services	\$970.00	257,899.06
20/03/2020	Invoice	M0230	Ippolito Transportation Inc.	Services	\$970.00	258,869.06
20/03/2020	Invoice	M0231	Ippolito Transportation Inc.	Services	\$727.50	259,596.56
23/03/2020	Invoice	M0232	FLS Transport	Services	\$1,287.50	260,884.06
23/03/2020	Invoice	M0234	Traffic Tech Inc.	Services	\$1,000.00	261,884.06
23/03/2020	Invoice	M0235	Ippolito Transportation Inc.	Services	\$970.00	262,854.06
23/03/2020	Invoice	M0233	Ippolito Transportation Inc.	Services	\$970.00	263,824.06
26/03/2020	Invoice	M0236	Ippolito Transportation Inc.	Services	\$970.00	264,794.06
26/03/2020	Invoice	M0237	Ippolito Transportation Inc.	Services	\$970.00	265,764.06
26/03/2020	Invoice	M0238	ON TIME TRANSPORT	Services	\$750.00	266,514.06
26/03/2020	Invoice	M0239	ON TIME TRANSPORT	Services	\$750.00	267,264.06
27/03/2020	Invoice	M0240	Grand Carriers	Services	\$4,200.00	271,464.06

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27/03/2020	Invoice	M0242	Titanium Logistics Inc.	Services	\$2,800.00	274,264.06
27/03/2020	Invoice	M0244	Ippolito Transportation Inc.	Services	\$1,697.50	275,961.56
27/03/2020	Invoice	M0241	Titanium Logistics Inc.	Services	\$1,200.00	277,161.56
27/03/2020	Invoice	M0243	Connors Transfer Ltd.	Services	\$1,100.00	278,261.56
30/03/2020	Invoice	M0246	Ippolito Transportation Inc.	Services	\$1,042.75	279,304.31
30/03/2020	Invoice	M0245	Georgian Freight Lines Inc.	Services	\$750.00	280,054.31
01/04/2020	Invoice	M0268	Grand Carriers	Services	\$2,400.00	282,454.31
01/04/2020	Invoice	M0272	Coastal Pacific Xpress Inc.	Services	\$2,000.00	284,454.31
01/04/2020	Invoice	M0274	Bell City Transport Systems 2012 INC.	Services	\$1,600.00	286,054.31
01/04/2020	Invoice	M0275	Ippolito Transportation Inc.	Services	\$970.00	287,024.31
01/04/2020	Invoice	M0270	Titanium Logistics Inc.	Services	\$850.00	287,874.31
01/04/2020	Invoice	M0271	Titanium Logistics Inc.	Services	\$850.00	288,724.31
01/04/2020	Invoice	M0273	FLS Transport	Services	\$800.00	289,524.31
01/04/2020	Invoice	M0269	Velocity Transport	Services	\$700.00	290,224.31
02/04/2020	Invoice	M0249	Titanium Logistics Inc.	Services	\$2,800.00	293,024.31
02/04/2020	Invoice	M0248	Grand Carriers	Services	\$1,600.00	294,624.31
02/04/2020	Invoice	M0250	Ippolito Transportation Inc.	Services	\$1,115.50	295,739.81
02/04/2020	Invoice	M0247	FLS Transport	Services	\$1,000.00	296,739.81
02/04/2020	Invoice	M0252	Ippolito Transportation Inc.	Services	\$970.00	297,709.81
02/04/2020	Invoice	M0251	Ippolito Transportation Inc.	Services	\$800.25	298,510.06
03/04/2020	Invoice	M0258	FLS Transport	Services	\$1,375.00	299,885.06
03/04/2020	Invoice	M0257	FLS Transport	Services	\$1,275.00	301,160.06
03/04/2020	Invoice	M0254	Ippolito Transportation Inc.	Services	\$1,042.75	302,202.81
03/04/2020	Invoice	M0253	Ippolito Transportation Inc.	Services	\$970.00	303,172.81
03/04/2020	Invoice	M0256	ON TIME TRANSPORT	Services	\$750.00	303,922.81
03/04/2020	Invoice	M0255	ON TIME TRANSPORT	Services	\$750.00	304,672.81
06/04/2020	Invoice	M0264	Grand Carriers	Services	\$2,500.00	307,172.81
06/04/2020	Invoice	M0263	Grand Carriers	Services	\$2,400.00	309,572.81
06/04/2020	Invoice	M0260	Coastal Pacific Xpress Inc.	Services	\$2,000.00	311,572.81
06/04/2020	Invoice	M0262	Atlantic Commodities Inc.	Services	\$1,800.00	313,372.81
06/04/2020	Invoice	M0267	Ippolito Transportation Inc.	Services	\$1,770.25	315,143.06
06/04/2020	Invoice	M0261	Coastal Pacific Xpress Inc.	Services	\$1,500.00	316,643.06
06/04/2020	Invoice	M0266	Ippolito Transportation Inc.	Services	\$970.00	317,613.06
06/04/2020	Invoice	M0265	J&R Transport	Services	\$850.00	318,463.06
06/04/2020	Invoice	M0259	Velocity Transport	Services	\$700.00	319,163.06
14/04/2020	Invoice	M0276	Ippolito Transportation Inc.	Services	\$970.00	320,133.06
14/04/2020	Invoice	M0277	Ippolito Transportation Inc.	Services	\$727.50	320,860.56
19/04/2020	Invoice	M0291	Ippolito Transportation Inc.	Services	\$1,042.25	321,902.81
19/04/2020	Invoice	M0280	FLS Transport	Services	\$1,037.50	322,940.31
19/04/2020	Invoice	M0286	Ippolito Transportation Inc.	Services	\$970.00	323,910.31
19/04/2020	Invoice	M0289	Ippolito Transportation Inc.	Services	\$970.00	324,880.31
19/04/2020	Invoice	M0288	Ippolito Transportation Inc.	Services	\$970.00	325,850.31
19/04/2020	Invoice	M0290	Ippolito Transportation Inc.	Services	\$970.00	326,820.31
19/04/2020	Invoice	M0285	Ippolito Transportation Inc.	Services	\$970.00	327,790.31
19/04/2020	Invoice	M0287	Ippolito Transportation Inc.	Services	\$970.00	328,760.31
19/04/2020	Invoice	M0283	ON TIME TRANSPORT	Services	\$850.00	329,610.31
19/04/2020	Invoice	M0282	ON TIME TRANSPORT	Services	\$800.00	330,410.31
19/04/2020	Invoice	M0281	ON TIME TRANSPORT	Services	\$750.00	331,160.31

Motion Transport Ltd.

TRANSACTION REPORT

May 2019 - April 2020

DATE	TRANSACTION TYPE	#	NAME	ACCOUNT	AMOUNT	BALANCE
19/04/2020	Invoice	M0284	ON TIME TRANSPORT	Services	\$750.00	331,910.31
19/04/2020	Invoice	M0279	Pro Way Freight Systems Inc.	Services	\$700.00	332,610.31
19/04/2020	Invoice	M0278	Road Train Express Inc.	Services	\$600.00	333,210.31
20/04/2020	Invoice	M0301	Grand Carriers	Services	\$2,850.00	336,060.31
20/04/2020	Invoice	M0300	Grand Carriers	Services	\$1,450.00	337,510.31
20/04/2020	Invoice	M0302	Grand Carriers	Services	\$1,300.00	338,810.31
21/04/2020	Invoice	M0292	Grand Carriers	Services	\$600.00	339,410.31
27/04/2020	Invoice	M0295	Grand Carriers	Services	\$2,770.41	342,180.72
27/04/2020	Invoice	M0296	Grand Carriers	Services	\$2,350.00	344,530.72
27/04/2020	Invoice	M0298	Grand Carriers	Services	\$1,600.00	346,130.72
27/04/2020	Invoice	M0297	Grand Carriers	Services	\$1,150.00	347,280.72
27/04/2020	Invoice	M0293	ON TIME TRANSPORT	Services	\$800.00	348,080.72
27/04/2020	Invoice	M0294	ON TIME TRANSPORT	Services	\$750.00	348,830.72
30/04/2020	Invoice	M0299	Grand Carriers	Services	\$500.00	349,330.72
TOTAL					\$349,330.72	

SWINDERPAL SINGH RANDHAWA
Applicant

-and-

RANA RANDHAWA ET AL.
Respondents

Court file No.: CV-18-593636-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT **TORONTO**

RESPONDING AFFIDAVIT
of the Non- party,
Motion Transport Ltd.

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Lawyers for the Non- party,
Motion Transport Ltd.

APPENDIX “H”

[ATTACHED]

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

THE HONOURABLE MISTER)

FRIDAY, THE 4th

JUSTICE KOEHNEN)

DAY OF JUNE, 2021



SWINDERPAL SINGH RANDHAWA

Applicant

- and -

**RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS
ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963
ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR
TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC.,
SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC.,
CONTINENTAL TRUCK SERVICES INC., and ASR
TRANSPORTATION INC.**

Respondents

**ORDER
(re: Motion Transport Ltd.)**

THIS MOTION made by KSV Restructuring Inc. ("**KSV**"), in its capacity as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Respondent corporate entities (collectively, "**RGC**") acquired for, or used in relation to a business carried on by RGC, was heard by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis;

ON READING the Receiver's Supplemental Motion Record dated May 31, 2021 (the "**Receiver's Supplemental Motion Record**"), including the Supplement to the First Report of the Receiver dated May 31, 2021, and the Affidavit of Service of Benjamin

Goodis sworn June 1, 2021, and on hearing the submissions of counsel for KSV and counsel for Motion Transport Ltd. ("**Motion**"):

SERVICE

1. THIS COURT ORDERS that the time for service of the Receiver's Supplemental Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

PRODUCTION AND DISCLOSURE

2. THIS COURT ORDERS that by no later than 9:00 a.m. (Toronto time) on June 7, 2021, Motion disclose to the Receiver the location of any and all electronic records, including any servers, computers or other devices where electronic records may be stored (the "**Electronic Records**") and assist the Receiver to access, locate, decode and decrypt any and all Electronic Records and any information contained therein.

3. THIS COURT ORDERS that by no later than 9:00 a.m. (Toronto time) on June 7, 2021, Motion deliver all hard copy documents to the Receiver.

EXAMINATIONS UNDER OATH

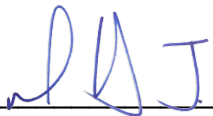
4. THIS COURT ORDERS that Baldev Dhindsa, and any current or former directors, officers, employees, and contractors of Motion, and any other persons that the Receiver reasonably believes may have knowledge of Motion's affairs, attend at an examination under oath before an Official Examiner in Toronto, on a date to be agreed upon or selected by the Receiver, with a minimum of 10 days notice, notice to include a copy of this Order, and answer questions propounded to them by counsel for the Receiver and provide testimony with respect to the matters set out in this Order and the Order (Appointing Receiver) dated May 26, 2021, as amended and restated from time to time (the "**Receivership Order**"), including any matters that the Receiver reasonably believes will assist the Receiver in carrying out the Investigation Mandate described within the Receivership Order.

GENERAL

5. 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.

6. 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.

7. 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.



SWINDERPAL SINGH RANDHAWA
Applicant

and

RANA PARTAP SINGH RANDHAWA, et al.
Respondents

Court File No.: CV-18-593636-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**ORDER
(RE: MOTION TRANSPORT LTD.)**

CASSELS BROCK & BLACKWELL LLP

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Lawyers for KSV Restructuring Inc. in its capacity as
Receiver

LEGAL*53278585.1

APPENDIX “I”
[ATTACHED]



**Third Report of
KSV Restructuring Inc.
as Receiver and Manager of Proex Logistics
Inc., Guru Logistics Inc., 1542300 Ontario Inc.
(operated as ASR Transportation), 2221589
Ontario Inc., 2435963 Ontario Inc., Noor
Randhawa Corp., Superstar Transport Ltd.,
R.S. International Carriers Inc., Subeet
Carriers Inc., Superstar Logistics Inc.,
Continental Truck Services Inc., and ASR
Transportation Inc.**

August 3, 2021

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COURT FILE NO. CV-18-593636-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

SWINDERPAL SINGH RANDHAWA

APPLICANT

- AND -

RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC.,
AND ASR TRANSPORTATION INC.

RESPONDENTS

THIRD REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER

AUGUST 3, 2021

1.0 Introduction

1. This report ("Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as receiver and manager (the "Receiver") of all the assets, undertakings and property (collectively, the "Property") of Proex Logistics Inc., Guru Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation), 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc. (collectively, "RGC") acquired for, or used in relation to a business carried on by RGC.
2. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on May 26, 2021 (the "Receivership Order"), KSV was appointed Receiver of RGC. The Receivership Order was amended on June 4, 2021 (the "Amended Receivership Order"). A copy of the Amended Receivership Order is attached as Appendix "A".

3. Since 2018, Swinderpal Singh Randhawa (“Paul”) and Rana Partap Singh Randhawa (“Rana”) have been involved in a dispute concerning, *inter alia*, the ownership, operation and sale of RGC.
4. In the context of the dispute between Paul and Rana, on May 19, 2021, the Honourable Justice Koehnen released a decision (the “Decision”) which, *inter alia*, provided for the issuance of the Receivership Order authorizing KSV, as Receiver, to carry out a sale mandate and an investigation. A copy of the Decision is attached as Appendix “B”. A copy of the decision on costs for the motion resulting in the Receivership Order is attached as Appendix “C”.
5. Paragraph three of the Amended Receivership Order authorizes the Receiver to:
 - a) operate and manage RGC and sell the trucking, warehousing and logistics business (the “Sale Mandate”); and
 - b) conduct an investigation of issues identified by the parties, including those identified by the arbitrator and by the Receiver, to ensure that the trucking business is being sold in a manner that maximizes value (the “Investigation Mandate”).
6. On June 4, 2021, the Court ordered (the “Motion Order”) that “persons that the Receiver reasonably believes may have knowledge of Motion’s affairs, attend at an examination under oath before an Official Examiner in Toronto [...] and answer questions propounded to them by counsel for the Receiver and provide testimony with respect to the matters set out in this Order and the Order (Appointing Receiver) dated May 26, 2021, as amended and restated from time to time (the “Receivership Order”), including any matters that the Receiver reasonably believes will assist the Receiver in carrying out the Investigation Mandate described within the Receivership Order.” [emphasis added]. Rana’s counsel was present at the hearing where the order was granted and took no position on the Motion Order. A copy of the Motion Order is attached hereto as Appendix “D”.

1.1 Purpose

1. The purposes of this Report are to:
 - a) provide an update on the Receiver’s investigation, including its efforts to interview Rana pursuant to the Motion Order and in connection with the Investigation Mandate;
 - b) request advice and direction from this Court with respect to the Motion Order and the Investigation Mandate in light of Rana’s refusal to be examined under oath; and
 - c) recommend the Court issue an order that Rana pay personally and forthwith the Receiver’s costs of preparing this Report, costs thrown away due to Rana’s refusal to be examined under oath, and costs of the continuation of his examination.

2.0 Investigation Mandate

2.1 Nature of the investigation

1. The Receiver was appointed following a contentious dispute between Paul and Rana, beginning with Paul's commencement of an oppression action in 2018 (the "Application"). Notwithstanding their entry into two settlement agreements (the "October Minutes" and the "Unequal Benefits Settlement"), the dispute remains ongoing and the Application has not been fully and finally resolved.
2. The Decision was made in the context of Paul's motion to enforce an arbitration award appointing an inspector under the Ontario *Business Corporations Act* ("OBCA"). More specifically, in June 2020, Paul delivered an *ex parte* motion record to the arbitrator appointed pursuant to the October Minutes (the "Arbitrator") seeking the appointment of an inspector under the OBCA. The Arbitrator granted an award dated July 3, 2020, which Paul subsequently sought to have recognized by this Court. On July 17, 2020, Justice Dietrich determined that the application to recognize the award was premature and adjourned Paul's motion to permit Rana to seek relief before the Arbitrator.
3. Following a motion on notice, the Arbitrator granted a second award, setting out further reasons for the appointment of an inspector. A copy of the October Award is attached as Appendix "E". The October Award details the Arbitrator's concerns at length and, in certain cases, found evidence presented on behalf of Rana to be "problematic", including because "it evolved in significant ways, numerous times following delivery of other evidence".¹
4. The Decision confirms that the "Arbitrator made ample findings to justify the need for an investigation." In particular:
 - a) The Arbitrator found that "Rana 'perpetuated a lack of transparency' in the operation of the trucking business";² and
 - b) Rana's proposed receiver acknowledged that certain of the arbitrator's findings "could constitute red flags for potential fraud."³
5. The Decision, however, makes clear that notwithstanding the Arbitrator's findings, the appointment of an inspector (or an investigatory receiver) is appropriate because the Arbitrator's findings were not definitive. Instead, this Court determined only that there "were sufficient grounds to have concerns about wrongdoing to warrant investigation."⁴

¹ October Award, paragraph 139.

² Decision at paragraph 40.

³ Decision at paragraph 41.

⁴ Decision at paragraph 46.

6. Consistent with the Decision and pursuant to the Amended Receivership Order, Paul has agreed to fund the Investigation Mandate “until the issue of the allocation of costs has been resolved or further order of the court.”⁵ The Receiver understands that this provision of the Amended Receivership Order was negotiated to resolve Rana’s objections with respect to the cost of the Investigation Mandate. Although the Receiver has been judicious in the use of its resources, any delay will necessarily limit the Receiver’s ability to fulfill its mandate in an efficient and cost-effective manner.
7. Rana has denied all of these allegations and any affiliation with Motion Transport Ltd. (“Motion”), as set out in Rana’s various affidavits and cross examinations as part of these proceedings.

2.2 Status of the Investigation

1. Since its appointment, the Receiver has taken steps to complete the Investigation Mandate as expeditiously and cost-effectively as possible. Among other things, in connection with the Investigation Mandate, the Receiver has:
 - a) imaged RGC’s server and Motion’s email database;
 - b) as described in the Second Report, negotiated a protocol to permit Rana to review over 900,000 records which may constitute privileged data located on RGC’s servers;⁶
 - c) reviewed the Remaining Data (as defined in the Protocol) which consists of over 1 million records;
 - d) reviewed certain records of Motion and RGC, including banking, customer, Ministry of Transportation, and other records;
 - e) prepared for and conducted an examination of Mr. Baldev Dhindsa, a principal of Motion, under oath;⁷
 - f) prepared for an examination of Rana, to be conducted under oath, after specifically advising Rana’s counsel that the examination would take place under oath, and attended at that examination, at which time Rana refused to be sworn;
 - g) discussed the matters being investigated with certain former employees of ASR and other industry contacts; and
 - h) spoken on several occasions with legal counsel to Paul and Rana.

⁵ Amended Receivership Order at paragraph 30.

⁶ Since the Second Report, Rana’s counsel has requested an extension of time to deliver its privilege log under the Protocol. The Receiver did not object to the short extension requested, but reserves the right to refuse further objections if Rana does not timely produce the required information.

⁷ The Receiver notes that Rana requested an opportunity to participate in the Motion examination. The Receiver declined this request in order to maintain the integrity of the investigation.

2.3 Receiver's Attempt to Examine Rana

1. The Receiver has, in the course of its investigation, identified documents and obtained other evidence which demonstrate: (i) the grounds for the investigation appear to be well-founded; and (ii) alleged conduct by Rana after the date of receivership, which necessitated a consent order to ensure that the Receiver would be able to pursue assets for the benefit of stakeholders.
2. In weighing how to proceed, the Receiver considered the acrimonious nature of the proceedings, the Arbitrator's concerns regarding Rana's credibility, the Arbitrator and the Court's prior statements on Rana's conduct and the Receiver's obligations to proceed in a neutral matter. The Receiver determined that it would be beneficial to the investigation to provide Rana with an opportunity to address the relevant evidence, provide explanations relating to the matters under investigation, and bring any other relevant matters to the attention of the Receiver. However, given the specific concerns raised by both the Court and the Arbitrator, the Receiver determined that any such evidence should be given under oath.
3. On June 29, 2021, the Receiver's counsel requested that Rana attend for an examination "under oath". A copy of the email, identifying the meeting as an interview under oath and before an official examiner, is attached as Appendix "F".
4. On July 5, 2021, Rana's counsel replied, explaining that they would consider the request, but required additional time to confirm a date for the examination. A copy of the email is attached as Appendix "G".
5. On July 7, 2021, counsel to the Receiver wrote to Rana's counsel regarding information that Rana had visited the truck reseller to arrange for the sale of certain trailers owned by 2760111 Ontario Limited. Upon inspection, the truck reseller recognized the trailers as former ASR assets that had been transferred to Motion, and contacted the Receiver for further information regarding Rana's ability to transact. The Receiver immediately provided the limited information available to Rana's counsel and asked to examine Rana about these matters under oath. A copy of the email requesting that Rana agree to a consent order and be examined about the transfers under oath is attached as Appendix "H".
6. On July 13, 2021, Rana's counsel confirmed the time for Rana's interview and requested the topics to be discussed with Rana and production of the documents to be reviewed. A copy of the email from Rana's counsel is attached as Appendix "I".
7. On July 16, 2021, counsel to the Receiver provided counsel to Rana with a list of topics to be discussed at the examination. A copy of the email to Rana's counsel, with the list of topics appended, is attached as Appendix "J". While the list of topics identifies the meeting as an "examination", it again invites Rana to provide the Receiver with information on any matter Rana wishes to bring to the Receiver's attention.
8. On July 19, 2021, the Receiver provided counsel to Rana with additional information regarding the attempted trailer sales. A copy of the email exchange with Rana's counsel is attached as Appendix "K". Rana and the Receiver ultimately agreed to a consent order regarding sales of assets previously owned or operated by ASR or Motion. A copy of the consent order is attached hereto as Appendix "L".

9. On July 27, 2021, Rana's counsel wrote to counsel for the Receiver requesting further information on the logistics for the examination, including a suggested protocol for putting documents to the witness. A copy of the email exchange is attached as Appendix "M".
10. Also on July 27, 2021, one month after the Receiver requested to examine Rana under oath, Rana's counsel wrote to the Receiver's counsel to request information regarding the Receiver's authority to examine Rana. The Receiver's counsel responded that it would rely on the Amended and Restated Receivership Order and the Motion Order, compelling anyone with knowledge of Motion's affairs to attend an examination under oath. The email also reiterated that the Receiver intended to discuss the purported transfer of the trailers with Rana and again provided copies of the information regarding the trailers and that the Receiver had not agreed to provide documents in advance of the examination. At no point did Rana's counsel raise a procedural fairness objection or suggest that the parties seek direction from the Court if an examiner would be present. A copy of the email exchange is attached as Appendix "N".
11. At the scheduled time of the examination, Rana and his counsel appeared, but Rana refused to take an oath or make an affirmation and adjourned the examination to seek directions from the Court. Attached as Appendix "O" is the transcript of the examination, during which each of the Receiver's counsel and Rana's counsel set out their respective positions on the record. Attached as Appendix "P" is the email referenced by Rana's counsel in the statement.
12. The Receiver is of the view that it has the authority to examine Rana under oath:
 - a) under the Motion Order, as a party that the Receiver reasonably believes has knowledge of Motion's affairs. As such, by refusing to provide sworn testimony, Rana is currently in breach of this Court's Motion Order;
 - b) in connection with the Receiver's Investigation Mandate under the Amended Receivership Order; and
 - c) because Rana previously agreed to be examined under oath.
13. The Receiver is also of the view that its examinations under oath pursuant to the above-noted authority are governed by the *Rules of Civil Procedure* and case law relating to the conduct of examinations. The Receiver is advised that case law in this jurisdiction confirms that "there is nothing improper about counsel on cross-examination putting documents that are not included in an affidavit to a witness": *International Offtake Corporation v. Incryptex Ltd.*, 2017 ONSC 7537, para. 34, a copy of which is attached as Appendix "Q".
14. In the event that Rana disputed the Receiver's authority to conduct an examination under oath without prior production of the documents discovered in the course of the investigation, the Receiver would have requested advice and directions on this matter at the July 21, 2021 hearing. Given Rana's delay in raising this issue, the Receiver has been prejudiced by requiring it to incur the costs of preparation for an examination and an additional court attendance which should have been unnecessary.

15. The Receiver is of the view that Rana's late-breaking demand that any examination take place either: (i) not under oath; or (ii) only after all documents to be put to Rana during the examination have been provided to him in advance will not advance the Investigation Mandate because:
 - a) if Rana is unwilling to provide sworn testimony or allow his testimony to be introduced in these proceedings, the potential value of such testimony in any report to Court is limited. Indeed, the fact that Rana was willing to provide testimony but not confirm its accuracy to the best of his ability is in itself suspect;
 - b) the Receiver's questions for Rana involve matters in which he was intimately involved. To the extent he is unfamiliar with a document, the absence of his knowledge is important to the investigation;⁸ and
 - c) the disclosure of information that the Receiver obtained in the course of its investigation to Rana in advance of Rana's examination has the potential to compromise the integrity of the investigation.
16. The Receiver is of the view that Rana improperly adjourned his examination contrary to rule 34.14 and refused to take an oath or make an affirmation contrary to rule 34.15. As set out in this Report, Rana had ample opportunity to raise any concerns about the conduct of the examination prior to the attendance but improperly adjourned the examination 40 minutes after it was scheduled to begin by his refusal to take an oath or make an affirmation.

3.0 Request for Advice and Directions

1. The Receiver is seeking the Court's advice and direction in connection with the Motion Order and on the conduct of the Investigation Mandate.
2. While the Receiver sought the examination to provide Rana with an opportunity to explain the issues identified by the Arbitrator and matters discovered in the course of the Receiver's investigation, if Rana is unprepared to provide sworn testimony or to answer questions without reviewing the Receiver's file, the Receiver is prepared to report to Court on the basis of the information currently in its possession.
3. Alternatively, the Receiver seeks direction from the Court on the appropriate manner in which to examine Rana considering the need to obtain truthful information, including his lack of knowledge on certain subjects.
4. In light of the history of these proceedings and the Court's acknowledgement that Rana has previously "perpetuated a lack of transparency" and the acknowledgment of Rana's expert that certain conduct "could constitute red flags for potential fraud", the Receiver does not believe that an interview without the obligations of an oath will be beneficial to this Court's ultimate determination of the issues. Similarly, given the nature of the allegations, requiring the Receiver to provide documents in advance will not further the fact-finding mandate.

⁸ The Receiver notes that Mr. Dhindsa's examination took place under oath and without receiving documents in advance. Mr. Dhindsa's lack of knowledge as to certain operational matters and his spontaneous recollections of other events are relevant to the investigation and will be included in a subsequent report to Court.

5. The Receiver is also seeking that Rana pay personally and forthwith the Receiver's costs of preparing this Report, costs thrown away due to Rana's refusal to be examined under oath, and costs of the continuation of his examination pursuant to rule 34.14(2). Rana had over a month to raise any such concerns with the Receiver and instead, waited until after the scheduled examination began to confirm his position, resulting in delay, an additional court attendance, and related additional costs.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
RGC
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

SWINDERPAL SINGH RANDHAWA

and

RANA PARTAP SINGH RANDHAWA et al.

Applicant

Respondents

Court File No. CV-18-593636-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**THIRD REPORT OF KSV RESTRUCTURING INC.
AS RECEIVER**

Cassels Brock & Blackwell LLP

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Lawyers for KSV Restructuring Inc. in its capacity as
Receiver

APPENDIX “J”

[ATTACHED]

May, Kieran

From: Koehnen, Mr. Justice Markus (SCJ) <[REDACTED]>
Sent: Wednesday, August 04, 2021 9:56 AM
To: May, Kieran; JUS-G-MAG-CSD-Toronto-SCJ Commercial List; Levine, Natalie; Picone, John M.; Kelman, David; ngoldstein@ksv advisory.com; Shara Roy; jflood@litigate.com; chunter@litigate.com
Subject: Re: Randhawa v Randhawa et al., CV-18-593636-00CL - Chambers Appointment

Email Endorsement

This endorsement arises out of a case conference for directions relating to an examination in an investigation by an Inspector.

Rana was to be examined under oath by the Inspector last week. Rana took the position on the examination that he would be examined under oath only if he were given production of all relevant documents before the examination. In the alternative, Rana offered to proceed by way of an interview that was not conducted under oath. In light of the disagreement, the examination was adjourned.

An investigation is not a civil action to which the rules of production and discovery apply. It is designed to assist fact finding by providing a more streamlined process that avoids some of the obstruction that can occur in litigation. That indeed is why the investigation was ordered here, because Rana was being less than forthcoming and transparent.

Rana argued today that the Inspector has obtained approximately 1 million documents and that it would be unfair to subject Rana to examination without having production of all documents relevant to the investigation. I do not share that view. The focus of the investigation is on self interested transactions that Rana has entered into or that others have entered into under his control and direction. It was ordered because Rana was not cooperating in producing information. If Rana perceives any unfairness in being subjected to questions without the benefit of discovery, he is the author of his own misfortune. Had Rana complied with earlier directions by the Arbitrator who ordered the investigation, he would not be in this position.

Moreover, compelling the Inspector to engage in what is akin to documentary production would materially increase the cost and time the Investigation will take. This will only further deplete the value of the corporate estate and Rana's share in it.

The Inspector seeks costs of \$5,000 for costs thrown away on the aborted examination, preparation of a report for today's attendance and today's attendance. That strikes me as more than reasonable. Rana submits that no report was required for today and that \$2,500 is a more appropriate figure. I disagree. Time was limited to 30 minutes today. The case conference was booked at the last minute and was heard outside of ordinary court hours. Had I not received materials that set out the background to the issue, it would not have been possible to complete the case conference in the time available. Rana will pay the Inspector's costs of \$5000 forthwith.

Justice Markus Koehnen
Ontario Superior Court of Justice

361 University Ave.
Toronto, Ont.
M5G 1T3
[REDACTED]

From: May, Kieran

Sent: Tuesday, August 3, 2021 5:21 PM

To: May, Kieran <kmay@cassels.com>; Koehnen, Mr. Justice Markus (SCJ) <[REDACTED]>; JUS-G-MAG-CSD-Toronto-SCJ Commercial List <MAG.CSD.To.SCJCom@ontario.ca>; Levine, Natalie <nlevine@cassels.com>; Picone, John M. <jpicone@cassels.com>; Kelman, David <dkelman@cassels.com>; ngoldstein@ksvadvisory.com <ngoldstein@ksvadvisory.com>; Shara Roy <sroy@litigate.com>; jflood@litigate.com <jflood@litigate.com>; chunter@litigate.com <chunter@litigate.com>

Subject: Randhawa v Randhawa et al., CV-18-593636-00CL - Chambers Appointment

When: Wednesday, August 4, 2021 9:00 AM-9:30 AM.

Where: <https://cassels.zoom.us/j/94768810576?pwd=YjA4aUhiUE4vY1JvWWNxMUNOU1Y4Zz09>

Zoom Details:

<https://cassels.zoom.us/j/94768810576?pwd=YjA4aUhiUE4vY1JvWWNxMUNOU1Y4Zz09>

Meeting ID: 947 6881 0576

Password: 523076

One tap mobile

+13126266799,,94768810576# US (Chicago)

+13462487799,,94768810576# US (Houston)

Caselines:

<https://ontariocourts.caselines.com/s/s/25398>

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SWINDERPAL SINGH RANDHAWA

and

RANA PARTAP SINGH RANDHAWA et al.

Applicant

Respondents

Court File No. CV-18-593636-00CL

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

PROCEEDING COMMENCED AT
TORONTO

**FIFTH REPORT OF KSV RESTRUCTURING INC.
AS RECEIVER**

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Lawyers for KSV Restructuring Inc. in its capacity as
Receiver

Appendix “D”

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE JUSTICE)
)
CAVANAGH)
)
)

WEDNESDAY, THE 14TH
DAY OF FEBRUARY, 2024

**IN THE MATTER OF THE BANKRUPTCY OF PROEX LOGISTICS INC., GURU
LOGISTICS INC., 1542300 ONTARIO INC. AND 2221589 ONTARIO INC.**

PRIOR CLAIMS ORDER

THIS MOTION, made by KSV Restructuring Inc. in its capacity as Trustee and trustee (in its capacity as the “**Trustee**”) of Proex Logistics Inc. (“**Proex**”), Guru Logistics Inc. (“**Guru**”), 1542300 Ontario Inc. (operated as ASR Transportation) (“**ASR**”) and 2221589 Ontario Inc. (“**222**”) (the “**Bankrupt Entities**”), pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) for an order, authorizing the Trustee to use the proofs of claim filed in the Receivership Proceedings in these bankruptcy proceedings, and dispensing with the requirement that creditors of the Bankrupt Entities who have filed such proofs of claim, file an additional proof of claim in these bankruptcy proceedings, was heard by judicial videoconference via Zoom at Toronto, Ontario.

ON READING the Notice of Motion and the First Report of the Trustee dated February 7, 2024 (the “**Trustee’s Report**”) and on hearing the submissions of counsel for the Trustee, no one else appearing although duly served as evidenced by the Affidavit of Service of Stephanie Fernandes sworn February 8, 2024 filed.

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of this motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Trustee's Report.

CLAIMS PROCESS

3. **THIS COURT ORDERS** that all claims filed in the Receivership Proceedings with respect to the Bankrupt Entities, shall be used in the bankruptcy proceedings of the Bankrupt Entities and a creditor who has filed a Proof of Claim (as defined in the Claims Procedure Order dated September 16, 2021) in the Receivership Proceedings shall not be required to file an additional proof of claim in the bankruptcy proceedings of the Bankrupt Entities and any Proof of Claim filed in the Receivership Proceeding shall be deemed to have been filed in the applicable bankruptcy proceeding prior to the first meeting of creditors.

GENERAL

4. **THIS COURT ORDERS** that nothing in this Order derogates from any rights that the Trustee may have pursuant to the applicable provisions of the BIA or applicable legislation.
5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other jurisdiction to give effect to this Order and to assist the Trustee 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 Trustee, as an officer of this Court, as may be necessary or desirable

to give effect to this Order and to assist the Trustee and its agents in carrying out the terms of this Order.

6. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:02 AM on the date of this Order without the need for entry or filing.

IN THE MATTER OF THE BANKRUPTCY OF PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. AND 2221589 ONTARIO INC.

Court File No.: BK-24-03014702-0031

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO**

PRIOR CLAIMS ORDER

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Lawyers for KSV Restructuring Inc. in its capacity as Trustee

Appendix “E”

PROOF OF CLAIM

(See attached for instructions)

IN THE MATTER OF THE RECEIVERSHIP OF PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., AND ASR TRANSPORTATION INC. (“RGC” AND EACH AN “RGC ENTITY”)

Regarding the Claim of Swinderpal Singh Randhawa (referred to in this form as “**the Claimant**”).

All notices or correspondence regarding this claim to be forwarded to the Claimant at the following address:

c/o Aaron Kreaden and Sam Dukesz, Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay St.,
Toronto, ON M5L 1B9

Telephone Number: A. Kreaden: 416-869-5565; S. Dukesz: 416-869-5612

Attention (Contact Person): Aaron Kreaden and Sam Dukesz

Email Address: akreaden@stikeman.com and sdukesz@stikeman.com

(All future correspondence will be delivered to the designated email address unless the Claimant specifically requests that hardcopies be provided)

Please provide hardcopies of materials to the address above.

I Swinderpal Singh Randhawa (name of the Claimant or representative of the Claimant), of Georgetown, Ontario (City, Province or State) do hereby certify that:

1. I am the Claimant; **X**

OR

I am _____ (state position/title) of the Claimant.

2. I have knowledge of all the circumstances connected with the Claim referred to in this form against the applicable RGC Entity.

See Schedule A (insert name of RGC Entity) was, and still is indebted to the Claimant in the sum of CDN\$ See Schedule A (insert CDN \$ value of claim) as shown by the statement of account attached hereto and marked Schedule "A". If a Claimant's claim is to be reduced by deducting any counterclaims to which the applicable RGC Entity is entitled, please specify.

The statement of account must specify the evidence in support of the claim including the date and location of the delivery of all services and materials. Any claim for interest must be supported by contractual documentation evidencing the entitlement to interest.

3. A. UNSECURED CLAIM OF \$ See Schedule A. That in respect of this Claim, the Claimant does not hold and has not held any assets as security.
- B. SECURED CLAIM OF \$ N/A. That in respect of this Claim, the Claimant holds assets valued at \$ _____ as security particulars of which are as follows:

Give full particulars of the security, including the date on which the security was given and the value at which the Claimant assesses the security together with the basis of valuation, and attach a copy of the security documents as Schedule "B".

4. Have you acquired this Claim by assignment? Yes No
- (if yes, attach documents evidencing assignment)

(if yes) Full Legal Name of original creditor(s): _____

DATED this 29th day of October 2021

Sam Dukesz



Witness

Print name of Claimant: Swinderpal Singh Randhawa

Per:



Name: Aaron Kreaden

Title: Counsel to Swinderpal Singh Randhawa

Schedule A

The background facts of Swinderpal Singh Randhawa's ("**Paul**") claim are set out in, among other things, the Fifth Report of the Receiver dated September 24, 2021 (the "**Fifth Report**"). All of the relevant documentation in support of Paul's claim is already in the possession of the Receiver. We would be pleased to identify that documentation upon request. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Fifth Report.

Claims

1) Paul's Direct Claims

The Ownership Claim

As reflected in the October Minutes, Paul's first claim is for 50% of the net proceeds derived from the sale of RGC and 50% of any tax benefits arising from the tax filings for all RGC entities. Paul's claim for these funds arises pursuant to: (i) basic principles of law arising from his ownership of 50% of RGC; (ii) his rights under the October Minutes; and (iii) Section 30 of the Amended and Restated Order of Justice Koehnen dated June 4, 2021. This is an unsecured claim.

The Wrongful Conduct Claim

Paul's second claim is for damages for the difference between the proceeds from the sale of the Trucking Business he ultimately receives (the "**Actual Sale Proceeds**") as compared to the greater amount that he ought to have received had the Trucking Business been sold in the manner required by the October Minutes (the "**Estimated Sale Proceeds**").

Since 2018, Rana has been the directing mind of RGC. Pursuant to, *inter alia*, the corporate identification doctrine, principles of attribution, agency and vicarious liability, Rana's conduct is deemed to have been the conduct of RGC. As a result, Rana's conduct (and by extension the conduct of certain RGC entities), gives rise to claims that Paul has against RGC.

As detailed in part in the Fifth Report, Rana and RGC have delayed the sale of the "Trucking Business" and fraudulently diverted the assets, business and resources of that business to third-party entities. The effect of Rana's conduct was to reduce the value of RGC in the period between the time when it was required to be sold and the period when it was actually sold. Paul therefore has a claim against Rana and RGC to recover the difference between Actual Sale Proceeds and the Estimated Sale Proceeds.

The Receiver has retained a valuator to determine this delta. This claim is not secured but may constitute a claim in trust, either in whole or in part.

In addition and/or in the alternative, Paul has a claim against RGC for the value of the assets, business and resources wrongfully diverted from RGC entities. Rana has consistently maintained that he was acting in the best interests of RGC at the time that he was diverting these assets, business and resources. As a result of the corporate identification doctrine and principles of attribution, agency and vicarious liability identified above, Rana's conduct is attributable to RGC. Paul therefore has a claim against RGC in, among other things, conspiracy, fraud, unjust enrichment, breach of fiduciary duty, negligence, fraudulent conveyance, conversion and transfers at undervalue, for the value of the diverted assets, business and resources.

2) **Paul's Claims With Respect to the Company's Claims**

RGC has claims in respect of the wrongful conduct described in the Fifth Report and potentially other conduct by Rana and related individuals (the "**Company Claims**"). The Company Claims include, but are not limited to:

- Claims against Nick Noorzad and Rana in respect of outstanding loan amounts owed by those individuals to RGC;
- Claims against Maryam Tehranizadeh, Dave Rawn, Jaskaranpreet Singh, Baldev Dhindsa, Subeet Randhawa and potentially other individuals, including for conspiracy, fraud, unjust enrichment, breach of fiduciary duty, knowing assistance and knowing receipt (as applicable). These claims generally relate to the roles of these individuals in diverting or improperly receiving the diverted assets, business and resources of RGC;
- Claims against Motion Transport Ltd. and potentially other entities, including for conspiracy, fraud, unjust enrichment, breach of fiduciary duty, knowing assistance and knowing receipt (as applicable). These claims generally relate to the role of those entities in diverting and improperly receiving the diverted assets, business and resources of RGC; and
- Claims against Rana, including for conspiracy, fraud, unjust enrichment, breach of fiduciary duty, negligence, fraudulent conveyance, conversion and transfers at undervalue in respect of the wrongful conduct described above.¹

At this time, it is Paul's position that the Company Claims are properly being investigated and advanced as appropriate by RGC (through the Receiver). However, Paul reserves any available rights to advance the Company Claims directly or on behalf of RGC, including but not limited to by way of a derivative action under section 246 of the (Ontario) *Business Corporations Act*, R.S.O. 1990, c. B. 16 or an action pursuant to section 38 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3. Paul has therefore included a non-exhaustive description of the Company Claims in this proof of claim to confirm that he does not waive any rights he has in respect of those claims.

3) **Further Updates to This Proof of Claim**

Paul will update his claims with further particulars on value and priority once those particulars are

¹ This wrongful conduct extends beyond what is described in the Fifth Report. For example, the Fifth Report does not discuss how Rana may have fraudulently diverted assets of RGC to Ms. Tehranizadeh. It similarly does not speak to potential RGC claims relating to certain other RGC assets that Rana may have fraudulently disposed of and were therefore not included in the sale of RGC by the Receiver, including: 2016 Wabash Thermoking Reefer Trailer #R53011 with VIN #1JJV532B8GL924838; 2015 Wabash Thermoking Reefer Trailer #R53012 with VIN #1JJV532B1FL865596; 2015 Wabash Thermoking Reefer Trailer #R53013 with VIN #1JJV532B3FL865597; Ten 2007 Vanguard dry van trailers with the VIN#'s: 5V8VA53267M708394, 5V8VA53217M708397, 5V8VA53237M708398, 5V8VA53257M708399, 5V8VA53287M708400, 5V8VA532X7M708401, 5V8VA53227M708537, 5V8VA53247M708538, 5V8VA53267M708539, and 5V8VA53227M708540; 2006 Kenworth truck #118 with VIN #1XKADB9X56J107606.

available. Paul reserves the right to amend this proof of claim with additional details and claims.

SUPPLEMENT TO PROOF OF CLAIM

By way of this Notice, Swinderpal Singh Randhawa (“**the Claimant**”) supplements his Proof of Claim dated October 29, 2021 (the “**Proof of Claim**”) in the matter of the Receivership of ProEx Logistics Inc. (“**ProEx**”), GURU Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation) (“**ASR**”), 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc. and ASR Transportation Inc. (collectively, “**RGC**”), to add the following claims:

- 1) The Claimant and certain members of his family typically drew a salary from ProEx. Rana Partap Singh Randhawa and certain members of his family drew similar salaries from ASR. At points where ProEx was suffering from cash flow shortages, the Claimant and his family did not deposit their salary cheques from ProEx and/or loaned money to ProEx in an effort to keep the business cash flow positive. This was done on the understanding that this money would be paid back to the Claimant at a later date. The total principal amount owing to the Claimant as of the date of this Amendment to Proof of Claim is approximately CAD\$79,447.29.
- 2) In order to assist with ProEx’s cash flow shortages, the Claimant also funded the business through borrowing funds and paying business expenses on his personal credit cards and line of credit. This funding was done on the understanding that this money, plus any borrowing costs incurred by the Claimant, would be paid back to the Claimant at a later date. The total amount owing to the Claimant as of the date of this Amendment to Proof of Claim is approximately \$36,957.96. The Claimant is continuing to pay interest on this amount as it accrues and expects this claim to continue rising unless the Receiver takes immediate steps for these amounts to be paid off.

Additional details and supporting documents for these claims are available upon request. The Claimant reserves the right to further amend and/or supplement the Proof of Claim with additional details and claims at any time.

DATED this 27th day of July 2022.



Sam Dukesz
Counsel to Swinderpal Singh Randhawa

SECOND SUPPLEMENT TO PROOF OF CLAIM

By way of this Notice, Swinderpal Singh Randhawa (“**the Claimant**”) supplements his Proof of Claim dated October 29, 2021 and Supplemental Proof of Claim dated July 27, 2022 (collectively, the “**Proof of Claim**”) in the matter of the Receivership of ProEx Logistics Inc., GURU Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation), 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc. and ASR Transportation Inc. (collectively, “**RGC**”):

- 1) Rana Partap Singh Randhawa has outstanding shareholder loans owed to RGC entities of approximately \$450,000, not including interest. As a 50% owner of RGC, the Claimant is a 50% owner of these loans, constituting a principal claim (not including interest) of approximately \$225,000. The Claimant hereby makes a claim for his 50% share of the loans, including interest. As the Receiver has full control over RGC’s books and records, it has sufficient documents and information to both precisely quantify and approve of this claim. The Claimant is available to assist in that process if helpful.
- 2) With respect to the second claim identified in the Supplemental Proof of Claim dated July 27, 2022, the amount owing has increased by an additional \$7,834.43 as of the date of this Notice.

The Claimant reserves the right to further amend and/or supplement the Proof of Claim with additional details and claims at any time.

DATED this 15th day of December 2023.



Sam Dukesz
Counsel to Swinderpal Singh Randhawa

Appendix “F”



Cassels Brock & Blackwell LLP

Estimate Valuation Report

Fair Market Value of 1542300 Ontario Inc., ProEx Logistics Inc.
and Guru Logistics Inc.

Valuation Date: October 31, 2018
Report Date: May 02, 2022



Ms. Natalie Levine
Cassels Brock & Blackwell LLP
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Grant Thornton LLP
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Toronto, ON
M5H 3T4
T +1 416 366 0100
F +1 416 360 4949

May 02, 2022

Dear Ms. Levine:

CALCULATION VALUATION REPORT

We enclose our Estimate Valuation Report providing our conclusion as to the en bloc fair market value of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018.

Our report and supporting calculations detail the valuation approaches, methods, considerations, and analyses that underlie our valuation conclusions. Our valuation analysis must be considered as a whole. Selecting portions of our analysis or the factors we considered, without considering all factors and analysis together, could create a misleading view of the process underlying the determination of our valuation conclusions. The preparation of a valuation is a complex process and is not necessarily susceptible to partial analysis or summary description. Any attempt to do so could lead to undue emphasis on any particular factor or analysis.

Thank you for the opportunity to provide our business valuation services to you. We will be pleased to discuss the foregoing with you at your convenience.

Yours sincerely,



Grant Thornton LLP

If you have any questions about this Report or its contents, please contact:

Dennis Leung, CPA, CA, CBV, CF, FEA
Partner, Transactions
T +1 416 360 3476
E Dennis.Leung@ca.gt.com

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1.0 Introduction

Purpose

- 1.01 Pursuant to the engagement letter, dated December 16, 2021, Grant Thornton LLP (“Grant Thornton”) has been engaged by Cassels Brock & Blackwell LLP (“Cassels” or “you”) as counsel to KSV Restructuring Inc. in its capacity as court-appointed receiver and manager (the “Receiver”) of all of the assets, undertakings and properties of 1542300 Ontario Inc. (operated as ASR Transportation) (“ASR”), ProEx Logistics Inc. (“ProEx”), Guru Logistics Inc. (“Guru”), 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd. R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc. (collectively, “RGC”) acquired for, or used in relation to a business carried on by RGC.
- 1.02 You have requested we prepare an Estimate Valuation Report (the “Report”) setting out our conclusion as to the en bloc fair market value of ASR, ProEx and Guru (collectively the “Companies”), as at October 31, 2018 (the “Valuation Date”).
- 1.03 We understand our Report was required to assist the Receiver in determining the potential value of the litigation claims owned by RGC and that our Report may be filed with the Ontario Superior Court of Justice (Commercial List). You have agreed you will use our Report only for the purpose stated above. No other use is intended or permitted, without the prior written consent of Grant Thornton. Our Report should not be relied upon by any other party or for any other purpose, other than that noted herein.
- 1.04 Our valuation analysis views the Companies on a “stand-alone” basis. That is, our conclusion is based upon the Companies’ historical financial performance and consideration of the rates of return required by investors given economic and business conditions existing at the Valuation Date. Purchasers who perceive post-acquisition net economic value (e.g., higher earnings due to economies of scale or elimination of a competitor), by acquiring the Companies or its underlying assets, may pay a higher price. Such prices, if available, can only be accurately quantified in an actual negotiation.
- 1.05 We strongly advise third parties, potential investors, lenders and others seek out independent valuation, corporate finance, accounting, and income tax advice.
- 1.06 Our determination of fair market value in a notional market must be differentiated from the concept of price. Actual transaction prices for a particular business can vary due to such things as differing negotiating strengths, unequal motivation to transact, and the purchase consideration being other than cash. As a result, the price at which a sale of the business might take place may be higher or lower than the notional fair market value determined herein.
- 1.07 Therefore, while our conclusion is suitable for notional valuation purposes, the share values determined in this Report may not be an appropriate asking price if the business was actually exposed to the market for sale.
- 1.08 Our Report and supporting calculations detail the valuation methods, considerations, and analyses that underlie our valuation conclusions. We believe our valuation analysis must be considered as a whole. Selecting portions of our valuation or the factors we considered, without considering all factors and analysis together, could create a misleading view of the process underlying determination of our valuation conclusions. The preparation of a Valuation Report is a complex process and is not necessarily susceptible to partial analysis or summary description. Any attempt to do so could lead to undue emphasis on any particular factor or analysis.
- 1.09 We reserve the right, but are under no obligation, to review the calculations included in or referred to in this Report and, if we consider it necessary, to revise our determination of fair market value in light of any information existing at the Valuation Date that subsequently becomes known to us following the date of our Report.
- 1.10 All amounts contained in this Report are expressed in Canadian dollars (“CAD” or “\$”), unless otherwise stated.

Currency

- 1.10 All amounts contained in this Report are expressed in Canadian dollars (“CAD” or “\$”), unless otherwise stated.

Independence

- 1.11 We confirm we have taken all reasonable steps to ascertain whether Grant Thornton has any conflicts of interest related to our engagement to prepare this Report. We confirm we are unaware of any existing, potential, or perceived conflicts of interest by Grant Thornton or any of the professionals or administrative staff assigned to this engagement and that, to the best of our knowledge and belief, we are independent in respect of this matter.
- 1.12 Grant Thornton has no pecuniary interest in the outcome of this engagement and the fees for the work performed by Grant Thornton are not contingent on the results or quantum of our conclusions.
- 1.13 This valuation has been prepared by a Chartered Business Valuator acting independently and objectively, in accordance with the Practice Standards of the Canadian Institute of Chartered Business Valuators (“CICBV”).

2.0 Valuation conclusion

2.01 Based on the scope of our review and subject to the assumptions, restrictions and qualifications noted herein the estimated en bloc fair market values for ASR and ProEx are summarized as follows:

<i>In CAD</i>	Low	Mid	High
Enterprise value	6,444,824	6,958,397	7,443,957
Add: Redundant net assets	170,732	170,732	170,732
Less: Interest-bearing debt and debt equivalents	(1,858,888)	(1,858,888)	(1,858,888)
En bloc FMV of ASR Transportation	4,756,668	5,270,241	5,755,801

ProEx

<i>In CAD</i>	
Adjusted net book value	
<i>Comprising</i>	
Cash and net working capital	(316,839)
Property, plant & equipment, net	132,168
Due from related parties	305,270
Due to shareholder	10,890
Loan payable	44,580
	65,129
Add (less): Pro-rated net profits/(loss) for 3 months ending October 31, 2018	(11,526)
Add: Fair market value trucks and trailers owned by Guru but operated by ProEx	212,690
Fair market value of ProEx	266,294
Fair market value of ProEx, rounded	266,000

- 2.02 The en bloc fair market value of Guru was not determined separately as that has been considered as part of respective en bloc fair market values of ASR and ProEx.
- 2.03 Given the economics of the business, we believe ASR is appropriately valued using the Capitalized Cash Flow (CCF) and ProEx is appropriately valued using the asset-based valuation (ABV) methodology.
- 2.04 Our conclusion as to the fair market value of ASR and ProEx is the midpoint of the valuation range, specifically:

- a) approximately **\$5.3 million** for the en bloc fair market value of ASR; and
- b) approximately **\$266,000** for the en bloc fair market value of ProEx.

3.0 Key assumptions

- 3.01 In preparing our Report, we made a number of assumptions that may affect our valuation conclusions.
- 3.02 The key assumptions we relied on are as follows:
- a) Remuneration paid to the shareholders and/or non-arm's length parties was not at market rates. Based on our discussions with Management, the estimated market rates for a president to manage operations of ASR and ProEx to approximate \$150,000 and \$120,000 per annum, respectively.
 - b) Annual capital reinvestment of approximately \$750,000 and \$25,000 (based on our analysis of capital expenditures in Section 8 and 10 of the Report) is required to sustain the operations of ASR and ProEx respectively at their current levels.
 - c) Financial results and financial position of ASR, ProEx and Guru as of the Valuation Date are not materially different from its respective financial results and financial position as at September 30, 2018 for ASR and July 31, 2018 for ProEx and Guru, unless otherwise noted.
 - d) Rent paid by ASR from FY16 to FY18 as reflected on its financial statements, represent market rent paid for use of office and parking by ASR and ProEx.
 - e) ProEx utilized approximately 10% of the overall space rented by ASR from FY16 to FY18.
 - f) We have assumed that all due to/from related parties and shareholders balances in the Companies' financial statements were collectible as at the Valuation Date.¹
 - g) The expense normalization adjustments for ASR and ProEX for the period FY15 to FY18, as set out in the Microsoft Excel document entitled "Preliminary Responses to Queries 5 & 7" reflects all required adjustments for the purpose of our valuation analysis.
 - h) Fair market value as at the Valuation Date of the trucks and trailers approximated their final selling price received in auction, as conducted by the Receiver as of October 2021. We note that we have not appraised the value of trucks and trailers and the value utilized in our analysis is an approximation of value as at the Valuation Date. The value of trucks and trailers as at the Valuation Date may be different if an appraisal of those trucks and trailers was conducted. See paragraph 8.11 for the detailed analysis.
 - i) The fair market value of trucks and trailers that were not sold in auction as of October 2021 is equivalent to average sale value of similar vehicles of the same model (year), sold in the auction.
 - j) Approximately 80% of total trucks and trailers owned and registered under Guru were utilized by ASR, while the remaining 20% were utilized by ProEx.
 - k) Given lack of financial information for Guru for the fiscal year ended July 31, 2017 and July 31, 2018, the value of assets and liabilities, except the truck and trailers, is considered nominal as at the Valuation Date.
 - l) Our valuation is based on the assumption that the Companies would continue to operate in a similar manner as the years preceding the Valuation Date.
- 3.03 In addition, we relied upon the general assumptions set out in Appendix B. We also note assumptions throughout this Report and the attached schedules. Any changes to the assumptions may result in a change in our valuation conclusions.

¹ We note that the due/to from related party amounts were fully settled subsequent to the Valuation Date.

4.0 Key definitions

Report type

- 4.01 The CICBV Practice Standard No. 110 (“CICBV Standard 110”) defines a Valuation Report as:
- any written communication containing a conclusion as to the value of shares, assets or an interest in a business, prepared by a Valuator acting independently*
- 4.02 Under the CICBV’s Practice Standards, the type of Valuation Report is distinguished by the scope of review, amount of disclosure, and level of assurance provided in the conclusion.
- 4.03 Specifically, CICBV Standard 110 defines three types of Valuation Reports, as follows:
- A Comprehensive Valuation Report contains a conclusion as to the value of shares, assets or an interest in a business that is based on a comprehensive review and analysis of the business, its industry and all other relevant factors, adequately corroborated and generally set out in a detailed Valuation Report.*
- An Estimate Valuation Report contains a conclusion as to the value of shares, assets or an interest in a business that is based on limited review, analysis and corroboration of relevant information and generally set out in a less detailed Valuation Report.*
- A Calculation Valuation Report contains a conclusion as to the value of shares, assets or an interest in a business that is based on minimal review and analysis and little or no corroboration of relevant information, and generally set out in a brief Valuation Report.*
- 4.04 You requested we prepare an Estimate Valuation Report as to the en bloc fair market value of the Companies.
- 4.05 The scope of review was inherently limited by the nature of the Valuation Report being provided, and the conclusions expressed in this Report may have been different had a Comprehensive Valuation Report been prepared.

Definition of fair market value

- 4.06 In preparing our valuation, we were guided by the CICBV’s definition of fair market value:
- the highest price, expressed in terms of cash equivalents, at which property would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arm’s length in an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of the relevant facts.*
- 4.07 Fair market value, as defined above, may or may not equal the purchase or sale price in an actual open market transaction. In the open market, there may exist special-interest or strategic purchasers, who may be willing to pay a price in excess of fair market value because they can, or believe they can, enjoy post-acquisition synergies, economies of scale, or strategic advantages by combining the acquired business interest with their own operations. Such synergies, economies of scale, and strategic advantages are referred to as net economic value added.
- 4.08 The quantification of the premiums such purchasers may pay, if any, is difficult, if not impossible, without identifying specific purchasers or exposing the Companies for sale in the open market. Therefore, we have provided our analysis of the Companies on a “stand-alone” basis without reference to the prices that might be paid by purchasers who perceive post-acquisition net economic value added.
- 4.09 A more detailed list of abbreviations and valuation terminology used in our Report is located in Appendix E.

5.0 Scope of review

Scope

- 5.01 We have prepared an Estimate Valuation Report that reflects the intended purpose and use of the Report, as well as the limitations regarding the availability of certain information, as discussed below.
- 5.02 We have not been engaged to express comprehensive opinion of the fair market value of the Companies. Accordingly, the calculation of value contained in this Report and the attached supporting schedules do not constitute our comprehensive opinion of the fair market value of the Companies. Rather, they are intended to provide you with an estimate of value for the purpose outlined under the section titled **Purpose**.
- 5.03 If we had been engaged to express our comprehensive opinion of the fair market value of the Companies, additional investigation and procedures would have been undertaken, and our conclusions may have differed from those contained in this Report.
- 5.04 In this regard, we provide this Report for your use only. We strongly advise that third parties, potential investors, lenders, and others seek out independent valuation, corporate finance, accounting, and income tax advice.

Scope limitations

- 5.05 In keeping with our terms of reference, we completed limited review, analysis, and corroboration of the information provided to us. We understand that the Receiver is in possession and control of RGC's assets, undertakings and property, but the Receiver has limited historical knowledge of the Companies and is relying on information provided by the shareholders of the Companies, who may have contradicting and/or self-interested views in respect of the information requested. Without independent verification, we relied upon this data as accurately reflecting the results of the Companies' operations and financial positions. We did not audit this data, and express no opinion or other form of assurance regarding its accuracy, completeness, or fairness of presentation.

- 5.06 Further, in order to normalize the expenses of ASR and ProEx, for the historical period from FY15 to FY18, we have relied upon the excel document provided to us named "Preliminary Responses to Queries 5 & 7" (referred to as "Normalization Adjustments).
- 5.07 We assume no responsibility and make no representation with respect to the accuracy or completeness of the information provided pertaining to the expense Normalization Adjustments as at the Valuation Date.

Information reviewed and relied on

- 5.08 In completing our Report, we reviewed and relied on the documents listed in Appendix A.
- 5.09 We also held discussions with the following individuals regarding the past and future operations of the Companies, replacement costs and useful lives of equipment, the risks around maintaining current revenue level, the Companies' competitive position, and their opportunities for growth:
- a) Rana Partap Singh Randhawa (alias "Rana"), President, ASR and Swinderpal Singh Randhawa (alias "Paul"), President, ProEx (the "Management" or "Shareholders"); and
 - b) Noah Goldstein, Managing Director, KSV and Jonathan Joffe, Senior Manager, KSV, in their capacity as the Receiver.

6.0 Company overview - RGC

Background

- 6.01 RGC is a family-operated business formed in 1993 by Paul and Rana to manage a group of companies involved in goods transportation, logistical services and real estate investment.
- 6.02 The group companies within RGC include ProEx, Guru Inc., ASR, 2221589 Ontario Inc., 2435963 Ontario Inc., Noor Randhawa Corp., Superstar Transport Ltd., R.S. International Carriers Inc., Subeet Carriers Inc., Superstar Logistics Inc., Continental Truck Services Inc., and ASR Transportation Inc.
- 6.03 This Report sets out our estimate of the fair market value of ASR, ProEx and Guru. We have not been engaged to prepare a valuation of the other entities under the RGC umbrella.
- 6.04 Background of ASR, ProEx and Guru are set out in the ensuing sections.

7.0 Company overview - ASR

Background

- 7.01 ASR was an asset-based carrier and logistics provider, specializing in time sensitive and temperature-controlled truck load and less than truck load freight solutions, operating across Canada and United States.
- 7.02 The company was wholly owned by Rana Partap Singh Randhawa as at the Valuation Date. Having said that we understand that subsequent to the Valuation Date, Rana and Paul have entered into a settlement agreement acknowledging that they are equal owners of the business.

Service overview

- 7.03 The company's main focus was to provide dry van loads² and reefer loads³, primarily using its own fleet of specialized trucks and trailers. As at the Valuation Date, the company operated a total of 47 trucks and 108 trailers.
- 7.04 Dry van loads, which represented the majority (approximately 85%-90%) of the company's business, were mainly for automobile and auto-parts manufacturers transporting parts between US and Canada. Reefer loads, which represented the balance of the company's revenue were related to transportation of fresh produce to major retailers, wholesalers, and brokers in Canada from primarily California, US.
- 7.05 The company was CSA (Canadian Standards Association) and FAST (Free and Secure Trade) certified and over the years has consistently maintained delivery performance over 98%.

² A dry van is a type of semi-trailer that's fully enclosed to protect shipments from outside elements. Designed to carry palletized, boxed or loose freight, dry vans aren't temperature-controlled (unlike refrigerated "reefer" units) and can't carry oversized shipments (unlike flatbed trailers).

Customer overview

- 7.06 The following table depicts the company's top ten customers, based on revenue, for the fiscal years ended September 30, 2014 ("FY14") to September 30, 2018 ("FY18").

In CAD (000's)	FY14		FY15		FY16		FY17		FY18	
Customer	\$	%	\$	%	\$	%	\$	%	\$	%
FORD	5,185.3	63%	4,341.9	54%	5,126.7	61%	6,246.6	65%	6,239.5	63%
STAR VAN							133.1	1%	588.5	6%
SCOTLYNN							123.7	1%	648.9	7%
CPX-COASTAL							209.5	2%	520.4	5%
LANDMARK							93.6	1%	262.0	3%
IPPOLITO TRANSPORTATION INC					296.0	4%	542.2	6%	203.6	2%
EVANS LOGISTICS									144.2	1%
TTGI									90.8	1%
C.H.ROBINSON									45.1	0%
BUCKLEY									37.5	0%
TST OVERLAND EXPRESS	819.3	10%	946.5	12%	852.6	10%	619.3	6%		
LAKESIDE LOGISTICS			149.1	2%	255.2	3%	465.5	5%		
VENTRA PLASTICS	886.8	11%	852.6	11%	781.1	9%	104.3	1%		
KOOI	112.3	1%	144.2	2%	180.1	2%	80.4	1%		
MOLONEY ELECTRIC INC									104.0	1%
NFI	325.3	4%	393.8	5%	88.9	1%				
CATALYST FREIGHT SOLUTIONS INC									52.0	1%
C.H.ROBINSON	89.7	1%	126.5	2%	43.4	1%				
O.P.D.I. LOGISTICS	111.7	1%	161.5	2%						
SECURED									150.6	2%
ROGUE									80.9	1%
DELUXE FREIGHT SERVICES LTD	106.0	1%								
TQL	52.4	1%								
TRAFFIC TECH INC.	52.9	1%								
Top 10 customer revenue	7,741.6	94%	7,347.6	91%	7,779.9	93%	8,618.1	89%	8,780.6	89%
Total revenue	8,266.0	100%	8,036.6	100%	8,405.1	100%	9,667.8	100%	9,847.1	100%

Note - Revenue of \$nil does not represent \$0 revenue from a customer. It represents that the customer was not a top ten customer in that year.

- 7.07 As shown in the chart above, the company's top 10 customers have represented approximately 89% to 94% of the company's revenue in the five fiscal years prior to the Valuation Date, with a significant proportion from Ford (in the range of 54% to 65% in the last five fiscal years).
- 7.08 The company was one of Ford's certified carriers, which allowed the company to submit bids on the lanes (routes) as solicited by Ford from time to time. After

³ Refrigerated (Reefer) loads are perishable freights that need to be transported in temperature-controlled vehicles. Reefer trailers are typically 53 feet long with insulated walls, floors, doors, and roofs. They usually have a temperature control unit attached to the front wall and a cloth chute that allows temperature-controlled air to travel to the back of the trailer, so the same temperature is maintained throughout the truck.

receiving bids from certified carriers, Ford selects the carrier for each of its lanes, based on the carrier's bid and performance history with Ford. We understand that when a certified carrier is selected for a particular lane, they typically keep servicing that lane for a long period of time, unless Ford has a reason for changing carriers due to poor performance or a change in corporate policy.

- 7.09 As an example, of the 15 to 20 lanes that the company has been servicing for Ford, the Chicago to Oakville lane is one of the oldest (since 2006) that the company continued to service as at the Valuation Date.
- 7.10 We understand that while the company did not have a long-term contract with Ford, it maintained a strong relationship with the customer, resulting in ASR being awarded key lanes on a consistent basis. Further, if there was a reduction of work on a given lane, Ford would often provide ASR opportunities to work on other lanes to replace lost revenue.
- 7.11 Based on our review of the remaining top 10 customers, we noted the following:
- a) No one customer accounted for more than 12% of revenues during the period FY14 to FY18, with the majority well below 10% of total revenues.
 - b) There has been turnover in the top 10 customers over the historical period.
 - c) Although relatively smaller in scale relative to Ford, Ventra Plastics and TST Overland Express (TST), each who have accounted for approximately 10% of total revenues in FY14 to FY16, were not customers of ASR in FY18. Offsetting the decline in revenue to Ventra Plastics and TST is the increase in revenue to Star Van and Scotlynn, both of which entered the company's top 10 customer list in FY17 and FY18.

Supplier overview

- 7.12 The company's main procurements include purchase of fuel, insurance, repair & maintenance services for trucks and trailers, and hiring subcontractors (mostly drivers).
- 7.13 We understand that the company is not dependant on any one supplier given the nature of industry.

Employee overview

- 7.14 According to Management, in FY18 the company had approximately 52 to 55 drivers, who were hired on a sub-contract basis and approximately 10 to 11 sub-contracted office staff working in dispatch, sales, accounting, and safety departments.
- 7.15 We understand that the drivers operated as sub-contractors and were able to offer their services to other carriers.

S.W.O.T. assessment

- 7.16 Based on discussions with Management, we identified the company's strengths, weaknesses, opportunities and threats, as outlined below:

Strengths & opportunities

- 7.17 The company's long history of operations allowed the company to gain extensive experience to run operations smoothly.
- 7.18 The company's strong relationship with Ford resulted in Ford awarding ASR key lanes to service on a recurring basis.
- 7.19 The company maintained a strong performance record throughout its history, with a Ford delivery performance rating consistently above 98%.
- 7.20 Given the company's strong record and experience in serving Ford, there exists an opportunity to become a certified carrier for automobile manufacturers such as Toyota, General Motors and others.
- 7.21 Management indicated that there was capacity for increased volumes, which would drive revenue growth.

Weaknesses & threats

- 7.22 The company was highly dependant on Ford for generation of its revenue, with the customer representing approximately 54% to 65% of the company's total revenue over the last five fiscal years.
- 7.23 While the company was a certified carrier for Ford, which resulted in regular business from the customer, there was no written contract guaranteeing lanes to ASR. There was the risk that the company may lose a lane to a competitor.
- 7.24 There was turnover in the company's top 10 customers. Mitigating this risk was the company's ability to increase sales to, or secure, new customers to offset this turnover. This was reflective of the company's ability to increase revenue during the historical time period.
- 7.25 The long-distance trucking industry is highly competitive with approximately 30,000 plus companies operating in this industry⁴ as at the Valuation Date.
- 7.26 Given that the company owned a significant inventory of fleet, it was required to spend regularly and extensively on maintenance of the current fleet and replacing fleet that reached end of their lives.
- 7.27 The company was exposed to industry-wide economic factors which impact operational results, including fuel prices, driver availability, exchange rates, government regulations, and weather.

⁴ Long-Distance Freight Trucking in Canada March 2018, IBISWorld, March 2018

8.0 Financial overview - ASR

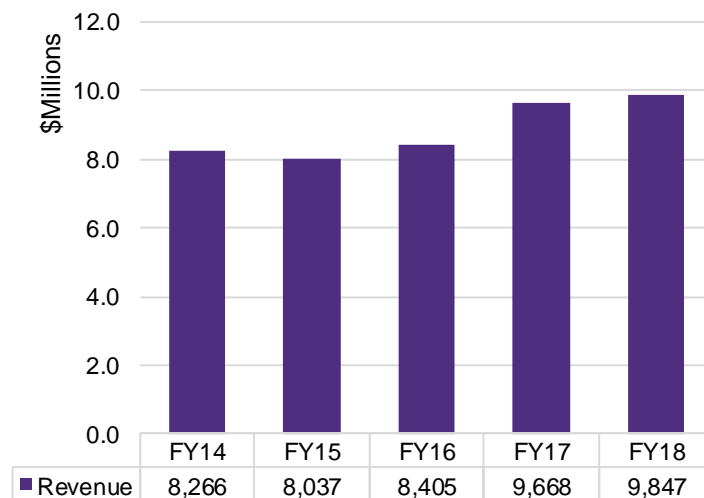
Financial performance

8.01 On Schedule A5, we summarized the historical statements of profits and losses for ASR for the fiscal years ended September 30, 2014 to 2018 (FY14 to FY18). We note that we were not provided with the financial statements for the interim one month ended October 31, 2018 and therefore our analysis is limited to the information provided up to September 30, 2018. Our analysis of the revenue, expenses, and EBITDA are set out in the following sections.

Revenue

8.02 The chart below illustrates the company's revenue for FY14 to FY18.

Historical revenue



8.03 As shown in the chart above, ASR's revenue generally increased over the five fiscal years prior to the Valuation Date.

8.04 The increase in revenue is primarily driven by the company's key customer Ford. Revenue from Ford increased by approximately \$1 million during the historical period.

Expenses

8.05 Operating expenses primarily consisted of fuel and lubrication costs, subcontract costs, repairs and maintenance expenses, insurance expenses, and rent. In order to analyze the historical expenses, we normalized these by adjusting for items prospectively expected to occur (or not occur) beyond the Valuation Date. The normalized expense levels were utilized in our determination of normalized historical EBITDA. For the period FY14 to FY18, we adjusted expenses for the following items:

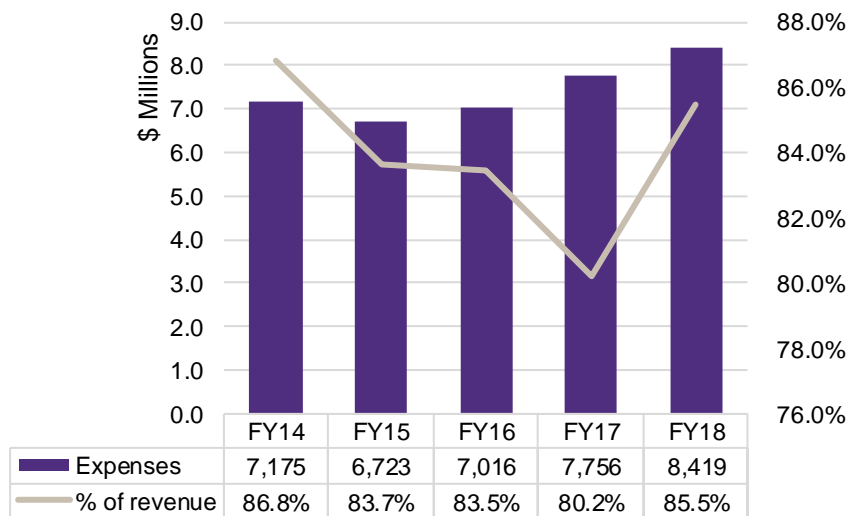
- a) Adjusted salaries paid to Rana and related parties to be in line with economic levels based on their respective roles and position in the company. In this regard, we note that historically the company paid salaries to family members, who were not active in the business. Therefore, the salaries were adjusted to reflect only compensation paid to Rana at a market rate of approximately \$150,000 based on his role as president of the company.
- b) Adjusted rent paid to related company 2221589 Ontario Inc. ("222 Co.") in FY14 and FY15 for use of office and parking space to market rent of approximately \$15,000 per month for use of the facility by both ASR and ProEx. We allocated 90% of this market rent to ASR based on our discussion with Management. We understand that the property owned by 222 Co. was sold in 2015, and since then both ASR and ProEx have operated from a common office rented from a third party, therefore no adjustment to market rent is required beyond FY15.
- c) Deducted rent paid by ASR for space used by ProEx from FY16 to FY18, equivalent to 10% of total rent expenses for each year, based on our discussion with Management.
- d) Deducted rental payments made to Guru for ASR's use of trucks and trailers owned by Guru, sourced from document "Queries 6, 8 & 9", a Microsoft Excel file. We deduct rental payments to Guru from ASR's expenses, as we have not ascribed a fair market value to Guru, but rather

added the operating assets of Guru used in ASR's operations in our valuation of ASR. See Section 11.0 for further details.

- e) Deducted personal discretionary expenses of Rana and Paul, sourced from the Normalization Adjustments provided by Management.
- f) Added back a portion of personal discretionary expenses that were transferred to due from shareholder in FY17, sourced from the Normalization Adjustments provided by Management.
- g) Deducted a reversal of transfer to due from shareholder account in FY18, as the transfer was already recorded in the financial statements, as sourced from the Normalization Adjustments provided by Management.

8.06 The chart below illustrates the company's normalized expenses for FY14 to FY18.

Historical expenses

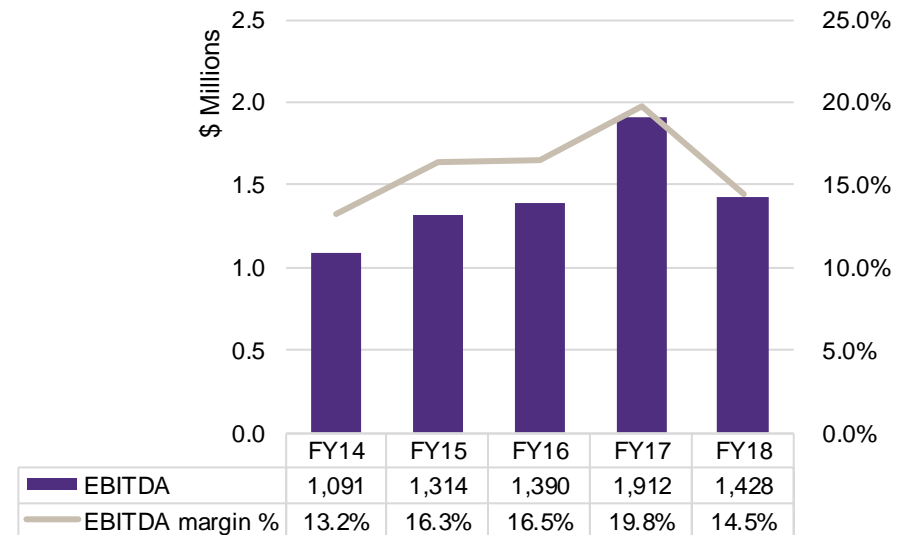


8.07 As shown in the chart above, ASR's expenses from FY14 to FY18 have generally followed a similar trend as the company's revenue. We note that in FY18 expenses increased to approximately \$8.4 million from \$7.8 million in FY17, a higher growth rate relative to the revenue growth realized. We understand that the growth is due to higher fuel and lubrication, repairs and maintenance, insurance costs and tolls and other road expenses.

EBITDA

8.08 The adjacent chart illustrates the company's EBITDA and EBITDA margin % for FY14 to FY18.

Historical EBITDA



8.09 As shown in the chart above the company's EBITDA increased from FY14 to FY17 as revenue grew, however in FY18 EBITDA decreased as the company incurred higher expenses.

Financial position

8.10 ASR's assets and liabilities as at September 30, 2018 are set out in the adjacent table and summarized below. We have assumed that the company's balances as at the Valuation Date are not materially different from balances as at September 30, 2018:

- a) Cash of \$170,700, which is considered as redundant in nature.
- b) Net trade working capital (accounts receivable, prepaid expenses, government remittances receivable, net of accounts payable and income tax payable) of approximately \$405,600. With respect to the balances within net working capital, we assumed the amounts therein reasonably represented the fair market value, as they were current in nature and were expected to be converted to cash in the near term.
- c) Approximately \$3.3 million net book value of property, plant, and equipment (PP&E) as at the Valuation Date. The value of PP&E was adjusted to its fair market value as of the Valuation Date, as discussed in the following heading.
- d) Due from shareholder and related parties of approximately \$454,000 and \$1.4 million respectively. We have been directed by the Receiver to assign a fair market value of \$nil for the purpose of our valuation as it is the Receiver's understanding that the amounts were fully collected and funds distributed to Rana and Paul subsequent to the Valuation Date.⁵
- e) Debt and debt equivalents of \$1.9 million, comprising loan payable and capital lease obligation.

Balance sheet as at September 30, 2018

In CAD	As at Sept 30, 2018
Assets	
Current	
Cash	170,732
Accounts receivable	1,333,630
Prepaid expenses	87,185
Government remittances receivable	341,794
Due from shareholder	454,224
	2,387,565
Long-term	
Due from related parties	1,362,484
Property, plant & equipment, net	3,255,609
	4,618,093
Total assets	7,005,658
Liabilities	
Current	
Accounts payable	1,355,982
Income tax payable	1,022
Current portion of loan payable	13,579
Current portion of capital lease obligation	806,970
	2,177,553
Long-term liability	
Long-term debt	307,160
Capital lease obligation	731,179
	1,038,339
Total liabilities	3,215,892

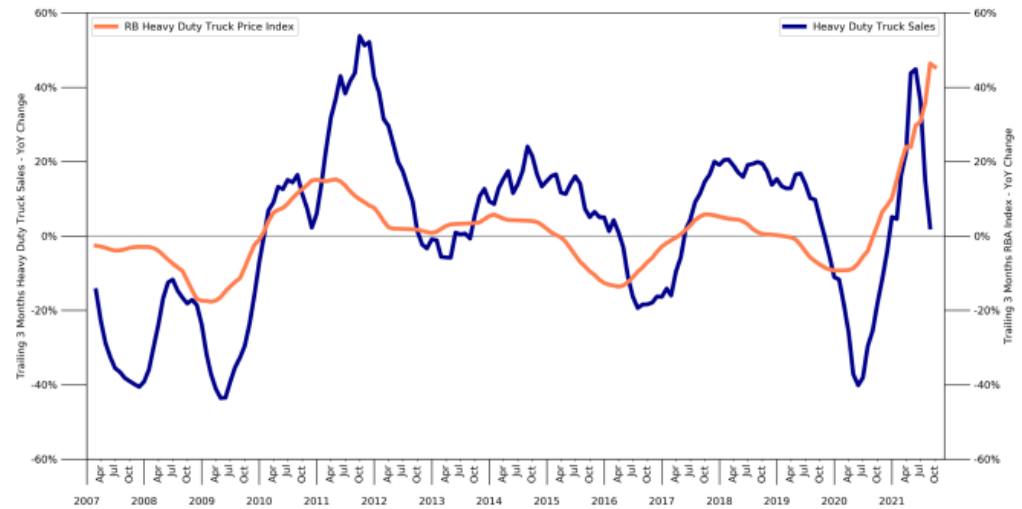
⁵ The Receiver understands that the amount owing to ASR was from a single purpose real estate entity. The Receiver further understands that the real estate was subsequently sold and that the net proceeds were distributed to Rana and Paul subsequent to the Valuation Date.

Property, plant & equipment

- 8.11 The company's PP&E as at the Valuation Date included a total of 155 trucks and trailers. The detailed list of trucks and trailers is set out on Schedule D2 and summarized on Schedule D1.
- 8.12 We were not provided with an appraisal of the fair market value of the trucks and trailers as at the Valuation Date. We did, however, receive the following with regards to the trucks and trailers owned by the company:
- a desktop appraisal based on forced liquidation values of 70 of the 155 trucks and trailers dated February 12, 2021 ("Desktop Appraisal"); and
 - a final selling price for 125 of the 155 trucks and trailers as obtained by Receiver in October 2021 ("Final Sale").
- 8.13 The estimated increase in price obtained in the October 2021 Final Sale date relative to the Desktop Appraisal values as of February 12, 2021 was approximately 65%, based on the weighted average change in price of trucks and trailers that were appraised on February 12, 2021 and sold in October 2021. Based on our research of the used truck market (see adjacent chart), we note that the prices of used trucks and trailers at the time of the Final Sale were positively impacted by the shortage of resale truck supplies and delays throughout the manufacturing supply chain, including raw materials and parts (especially semiconductor microchips) needed to build new trucks, which resulted in an increase of approximately 35% in the prices of used trucks from the date of the Desktop Appraisal to the time of Final Sale.
- 8.14 While both of the above data points are subsequent to the Valuation Date, in the absence of the fair market value information of trucks and trailers as at the Valuation Date, we have considered the fair market values as per the Final Sale to be a reasonable approximation of values as at the Valuation Date.
- 8.15 We have assumed that the price received during the Final Sale was a function of unusually high demand, resulting in a significant premium to the values determined in the Desktop Appraisal. Absent the supply shortage, we have assumed that the fair market value of the trucks and trailers would reflect the Desktop Appraisal. As a result, we have assumed that the premium received

in the Final Sale would reflect the value of the trucks and trailers in October 2018, based on the longer remaining useful life at that time.

Heavy duty used truck price index vs. U.S. Heavy duty used truck sales index⁶



- 8.16 The Final Sale provides fair market values of 125 of the 155 trucks and trailers the company owned as at the Valuation Date. In order to estimate fair market value of the remaining 30 trucks and trailers, we used the average prices of comparable trucks or trailers having similar ages, as listed on the detailed list of trucks and trailers on Schedule D2.
- 8.17 We note that our assessment of the fair market value of the trucks and trailers is to assist us in determining the reasonableness of our valuation conclusions and does not constitute an appraisal. ASR, which reflects the majority of the collective fair market value of the Companies determined herein, was determined using an earnings approach, specifically the capitalized cash flow methodology. If an appraisal was performed by a qualified equipment appraiser, the value of the truck and trailers may be different.

⁶ Source: Ritchie Bros. Used Equipment Market Trends Summary (North America Edition) | January 2022

8.18 The table below, presents the fair market values of the property, plant and equipment as at the Valuation Date:

Summary of property, plant & equipment

<i>In CAD</i>	Book Value	FMV Adjustment	Fair Market Value
Equipment	28,956	-	28,956
Towing motor	159	-	159
Trucks and trailers	3,124,286	1,688,838	4,813,124
Furniture and fixtures	2,529	-	2,529
Computer equipment	9,850	-	9,850
Automobile	89,828	-	89,828
Total property, plant & equipment	3,255,607	1,688,838	4,944,445

8.19 The fair market value of property, plant, and equipment, except for the trucks and trailers, as discussed above, were assumed to be equivalent to their net book value.

8.20 We note that the above analysis to determine an estimate of fair market value of trucks and trailers does not reflect our view of the appraised value of the trucks and trailers.

Historical capital expenditures

8.21 We understand ASR owned 155 trucks and trailers as at the Valuation Date. We also allocated 54 trucks and trailers from Guru to ASR (See Section 11.0 below). We estimated the normalized level of capital expenditures required to continue to operate ASR at the level reflected in our valuation analysis.

8.22 In order to determine the normalized level of capital expenditure, we calculated the company's capital expenditure requirements using two approaches, as follows (outlined on Schedule D3):

a) **Approach # 1:** We estimated CAPEX based on the fleet's estimate fair market value and their remaining useful life as at the Valuation Date. In order to determine the remaining useful life of the company's fleet, we deducted the weighted average life of the company's fleet as at the Valuation Date of six years from the average useful lives of such vehicles found in comparable companies of 12 years (see Schedule D3 for the comparable company analysis), to get to remaining useful life of fleet of

approximately six years. We then calculated CAPEX of approximately \$1.1 million, as fair market value of fleet utilized by ASR (ASR and allocated Guru fleet) of approximately \$5.7 million divided by remaining useful life of fleet of 5 years.

b) **Approach #2:** We estimated CAPEX based on the cost of fleet as owned by the company as at the Valuation Date and the useful lives of fleets as found in comparable companies of approximately 12 years (see Schedule D3). The cost of fleet owned by ASR of approximately \$6.6 million divided by useful life of fleet of 12 years, results in a CAPEX of approximately \$566,300.

8.23 Based on our analysis, we have judgementally selected sustainable CAPEX for ASR of approximately \$750,000 based on the two approaches as discussed above. The CAPEX amount we arrive at is approximately 7.6% of 2018 revenue (\$750,000 / \$9.8 million) and is within the comparable company range.

Companies	Avg .CAPEX % of Revenue
Landstar System, Inc. (NasdaqGS:LSTR)	0.4%
Yellow Corporation (NasdaqGS:YELL)	2.3%
Titanium Transportation Group Inc. (TSXV:TTR)	4.1%
TFI International Inc. (TSX:TFII)	5.0%
Saia, Inc. (NasdaqGS:SAIA)	10.9%
J.B. Hunt Transport Services, Inc. (NasdaqGS:JBHT)	11.3%
Schneider National, Inc. (NYSE:SNDR)	12.8%
Old Dominion Freight Line, Inc. (NasdaqGS:ODFL)	13.9%
Knight-Swift Transportation Holdings Inc. (NYSE:KNX)	17.5%
Werner Enterprises, Inc. (NasdaqGS:WERN)	21.1%
Min	0.4%
Average	9.9%
Max	21.1%

9.0 Company overview - ProEx

Background

- 9.01 Similar to ASR, ProEx also engaged in truck load and less-than truck load freight solutions operating across Canada.
- 9.02 The company is wholly owned by Swinderpal Singh Randhawa as at the Valuation Date. Having said that we understand that subsequent to the Valuation Date, Rana and Paul have entered into a settlement agreement acknowledging that they are equal owners of the business.

Customer overview

- 9.03 The following table depicts the company's top ten customers, based on revenue, for the fiscal years ended September 30, 2014 ("FY14") to September 30, 2018 ("FY18").

Revenue by top 10 Customers

In CAD (000's)	FY14		FY15		FY16		FY17		FY18	
Customer	\$	%	\$	%	\$	%	\$	%	\$	%
VENTRA PLASTICS	435.0	36.5%	644.7	59.6%	709.7	81.3%	730.6	83.9%	737.8	100.0%
TST OVERLAND EXPRESS	672.7	56.4%	428.1	39.6%	158.0	18.1%	141.2	16.2%		
VISION			2.0	0.2%						
C.H. ROBINSON			1.9	0.2%						
WHEELS			1.9	0.2%						
CHELTRO			2.4	0.2%						
NFI	35.4	3.0%								
OPDI	12.0	1.0%								
SCOTLYNN COMMODITIES	11.2	0.9%								
RISING STARS	3.0	0.2%								
ASR	2.6	0.2%								
ROSEDALE	2.5	0.2%								
CHALLENGER	2.4	0.2%								
ATLANTIC	2.2	0.2%								
Top 10 customer revenue	1,179.0	99%	1,081.0	100%	867.7	99%	871.9	100%	737.8	100%
Total revenue	1,193.1	100%	1,081.4	100%	873.1	100%	870.7	100%	738.2	100%

Note - Revenue of \$nil does not represent \$0 revenue from a customer. It represents that the customer was not a top ten customer in that year.

- 9.04 As shown in the chart above, the company had less than ten customers in each of the last four fiscal years prior to the Valuation, with contribution from the company's main customer, Ventra Plastics ("Ventra") increasing every year, resulting in Ventra being the company's only customer in FY18. We understand that the company had a strong and long-standing relationship with Ventra, a supplier of spare parts to Ford and Chrysler.

- 9.05 While revenue from Ventra increased every year, contribution from the company's second largest customer, TST Overland Express ("TST") declined consistently, with no revenue from the customer in FY18. Based on our discussion with Management, we understand that drivers who were assigned to TST were not being utilized efficiently and therefore it was decided to move resources away from servicing TST.
- 9.06 We understand that the company has maintained a very strong relationship with Ventra over the years (since 2004) and had a formal contract with Ventra that results in a recurring revenue base.

Supplier overview

- 9.07 The company's main procurements included purchase of fuel, insurance, repair & maintenance services for trucks and trailers and hiring subcontractors (mostly drivers).
- 9.08 We understand that the company is not dependant on any one supplier given the nature of industry.

Employee overview

- 9.09 According to Management, in FY18 the company had approximately four to five drivers, who were, similar to ASR, hired on a sub-contract basis.
- 9.10 The administration of ProEx operations was completed by personnel working at the RGC head office. We have assumed that the intercompany charges would be nominal and would not materially impact the valuation conclusions set out herein,

S.W.O.T. assessment

9.11 Based on discussions with Management, we identified the company's strengths, weaknesses, opportunities and threats, as outlined below:

Strengths & opportunities

- 9.12 The company had a long history of operations that has allowed the company to gain extensive experience to run operations smoothly.
- 9.13 The company had long-standing relationship with Ventra, along with a formal contract that allows recurring business awarded to ProEx.
- 9.14 Similar to ASR, the company maintained a strong performance record throughout its history.
- 9.15 As per Management, the company's utilization of trucks and trailers as at the Valuation Date was high, with almost all trucks and trailers in use.

Weaknesses & threats

- 9.16 The company was exposed to significant customer concentration risk, with Ventra being ProEx' only customer in FY18.
- 9.17 Long-distance trucking industry is highly competitive with approximately 30,000 plus companies operating in this industry⁷ as at the Valuation Date.
- 9.18 Given the company owned a significant inventory of fleet, it was required to spend regularly and extensively on maintenance of the current fleet and replacing fleet that have reached end of their lives.
- 9.19 The company was exposed to industry-wide economic factors which impact operational results, including fuel prices, driver availability, exchange rates, government regulations, and weather.

⁷ Long-Distance Freight Trucking in Canada March 2018, IBISWorld, March 2018

10.0 Financial overview - ProEx

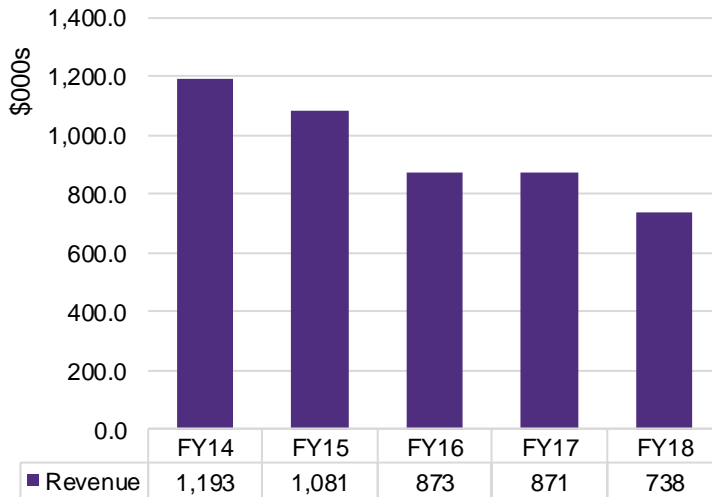
Financial performance

10.01 On Schedule B6, we summarized the historical statements of profits and losses for ProEx for the fiscal years ended July 31, 2014 to 2018 (FY14 to FY18). We note that we were not provided with the financial statements for the interim three months ended October 31, 2018 and therefore our analysis is limited to the information provided up to July 31, 2018. Our analysis of the revenue, expenses, and EBITDA are set out in the following sections.

Revenue

10.02 The chart below illustrates the company's revenue for FY14 to FY18.

Historical revenue



10.03 As shown in the chart above, ProEx's revenue declined in each of the last five fiscal years prior to the Valuation Date. This is attributable to the decline in TST revenue in ProEx. We understand that the TST lanes were transferred to ASR. As a result, ProEx serviced one customer in FY18; Ventra Plastics.

While the overall revenue of ProEx declined, the contribution of Ventra has increased consistently from FY14 to FY18.

Expenses

10.04 Operating expenses primarily consisted of fuel and lubrication costs, subcontract costs, repairs and maintenance expenses, insurance expenses and rent. In order to analyze the historical expenses, we normalized these by adjusting for items prospectively expected to occur (or not occur) beyond the Valuation Date. The normalized expense levels were utilized in our determination of normalized historical EBITDA. For the period FY14 to FY18, we adjusted expenses for the following items:

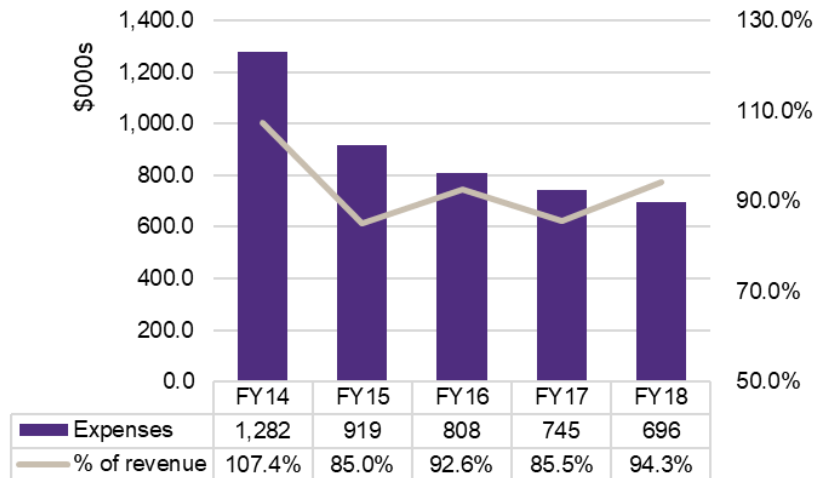
- Adjusted salaries paid to Paul and related parties to be in line with economic level based on their respective roles and position in the company. In this regard, we note that historically the company paid salaries to family members, who were not active in the business. Therefore, the salaries were adjusted to reflect only compensation paid to Paul at a market rate of \$120,000 based on his role as president of the company.
- Adjusted rent paid to related company 2221589 Ontario Inc. in FY14 and FY15 for use of office and parking space to market rent of approximately \$15,000 per month for use of the facility by both ASR and ProEx. We allocated 10% of this market rent to ProEx as discussed with Management. We understand that the property owned by 222 Co. was sold in 2015, and since then both ASR and ProEx have operated from common office rented out from a third party, therefore no adjustment to market rent is required beyond FY15.
- Added rent paid by ASR for space used by ProEx from FY16 to FY18, equivalent to approximately 10% of total rent expense as discussed with Management.
- Deducted rental payments made to Guru for ProEx's use of trucks and trailers owned by Guru, sourced from document "Queries 6, 8 & 9". We deduct rental payments to Guru from ProEx's expenses, as we have not

ascribed a fair market value to Guru, but rather added the operating assets of Guru used in ProEx's operations in our valuation of ProEx. See Section 11.0.

- e) Deducted personal discretionary expenses of Paul as recorded in ProEx's financial statements, sourced from the Normalization Adjustments provided by Management.
- f) Added back a portion of personal discretionary expenses that were transferred to due from shareholder in FY18, sourced from the Normalization Adjustments provided by Management.

10.05 The chart below illustrates the company's normalized expenses for FY14 to FY18.

Historical expenses

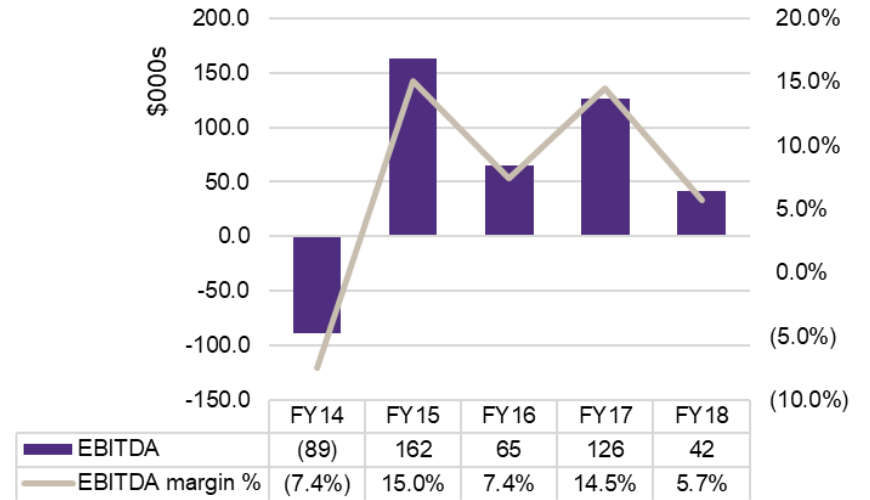


10.06 As shown in the chart above, ProEx's expenses generally follow a similar trend as the company's revenue, with expenses declining each year.

EBITDA

10.07 The chart below illustrates the company's EBITDA and EBITDA margin % for FY14 to FY18.

Historical EBITDA



10.08 As shown in the chart above, the company's EBITDA has fluctuated significantly in the last five fiscal years. The fluctuations were a function of the change in revenue and expense levels as outlined in the sections above.

Financial position

10.09 ProEx's assets and liabilities as at July 31, 2018 are set out in the adjacent table and summarized below. We have assumed that the balances as at the Valuation Date are not materially different from the balances as at July 31, 2018:

- a) Cash of approximately \$76,500, which is considered as redundant in nature.
- b) Net trade working capital deficit (accounts receivable, prepaid expenses, income tax receivable, net of accounts payable) of approximately \$393,300. With respect to the net working capital we note that there was a deficit of approximately \$396,000 as at the Valuation Date, which has been adjusted in the determination of the fair market value of the company. Detailed analysis of the net working capital is set out in the following section.
- c) Approximately \$132,200 net book value of property, plant, and equipment as at the Valuation Date. While fair market value of trucks and trailers held within ProEx was estimated at approximately \$74,100 (see Schedule D1), we were not provided a breakdown of the items held within the company's PP&E. Therefore, in the absence of information with regards to other items in PP&E, we have assumed that the overall fair market value of PP&E, including the fair market value of trucks and trailer, which is higher than the estimated value of the trucks and trailers, approximates net book value as at the Valuation Date.
- d) Due from related parties of approximately \$305,300 that we have assumed was fully collectible as at the Valuation Date.
- e) Debt and debt equivalents of \$55,500, comprising loan payable and due to shareholder.

Balance sheet as at July 31, 2018

In CAD	July 31, 2018
Assets	
Current	
Cash	76,492
Accounts receivable	94,329
Prepaid expenses	18,020
Income tax receivable	2,836
	191,677
Long-term	
Due from related parties	305,270
Property, plant & equipment, net	132,168
	437,438
Total assets	629,115
Liabilities	
Current	
Accounts payable	508,516
	508,516
Long-term liability	
Due to shareholder	10,890
Loan payable	44,580
	55,470
Total liabilities	563,986

Net working capital

10.10 We performed a detailed analysis of the business' operating net working capital, on both a historic and prospective basis, to better understand the business' working capital requirements.

10.11 Based on our analysis, we note the following normalized ratios for the business:

- a) **Days sales in accounts receivable – 47 days**
Based on days sales in accounts receivable level in FY18

b) **Days operating expenses in prepaid expenses – 9 days**

Based on days operating expenses in prepaid expenses in FY18

c) **Income tax receivable - approximately \$2,836**

Based on balance of income tax receivable in FY18.

d) **Days COS in accounts payable – 59 days**

We have assumed that the days COS in accounts payable in ASR of 59 days is also applicable to ProEx, given similar operations.

10.12 On average, the above-noted ratios resulted in a maintainable net working capital for the company of approximately \$2,600.

10.13 Based on our analysis, we concluded ProEx should have normalized net working capital of approximately \$2,600. Given the actual net working capital level of the company as at the Valuation Date was a deficit of approximately \$393,300, we have adjusted the deficit by approximately \$396,000 in determining the fair market value of the company.

Property, plant & equipment

10.14 The company's PP&E as at the Valuation Date primarily included a total of 6 trucks and trailers. The detailed list of trucks and trailers is set out on Schedule D2 and summarized on Schedule D1.

10.15 We note that we didn't receive the fair market value of the trucks and trailers as at the Valuation Date. Therefore, we performed the same analysis as ASR (as discussed in Section 8.0 of the Report) to determine the fair market value of the trucks and trailers owned by ProEx as at the Valuation Date.

10.16 In this regard, we determined the fair market value of trucks and trailers owned by the company of approximately \$74,100.

10.17 However, since we were not provided a breakdown of items held within the PP&E of ProEx, we have assumed the fair market value of the overall PP&E, including the fair market value of trucks and trailers, to approximate its net book value of approximately \$132,200.

Historical capital expenditures

10.18 We understand ProEx owned 6 trucks and trailers as at the Valuation Date. We also allocated 28 trucks and trailers from Guru to ASR (See Section 11.0 below) For the purpose of this report, we developed reasonable assumptions for the normalized level of capital expenditures required to continue to operate ProEx at the level reflected in our valuation analysis.

10.19 Similar to the analysis of CAPEX performed for ASR in Section 8.0, we considered two approaches to assess ProEx's capital expenditure, as set out on Schedule D3. Note that both approaches result in nominal or no CAPEX for the company:

- a) **Approach # 1:** We estimated CAPEX based on the fleet's fair market value and their remaining useful life as at the Valuation Date. In order to determine the remaining useful life of the company's fleet, we deducted the weighted average life of the company's fleet as at the Valuation Date of 12 years from the typical useful lives of such vehicles found in comparable companies of 12 years (see Schedule D3). This resulted in remaining useful life of fleet of zero years and therefore no CAPEX was estimated using this approach.
- b) **Approach # 2:** This approach involves estimating CAPEX based on the cost of fleet as owned by the company as at the Valuation Date and the useful lives of fleets as found in comparable companies. We did not assess CAPEX using approach #2 as we were not provided with cost of trucks and trailers as at the Valuation Date.

10.20 While the two approaches discussed resulted in no value of CAPEX, we have considered minimum CAPEX for ProEx of approximately \$25,000, based on our discussion with Management. The CAPEX amount we selected is approximately 3.4% of 2018 revenue of ProEx (\$25,000 / \$738,200) and is within the comparable company range:

Companies	Avg .CAPEX % of Revenue
Landstar System, Inc. (NasdaqGS:LSTR)	0.4%
Yellow Corporation (NasdaqGS:YELL)	2.3%
Titanium Transportation Group Inc. (TXSV:TTR)	4.1%
TFI International Inc. (TSX:TFII)	5.0%
Saia, Inc. (NasdaqGS:SAIA)	10.9%
J.B. Hunt Transport Services, Inc. (NasdaqGS:JBHT)	11.3%
Schneider National, Inc. (NYSE:SNDR)	12.8%
Old Dominion Freight Line, Inc. (NasdaqGS:ODFL)	13.9%
Knight-Swift Transportation Holdings Inc. (NYSE:KNX)	17.5%
Werner Enterprises, Inc. (NasdaqGS:WERN)	21.1%
Min	0.4%
Average	9.9%
Max	21.1%

11.0 Company overview - Guru

Background

- 11.01 Guru was an asset holding company which was formed to purchase and own truck and trailers utilized in ASR and ProEx's operations. Guru charged ASR and ProEx a rental charge for using the trucks and trailers owned by Guru.
- 11.02 Based on our discussion with Management, we understand that Guru was formed for the sole purpose of owning the trucks and trailers as used by ASR and ProEX, in order to manage any potential legal liability without affecting the operations of the operating companies.
- 11.03 We understand that up until 2013, trucks and trailers were being purchased by Guru, consistent with Management's strategy. Beginning in 2013 ASR began purchasing trucks and trailers directly.
- 11.04 As at the Valuation Date, Guru owned a total of 82 trucks and trailers, of which 46 number plates were registered under ASR and 26 under ProEx. The remaining number plates were registered under Guru itself.
- 11.05 We have summarized Guru's financial statements that were made available to us on Schedules C1 and C2. These financial statements were comprised of fiscal years ended July 31, 2015 and 2016 only.
- 11.06 We understand reliable financial records of Guru as at the Valuation Date and for fiscal years ended July 31, 2017 and July 31, 2018 were not available and therefore, have not been relied upon for the purpose of our valuation.
- 11.07 We also note that although some fleet was owned by Guru, the repairs and maintenance of those vehicles was undertaken by ASR and ProEx.
- 11.08 Therefore, given these facts, we have consolidated Guru as part of the fair market value of ASR and ProEx. In order to include the fair market value of Guru within the fair market values of ASR and ProEx, we have removed the rent payments made to Guru by ASR and ProEx. Further, we considered the trucks and trailers owned by Guru as part of the tangible asset backing of ASR and ProEx, based on respective use of those trucks by either company, and allocated those trucks to each company.

- 11.09 The rent payments made to Guru in this regard were as follows:

\$ CAD	FY14	FY15	FY16	FY17	FY18
ASR	188,620	90,000	66,000	60,000	72,938
ProEX	65,500	49,000	24,000	24,000	24,000
Total	254,120	139,000	90,000	84,000	96,938

- 11.10 The trucks and trailers that were owned by Guru, have been allocated to ASR and ProEx and are included within the tangible asset backings of the respective companies. The trucks and trailers are allocated as summarized in the following table:

	Vehicle Owner: Guru Plate Owner: ASR or ProEx		Vehicle Owner: Guru Plate owner: Guru		Vehicle Owner: Guru Plate owner: Guru		Total	
	#	Value	#	Value	#	Value	#	Value
ASR								
Trucks	47	1,687,898	13	176,158	-	-	60	1,864,056
Trailers	108	3,075,026	33	608,200	8	156,880	149	3,840,106
Company Car	7	50,200	-	-	-	-	7	50,200
Total	162	4,813,124	46	784,358	8	156,880	216	5,754,362
ProEx								
Trucks	4	50,200	3	14,700	-	-	7	64,900
Trailers	2	23,900	23	158,770	2	39,220	27	221,890
Company Car	2	-	-	-	-	-	2	-
Total	8	74,100	26	173,470	2	39,220	36	286,790
Total								
Trucks	51	1,738,098	16	190,858	-	-	67	1,928,956
Trailers	110	3,098,926	56	766,970	10	196,100	176	4,061,996
Company Car	9	50,200	-	-	-	-	9	50,200
Total	170	4,887,224	72	957,828	10	196,100	252	6,041,152

* Vehicle owned and registered under Guru are allocated to ASR and ProEx in their proportions of Guru vehicles registered under their respective names.

- 11.11 We note that while we have included the trucks and trailers owned by Guru within the tangible asset backing of ASR and ProEx, we were not provided the Guru liabilities relevant to these trucks and trailers. Therefore, for the purpose of our analysis we have considered Guru's liabilities against these assets as immaterial.

12.0 Valuation concepts & methodologies

12.01 In valuing a business, there is no single or standard mathematical formula. The particular approach and the relevant considerations will vary in each case depending on the nature of the business.

Valuation premise

12.02 An initial determination is made as to whether a going concern or liquidation premise is appropriate.

12.03 A going concern premise assumes the business will continue to operate in future years, and that the business operations result in sufficient cash inflows to result in commercial goodwill.

12.04 A liquidation premise assumes the business either: (i) does not earn sufficient cash inflows to justify continuing its operations; or (ii) the fair market value available from the sale of its assets would be greater than the cash flows available from the continuing operations of the business.

12.05 In a liquidation scenario, it is assumed the business would be wound up and the funds from the sale of its assets would be distributed to the shareholders. This does not necessarily mean the business should cease operations, but that a prudent investor would not sell the business as a going concern for less than could be realized by winding it up.

12.06 Once the valuation premise has been determined, the valuation approach must be selected. Valuation approaches are primarily asset-, income- or market-based.

Asset-based valuation approach

12.07 An asset-based valuation approach may be used under either a going concern premise (i.e., an enterprise is viable as a going concern but has no commercial goodwill) or a liquidation premise (i.e., an enterprise is not viable as a going concern, or the going concern value approximates the liquidation value).

12.08 When an asset-based valuation approach is appropriate, the reported book values of the net assets are restated to their fair market values. Where

appropriate, consideration is given to the income tax implications of unrealized gains and losses and asset disposal costs.

12.09 Specific examples of when an asset-based approach may be appropriate include:

- a) The subject company is a holding company that derives most of its value from its underlying assets, rather than its earnings.
- b) The subject company's ability to continue operating as a going concern is uncertain, or returns based on earnings or cash-flows are insufficient to provide an adequate return on invested capital.

12.10 Commonly used valuation methods under the asset-based valuation approach include the adjusted book value method and the liquidation method.

Adjusted book value method

12.11 The adjusted book value method may be appropriate to use when net realizable value, as opposed to cash flow, constitutes the prime determinant of fair market value for a business. This method focuses on individual asset and liability values from the company's balance sheet, which are adjusted to fair market value.

Liquidation value method

12.12 The liquidation value method (also known as break-up value) measures the amount of cash available to shareholders assuming the business is discontinued, the underlying assets are sold, and all related costs of disposition and income taxes, as well as outstanding liabilities, are paid. In a going concern business, liquidation value is principally used as a measure of downside risk associated with operations (i.e., the amount of shareholder investment that is theoretically "not at risk").

Income-based valuation approach

- 12.13 An income-based valuation approach may be appropriate where a business' future earnings are likely to support a value in excess of the value of the net assets employed in its operations.
- 12.14 Commonly used valuation methods under the income-based valuation approach include the Capitalized Cash Flow ("CCF"), and Discounted Cash Flow ("DCF"). The following sections outline the CCF and DCF methodologies, and describe required rate of return utilized in both valuation methodologies.

Capitalized cash flow method

- 12.15 Under the CCF methodology, an estimate is made of the maintainable earnings before interest, taxes, depreciation, and amortization ("EBITDA") based on historical and prospective operating results. Income tax, working capital requirements, and sustaining capital expenditure requirements are then deducted to determine the maintainable discretionary after-tax cash flow. The maintainable discretionary cash flow is then divided by a rate or return, which reflects the risks in generating the adopted level of maintainable discretionary cash flow on a prospective basis, resulting in the capitalized cash flow.
- 12.16 The present value of the existing capital cost allowance tax shield is added to the capitalized cash flow to arrive at EV.
- 12.17 Redundant assets are added to the EV and interest-bearing debt or debt equivalents are deducted to determine the en bloc fair market value of the equity of the company.
- 12.18 This approach is typically adopted when prospective earnings are expected to be constant or grow at a uniform rate over the long-term.

Discounted cash flow method

- 12.19 The DCF methodology involves forecasting the annual discretionary cash flow anticipated to be generated by the company for a period of time and discounting those projected discretionary cash flows at a rate of return that reflects the risks of achieving the same. An estimate is then made of the value of the discretionary cash flows beyond the discrete forecast period, which is referred to as the Terminal Value. The Terminal Value is determined by applying a capitalization rate to the expected annual discretionary cash flows

to be generated beyond the discrete forecast period. The sum of the present value of the discretionary cash flows for the discrete forecast period plus the present value of the Terminal Value cash flows represents the net present value of the forecast cash flows of the company.

- 12.20 The present value of the tax shield from existing assets is added to the net present value of the forecast cash flows to arrive at the company's EV.
- 12.21 Redundant assets are added to the EV and interest-bearing debt or debt equivalents are deducted to determine the en bloc fair market value of the equity the company.

Required rate of return

- 12.22 The required rate of return, which is applied in both the capitalized cash flow and discounted cash flow methodology, represents the required return on an equity investment a prudent investor would require for a business that is similar in size and in risk to the business being valued. The appropriate rate utilized is dependent upon many factors existing at the Valuation Date, including prevailing economic conditions, rates of return available on alternative investments, and industry and company specific factors, both positive and negative. The rate selected should reflect the degree of risk associated with the business' ability to achieve the estimated future cash flows.
- 12.23 There are two primary types of returns noted in valuations: discount rate and capitalization rate (or capitalization multiple, which is the inverse).
- 12.24 A discount rate is used to discount a series of future cash flows to their present values, which are then added together to determine the aggregate present value of the cash flows, while a capitalization rate (or multiple) is applied to the established maintainable cash flow to determine the aggregate present value of the business' cash flows.

Market-based valuation approach

- 12.25 A market-based valuation approach may be appropriate where meaningful financial information is available for companies or transactions that are considered comparable to the subject business. Care is required in assessing the degree of comparability of such potentially comparable companies or

transactions; this often limits the usefulness of market-based approaches in valuing privately owned companies.

12.26 Where they are useful, market-based valuation methods include comparisons of the subject business' financial results to the results and stock prices of 'comparable' public companies (the guideline public company method); or comparisons of the valuation ratios achieved in precedent transactions to the corresponding metrics of the subject business (the guideline transaction method).

Guideline public company method

12.27 Under the guideline public company method, publicly traded companies are selected for comparison purposes and used as a basis for choosing reasonable multiples. The publicly traded company is compared with the company being valued, based on risk and expected return, and the trading multiples are used as a basis for selecting appropriate multiples for the subject company. Multiples obtained in this manner are generally expressed as ratios of various earnings figures.

Guideline transaction method

12.28 Under the guideline transaction method, transactions, involving companies similar to the subject company, are selected for comparison purposes, and used as a basis for choosing transaction multiples. The companies acquired in the comparable transactions are compared to the subject company, based on risk and expected return, and the transaction multiples are used as a basis for selecting appropriate multiples for the subject company. Multiples obtained in this manner are generally expressed as ratios of various earnings figures.

Selected valuation approach

ASR

12.29 We considered an earnings/cash flow approach to be appropriate to value ASR because of its historical and expected future profitability. Therefore, we have calculated the fair market value on a going concern basis using the CCF method, as set out in Section 13.0.

ProEx

12.30 We considered an asset-based approach, specifically the adjusted net book value methodology to be the applicable method to value ProEx. In our view the company does not generate sufficient cash flow to generate an appropriate rate of return having considered the underlying net assets and the risks of generating prospective cash flows. In this regard, we first applied the CCF approach to test our conclusion in Section 14.0, however, determined that the cash flows did not provide a sufficient return on the assets employed, ultimately resulting in the adoption of the asset-based approach to determine the fair market value of ProEx.

Guru

12.31 As discussed earlier, Guru has not been valued separately and its value has been combined within the fair market values of ASR and ProEx by:

- a) removing the rent charged by Guru from ASR and ProEx's cash flows; and
- b) Including the trucks and trailers of Guru to tangible asset backing of ASR and ProEx, based on their respective operation as discussed in Section 11.0.

13.0 Valuation analysis - ASR

CCF methodology overview

13.01 Under the CCF method, the following steps are performed:

- a) An estimate is made of the maintainable EBITDA.
- b) Income tax, working capital requirements, and sustaining capital expenditure requirements are deducted from the maintainable EBITDA to determine the maintainable discretionary cash flow. The maintainable discretionary cash flow is then divided by a capitalization rate or multiplied by a capitalization multiple to determine the Debt-Free CCF.
- c) The present value of the tax shield on the existing assets' tax bases is added to the Debt-Free CCF to arrive at the EV.
- d) Redundant net assets are then added and interest-bearing debt or debt equivalents are then deducted from the EV to determine the en bloc fair market value of the equity of the company.

Determination of maintainable EBITDA

13.02 On Schedule A2, we determined normalized EBITDA based on normalized sales less normalized expenses for FY14 to FY18.

13.03 Given historical performance and prospective outlook, we adopted the low end of maintainable EBITDA as approximately \$1.7 million, representing average of normalized EBITDA for FY17 and FY18, while the high end of maintainable EBITDA was selected as normalized EBITDA of FY17 of approximately \$1.9 million.

13.04 The midpoint maintainable EBITDA represents average of the low and high maintainable EBITDA selected.

Debt-free CCF calculation

13.05 On Schedule A1, we prepared our Debt-Free CCF calculation, as follows:

Income taxes

13.06 From the maintainable EBITDA selected, we deducted income taxes payable, in the range from approximately \$450,500 and \$503,000, which were determined using the blended federal and provincial tax rate in effect in Ontario, as at the Valuation Date, of 26.5%.

Incremental working capital requirement

13.07 We also adjusted for the incremental working capital requirement expected in future periods. This represents 2% of normal working capital level determined as of the Valuation Date.

Sustaining capital reinvestment

13.08 Sustaining capital reinvestment ("SCR") is the expected annual capital outlay required to sustain the current operating capacity of the business.

13.09 Management estimated sustaining capital reinvestment to approximate \$750,000 per annum, based on our analysis of capital expenditure as discussed in Section 8.0 of the Report and as set out in Schedule D3.

13.10 We determined the related tax shield using a tax rate of 26.5%, a weighted average CCA rate of 39.8%, and a discount rate of 10.0%.

13.11 The SCR, net of the related tax shield, was determined to be approximately \$598,400.

Maintainable discretionary cash flow

13.12 Based on the maintainable EBITDA selected, and the adjustments noted above, we determined maintainable discretionary cash flow to fall within the range from approximately \$643,000 and \$790,000.

Debt-free CCF value

13.13 To determine the Debt-Free CCF value, we divided the maintainable discretionary cash flow by a capitalization rate of 10.4% to 11.0% (discussed below), to arrive at the Debt-Free CCF value of approximately \$6.2 million to \$7.2 million.

Capitalization rate

13.14 When applying the Debt-Free CCF methodology, the cash flows expected to be generated by a business are capitalized by a rate of return, or weighted average cost of capital ("WACC"), that reflects the relative risk of the business' operating environment.

13.15 The WACC represents a weighted average of the cost of debt and the cost of equity; the weighting is based on a business' optimal capital structure.

13.16 The table below illustrates the significant rates and assumptions we used in calculating the WACC, as determined on Schedule A3.

Summarized WACC

	Low	Midpoint	High
Cost of equity	15.3%	15.8%	16.3%
Cost of debt (after-tax)	8.0%	8.0%	8.0%
Weighting			
Equity / Enterprise Value	60.0%	60.0%	60.0%
Debt / Enterprise Value	40.0%	40.0%	40.0%
Nominal WACC			
Less: Long-term inflation rate	(2.0%)	(2.0%)	(2.0%)
Less: Real growth	0.0%	0.0%	0.0%
Real WACC / Capitalization rate	10.4%	10.7%	11.0%

13.17 On Schedule A3, we determined the cost of equity to be within a range of approximately 15.3% to 16.3%, based on the following considerations:

- a) A normalized long-term risk-free rate of 3.5%, equity risk premium of 5.5%, as per Duff & Phelps, LLC Valuation Handbook - Guide to Cost of Capital 2018.
- b) An unlevered beta for transportation industry for 2018 of 0.96 as per our analysis of unlevered beta of comparable companies as set out on

Schedule E1. The unlevered beta was then re-levered based on industry debt to equity of 67% as discussed in paragraph 13.19.

- c) A specific company risk premium of 4.5% based on the following considerations:
 - i) The company's principal strengths and opportunities (risk reducing factors), outlined in Paragraph 7.16.
 - ii) The industry and economic outlooks, as summarized in Appendix C and Appendix D, respectively.
 - iii) The inherent risk of achieving maintainable EBITDA levels.

13.18 We adopted a corporate interest rate of 10.9% on bank debt, which is based on the company's interest rate on senior debt at the Valuation Date.

13.19 We have also assumed an appropriate capital structure for the company being a debt to total capital ratio of 40% (debt to equity of 67%), based on average debt/to total capital ratios for companies in NAICS code 484110, General Freight Trucking, Local (per 2018-19 RMA Annual Statement Studies).

13.20 Based on these inputs we calculated a nominal discount rate in the range from 12.4% to 13.0%.

13.21 Deducting a long-term inflation rate of 2.0%, based on the Bank of Canada's targeted inflation rate, yielded a real discount rate of approximately 10.4% to 11.0%. See Schedule A3 for specific details regarding the WACC calculation.

Enterprise value

13.22 On Schedule A1, we then added the present value of the tax shield on the existing UCC, of approximately \$262,200, to the Debt-Free CCF value to arrive at the EV of approximately \$6.4 million to \$7.4 million.

Enterprise value

<i>In CAD</i>	Low	High
Capitalized value of discretionary after-tax cash flow	6,182,576	7,181,708
Add: Present value of tax shield on existing undepreciated capital cost	262,248	262,248
Enterprise value	6,444,824	7,443,957
Enterprise value to:		
LTM EBITDA	4.51x	5.21x
Maintainable EBITDA	3.79x	3.92x
LTM Revenue	0.65x	0.76x

13.23 The implied valuation multiples, based on our enterprise conclusions, were in the range from 4.5x to 5.2x LTM EBITDA, and 3.8x to 3.9x the maintainable EBITDA.

Publicly Traded Comparables and Precedent Transactions

13.24 As a test of our enterprise value conclusions based on the Debt-free CCF approach, we have reviewed the implied valuation metrics of comparable public companies and valuation multiples implied from transactions involving comparable companies over the five year period preceding the Valuation Date.

Public Company Comparables

13.25 A summary of the enterprise value to EBITDA and enterprise value to revenue multiples for the comparable public companies we identified are set out in the

following table. Detailed data and company descriptions are outlined in Schedule E1.

Summary of Public Company Comparables

\$ Millions Company	Enterprise Value	EV / LTM Revenue	EV / LTM EBITDA
EVO Transportation & Energy Services, Inc.	21.4	5.79x	n/a
Titanium Transportation Group Inc.	121.1	0.74x	6.72x
Yellow Corporation	1,015.8	0.20x	4.05x
Saia, Inc.	1,721.8	1.09x	7.52x
Werner Enterprises, Inc.	2,407.1	1.01x	5.79x
Schneider National, Inc.	3,922.7	0.84x	6.43x
Landstar System, Inc.	4,016.9	0.90x	11.23x
TFI International Inc.	5,331.2	1.09x	8.58x
Knight-Swift Transportation Holdings Inc.	6,582.0	1.24x	7.12x
Old Dominion Freight Line, Inc.	10,561.5	2.70x	10.96x
J.B. Hunt Transport Services, Inc.	13,138.0	1.59x	11.61x
Minimum	21.4	0.20x	4.05x
Average	4,440.0	1.56x	8.00x
Median	3,922.7	1.09x	7.32x
Maximum	13,138.0	5.79x	11.61x

13.26 While we have considered public equity market multiples, we have recognized the limitations of any comparison between these multiples and those implied by our valuation due to:

- Differences between the size of the comparable companies and ASR, with the average size of the comparable companies at approximately \$4.4 billion, as compared to the enterprise value of the company of approximately \$7.1 million.
- Differences in geographic location, real estate market, customer base as well as other operating features of the public equity market comparables versus that of the company.
- Difference in operations, with comparable companies offering a diverse range of services and different modes of transportation, as compared to ASR that primarily offers TL and LTL loads.

13.27 Having considered the foregoing, we are of the view that the company's valuation enterprise value to EBITDA multiples of 4.5x to 5.2x, which are within

the range of the public company multiples, set out in above table, are reasonable.

Precedent Transactions

13.28 We identified four transactions over the five-year period preceding the Valuation Date involving companies that are reasonably comparable to the company. See below table and Schedule E2 for transaction details and Schedule E3 for detailed descriptions of the comparable target companies.

Summary of Precedent Transactions

Date	Target	Transaction Value	Implied EV (\$M)	EV / LTM Revenue	EV / LTM EBITDA
01-Oct-18	Southwest International Freight	16.3	16.3	0.81x	5.42x
01-Jul-17	Steelman	18.8	32.8	0.71x	4.69x
14-Nov-14	Contrans Group	455.9	488.1	0.85x	6.33x
16-Oct-13	YRC Worldwide Inc.	7.8	1,327.9	0.28x	5.73x
Minimum				0.28x	4.69x
Average				0.76x	5.57x
Median				0.66x	5.54x
Maximum				0.85x	6.33x

13.29 While we considered these transactions, we have recognized the limitations of any comparison between the valuation multiple from these transactions and the multiples implied in our valuation due to the fact that:

- Takeover transactions generally involve the acquisition of companies within the same industry sector, and as a result may include an element of purchaser perceived post-acquisition synergies in the purchase price.
- Public information regarding these transactions, such as the terms and conditions governing the transactions are limited. Such terms and conditions can have a material impact on the stated purchase price.
- The transactions involved organizations that may be significantly different from the company in terms of their size, geographical reach, client base, and product offerings, among other things.

13.30 Having said the forgoing, we are of the view that the company's implied valuation multiples are reasonable, and are within the range set out in the table above.

Implied goodwill

13.31 Goodwill is the EV of the company minus its tangible asset backing ("TAB"). The TAB of a business is the value of the operating assets (e.g., tangible assets and specifically identifiable and quantifiable intangible assets), less operating liabilities (not debt), and is contemplated assuming the business continues as a going concern (TAB is calculated on Schedule A4). We have also deducted the fair market value of trucks and trailers that were owned by Guru, yet were operated and maintained by ASR, as those have been considered as part of ASR's operations.

Implied Goodwill

In CAD	Low	High
Enterprise value	6,444,824	7,443,957
Less: Tangible asset backing	5,323,917	5,323,917
Less: Trucks and trailers owned by Guru but operated by ASR	941,238	941,238
Implied Goodwill	179,669	1,178,801

13.32 The values of trucks and trailers owned by Guru but operated by ASR were determined on Schedule D1. We note that while we have considered the value of trucks and trailers owned by Guru but operated by ASR as part of the tangible asset backing of ASR (as set out Section 11.0), we were not provided with the liabilities associated with these trucks and trailers and therefore, we have assumed the associated liabilities to be immaterial for the purpose of our valuation.

13.33 Goodwill is in the range of \$179,700 to \$1.2 million. This goodwill value includes the following identifiable intangible assets, which have not been quantified herein:

- operational know-how;
- customer relationships; and

c) brand.

Fair market value of equity

13.34 To determine the fair market value of the equity of the company we add the redundant assets to, and deduct debt and debt equivalents from, the EV.

Redundant assets

13.35 Redundant assets are those that are not required for the ongoing operations of the business, and therefore do not influence the going concern value of the operating assets of a business. Redundant assets may include such things as excess cash, short or long-term investments in public securities, loans receivable, or physical assets that are not used in the business (e.g., unused space in the factory, under-utilized equipment).

13.36 For valuation purposes, redundant assets are valued at their fair market values and added to the EV.

13.37 As at the Valuation Date, the company's redundant assets, totalling approximately \$170,700, comprises cash.

13.38 ASR had a due from shareholder of approximately \$454,200 and due from related parties of approximately \$1.4 million on the balance sheet at the Valuation Date. We have been directed by the Receiver to assign a fair market value of \$nil for the purpose of our valuation, as it is Receiver's understanding that the amounts were fully collected, and funds distributed to Rana and Paul subsequent to the Valuation Date.

Debt and debt equivalents

13.39 As at the Valuation Date, the company interest-bearing debt and debt equivalents, totalling approximately \$1.9 million, comprises the following:

- a) long term debt of approximately \$320,700; and
- b) capital lease obligation of approximately \$1.5 million.

13.40 Because the rates of return adopted in our analysis reflect a WACC (i.e., a blend of debt and equity rates of return), the value derived reflects a total value for the company, including its interest-bearing debt and debt equivalents (i.e., its EV). To determine the fair market value of the company's equity, the value of any interest-bearing debt and debt equivalents is deducted.

13.41 In this regard, we deducted \$1.9 million from the EV to determine the fair market value of the equity of the company.

Fair market value of equity conclusion

13.42 Based on the scope of our review and the restrictions, qualifications, and assumptions listed herein, we determined the en bloc fair market value of the equity of the company to be approximately **\$5.3 million**, representing the midpoint of our range of the en bloc fair market value of ASR.

En bloc fair market value of the equity of ASR

<i>In CAD</i>	Low	Mid	High
Enterprise value	6,444,824	6,958,397	7,443,957
Add: Redundant net assets	170,732	170,732	170,732
Less: Interest-bearing debt and debt equivalents	(1,858,888)	(1,858,888)	(1,858,888)
En bloc fair market value of ASR Transportati	4,756,668	5,270,241	5,755,801

14.0 Valuation analysis - ProEx

CCF methodology overview

14.01 Under the CCF method, the following steps are performed:

- a) An estimate is made of the maintainable EBITDA.
- b) Income tax, working capital requirements, and sustaining capital expenditure requirements are deducted from the maintainable EBITDA to determine the maintainable discretionary cash flow. The maintainable discretionary cash flow is then divided by a capitalization rate or multiplied by a capitalization multiple to determine the Debt-Free CCF.
- c) The present value of the tax shield on the existing assets' tax bases is added to the Debt-Free CCF to arrive at the EV.
- d) Redundant net assets are then added and interest-bearing debt or debt equivalents are then deducted from the EV to determine the en bloc fair market value of the equity of the company.

Determination of maintainable EBITDA

14.02 On Schedule B3, we determined normalized EBITDA based on normalized sales less normalized expenses for FY14 to FY18.

14.03 Given historical performance and prospective outlook, we adopted a midpoint maintainable EBITDA of approximately \$41,800, representing normalized EBITDA for FY18.

14.04 The high- and low-end maintainable EBITDA represent +/- 10% of the midpoint maintainable EBITDA.

Debt-free CCF calculation

14.05 On Schedule B2, we prepared our Debt-Free CCF calculation, as follows:

Income taxes

14.06 From the maintainable EBITDA selected, we deducted income taxes payable, in the range from approximately \$10,000 and \$12,200, which were determined

using the blended federal and provincial tax rate in effect in Ontario, as at the Valuation Date, of 26.5%.

Incremental working capital requirement

14.07 We also adjusted for the incremental working capital requirement expected in future periods. This represents 2% of normal working capital level determined as of the Valuation Date.

Sustaining capital reinvestment

14.08 Sustaining capital reinvestment ("SCR") is the expected annual capital outlay required to sustain the current operating capacity of the business.

14.09 Management estimated sustaining capital reinvestment to approximate \$25,000 per annum, based on our analysis of capital expenditure as discussed in Section 10.0 of the Report and as set out in Schedule D3.

14.10 We determined the related tax shield using a tax rate of 26.5%, a weighted average CCA rate of 39.8%, and a discount rate of 10.0%.

14.11 The SCR, net of the related tax shield, was determined to be approximately \$19,900.

Maintainable discretionary cash flow

14.12 Based on the maintainable EBITDA selected, and the adjustments noted above, we determined maintainable discretionary cash flow to fall within the range from approximately \$7,700 and \$13,900.

Debt-free CCF value

14.13 To determine the Debt-Free CCF value, we divided the maintainable discretionary cash flow by a capitalization rate of 10.4% to 11.0%, which are the same rates used for ASR, given the similarity of operations (see Section 13 for discussion of capitalization rate). Using the capitalization rate of 10.4% to 11.0%, we arrived at the Debt-Free CCF value of approximately \$74,200 to \$126,100.

Enterprise value and fair market value of equity

- 14.14 On Schedule B2, we then added the present value of the tax shield on the existing UCC, of approximately \$5,900, to the Debt-Free CCF value to arrive at the EV of approximately \$80,100 to \$132,000.
- 14.15 To determine the fair market value of the equity of the company we add the redundant assets to, and deduct debt and debt equivalents from, the EV.

Redundant assets

- 14.16 Redundant assets are those that are not required for the ongoing operations of the business, and therefore do not influence the going concern value of the operating assets of a business. Redundant assets may include such things as excess cash, short or long-term investments in public securities, loans receivable, or physical assets that are not used in the business (e.g., unused space in the factory, under-utilized equipment).
- 14.17 For valuation purposes, redundant assets are valued at their fair market values and added to the EV.
- 14.18 As at the Valuation Date, the company had net redundant liabilities, totalling approximately \$90,700, which comprised of the following:
- due from related parties of approximately \$305,300; and
 - net working capital deficit of approximately \$396,000.

Debt and debt equivalents

- 14.19 As at the Valuation Date, the company interest-bearing debt and debt equivalents, totalling approximately \$55,500, was comprised of the following:
- due to shareholder of approximately \$10,900; and
 - loan payable of approximately \$44,600.
- 14.20 Because the rates of return adopted in our analysis reflect a WACC (i.e., a blend of debt and equity rates of return), the value derived reflects a total value for the company, including its interest-bearing debt and debt equivalents (i.e., its EV). To determine the fair market value of the company's equity, the value of any interest-bearing debt and debt equivalents is deducted.

- 14.21 In this regard, we deducted \$55,500 from the EV to determine the fair market value of the equity of the company.

Fair market value of equity conclusion

- 14.22 Based on the scope of our review and the restrictions, qualifications, and assumptions listed herein, we determined the en bloc fair market value of the equity of the company based on the CCF approach of \$Nil.

En bloc fair market value of the equity of ProEx

<i>In CAD</i>	Low	High
Enterprise value	80,122	131,975
Add: Redundant net assets	(90,680)	(90,680)
Less: Interest-bearing debt and debt equivalents	(55,470)	(55,470)
En bloc fair market value of ProEx	(66,028)	(14,175)
En bloc fair market value of ProEx, rounded	\$Nil	\$Nil

- 14.23 As shown in the chart above, the fair market value based on the CCF approach is negative. Therefore, we estimate the fair market value of the company using the ABV approach as follows.

Adjusted net book value method overview

- 14.24 Under the ABV method, the fair market value of ProEx is based on the fair market value of its underlying assets, net of the fair market value of its underlying liabilities, as at the Valuation Date.
- 14.25 Schedule B1 presents the results of the ABV method applied to ProEx at the Valuation Date. After reviewing the balance sheet as at July 31, 2018, we concluded the net book value of the assets and liabilities on the balance sheet approximate their fair market values at the Valuation Date. However, we adjusted for the balance for the pro-rated net profits/loss for the 3-months ending October 31, 2018.
- 14.26 We also added the values of trucks and trailers owned by Guru but operated by ProEx as determined on Schedule D1. We note that while we have considered the value of trucks and trailers owned by Guru but operated by ProEx as part of the fair market value of ProEx (as detailed on Section 11.0), we were not provided with the liabilities associated with these trucks and

trailers and therefore, we have assumed the associated liabilities to be immaterial for the purpose of our valuation.

Fair market conclusion

14.27 Based on the scope of our review, the restrictions and qualifications and assumptions listed herein, we determined the en bloc fair market value of the equity of ProEx to be approximately \$266,300.

En bloc fair market value of equity of ProEx

In CAD

Adjusted net book value

Comprising

Cash and net working capital	(316,839)
Property, plant & equipment, net	132,168
Due from related parties	305,270
Due to shareholder	10,890
Loan payable	44,580
	65,129
Add (less): Pro-rated net profits/(loss) for 3 months ending October 31, 2018	(11,526)
Add: Fair market value trucks and trailers owned by Guru but operated by ProEx	212,690
Fair market value of ProEx	266,294
Fair market value of ProEx, rounded	266,000

15.0 Restrictions

15.01 This Report is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose other than that outlined above, without our prior written permission, in each specific instance. More specifically, this Report should not be used as the sole or primary basis to determine the price for a transaction in the open market, since vendors and purchasers usually have varying negotiating and financial abilities. We will not assume any responsibility or liability for losses occasioned to you, the shareholders of Companies or any third party, as a result of the circulation, publication, reproduction, or use of this Report contrary to the provisions of this paragraph.

15.02 Our analyses are based upon information provided by and/or on behalf of the Companies including information provided by the Shareholders. We assume no responsibility and make no representations with respect to the accuracy or completeness of any information provided by and/or on behalf of the Companies.

15.03 There will usually be differences between estimated and actual results because events and circumstances frequently do not occur as expected, and those differences may be material.

15.04 You acknowledge that no reliance shall be placed on draft analyses, conclusions or advice, whether oral or written, issued by us since the same may be subject to further work, revision and other factors, which may mean that such drafts are substantially different from any final advice issued.

15.05 The liability of Grant Thornton and any of our employees or other personnel, for any claim in tort or contract, related to professional services provided pursuant to our agreement is limited to the amount of professional fees actually paid for those services.

15.06 Nothing contained in this Report is to be construed as a legal interpretation of, or an opinion on, any contract, document, legal or otherwise, nor is it to be interpreted as a recommendation to invest or divest.

15.07 We reserve the right, but are under no obligation, to review all calculations included in or referred to in this Report and, if we consider it necessary, to

revise our calculations in light of any information existing at the Valuation Date that becomes known to us after the date of this Report.

15.08 This Report and the comments and conclusions expressed herein are valid only in the context of the whole report. Selected analyses, comments, or conclusions should not be examined outside the context of the Report in its entirety.

16.0 Qualifications

- 16.01 In preparing this Report, we have relied upon the documents and information listed herein.
- 16.02 We are not guarantors of the information upon which we have relied in preparing our Report, and except as stated, we have not audited or otherwise attempted to verify any of the underlying information or data contained in this Report.
- 16.03 Given the nature of our assignment, we have not exposed the Companies for sale in the open market. Therefore, we were unable to determine whether there were any special-interest purchasers who might be willing to pay a price greater than the fair market value expressed in this Report. Such special-interest purchasers might be willing to pay a price in excess of fair market value, as a result of economic synergies or strategic advantages that they perceive to be associated with the operations of the Companies. Given the difficulty in quantifying the premium such purchasers may pay, if any, we have not considered such possible premiums in our valuation.
- 16.04 We certify we have no active or contemplated interest in the Companies, nor is our fee contingent upon our conclusions.
- 16.05 This Report has been prepared by a Chartered Business Valuator in accordance with the professional standards of the CICBV.



Appendices

Appendix A Information reviewed and relied upon

A.01 In completing this assignment, we reviewed and relied on the following information, documents, and data as provided to us by the Receiver:

- a) Reviewed financial statements of 1542300 Ontario Inc., prepared by MDP LLP, for the fiscal years ended September 30, 2015 to 2017.
- b) Unaudited internally prepared financial statement of 1542300 Ontario Inc. signed by Rana for the fiscal year ended September 30, 2018.
- c) Notice to reader financial statement of ProEx Logistics Inc., prepared by MDP LLP, for the fiscal year ended July 31, 2014.
- d) Unaudited internally prepared financial statements of ProEx Logistics Inc. for the fiscal year ended July 31, 2015 and 2016.
- e) Notice to reader financial statement of ProEx Logistics Inc., prepared by MDP LLP, for the fiscal year ended July 31, 2017.
- f) Draft Notice to reader financial statement of ProEx Logistics Inc., prepared by MDP LLP, for the fiscal year ended July 31, 2018.
- g) Unaudited internally prepared financial statement of Guru Logistics Inc. for the fiscal year ended July 31, 2015.
- h) The T2 corporate tax returns of 1542300 Ontario Inc. for the fiscal years ended July 31, 2016 to 2017, as provided by Management.
- i) The T2 corporate tax returns of ProEx Logistics Inc. for the fiscal years ended July 31, 2017, as provided by Management.
- j) Adjustments to EBITDA for ASR and ProEx for FY14 to FY18 as provided by Management.
- k) Breakdown of management salaries charged to ASR and ProEx for FY14 to FY18 as provided by Management.
- l) Schedule providing equipment rental fee charged to ASR and ProEx by Guru, for each of FY14 to FY18.
- m) Schedule providing rent paid to related company 2221589 Ontario Inc. by ASR and ProEx for each of FY14 and FY15.
- n) Schedule providing breakdown of revenue by top ten customers for ASR and ProEx, for each of FY14 to FY18.
- o) Schedule providing breakdown of purchases by top ten suppliers for ASR and ProEx, for each of FY14 to FY18.
- p) Schedule providing detailed list of truck and trailers owned by ASR, ProEx and Guru along with their final sales values as of October 2021.
- q) Desktop appraisal of a portion of trucks and trailers owned by ASR and ProEx, dated February 22, 2021, as prepared by Canam-Appraiz Inc.
- r) Publicly available information.

A.02 We also had discussions with the following individuals as to the historical, current, and future operations of the Companies:

- a) Swinderpal Singh Randhawa ("Paul") and counsel;
- b) Rana Partap Singh Randawa ("Rana") and counsel;
- c) Noah Goldstein, Managing Director, KSV; and
- d) Jonathan Joffe, Senior Manager, KSV.

A.03 Without independent verification, we relied on this data as accurately reflecting the results of Companies' operations and financial positions. In keeping with our terms of reference, we completed limited review, analysis, and corroboration of the information provided to us. We have not audited this data and express no opinion or other form of assurance regarding its accuracy or fairness of presentation.

Appendix B Assumptions

B.01 In preparing our Report, we made a number of assumptions that may affect our valuation conclusions. Our key assumptions are listed in Section 3.0.

Other, more general assumptions are as follows:

- a) The Receiver has made available to us all information requested, and all information in its possession that they believe is relevant to the preparation of our Report (the "Information"). The Information provided by or on behalf of the Companies is complete, accurate, and fairly presented at the date the Information was provided to us and, since that date, there has been no material change, financial or otherwise, and there has been no change of any material fact that is of a nature as to render the Information untrue or misleading in any material respect.
- b) The statements of fact contained in this Report are true and correct.
- c) No undisclosed significant events and/or transactions have occurred between the Valuation Date and the date of our Report that would materially affect our valuation conclusions as of the Valuation Date.
- d) As at the Valuation Date, all assets, wherever located, to which the Companies had ownership rights of any nature, had been recorded in the accounts of the Companies and represented a continuing benefit to the Companies.
- e) The fair market values of the Companies' assets and liabilities, except as noted herein, are equivalent to their respective net book values.
- f) The Companies had no material redundant assets that have not been noted in this Report.
- g) As at the Valuation Date, all liabilities of the Companies had been recorded in the accounts of the Companies.
- h) The Companies had no significant undisclosed liabilities, contingent liabilities, including potential environmental liabilities, contractual

obligations, commitments, or litigation, pending or threatened, at the Valuation Date.

- i) At the Valuation Date, the Companies were not in breach of any terms or conditions associated with any agreement to which they were a party that would result in a material change in the commitments made by or to the Companies under said agreement.
- j) The federal and provincial income tax laws prevailing at the Valuation Date would continue to prevail in the foreseeable future, and proposed income tax rate changes in any federal or provincial budgets up to the Valuation Date will be enacted.
- k) All transactions that occurred, or are expected to occur, with related parties, were/will be at fair market value.
- l) The Companies' financial statements are free from material misstatement, and there are no unrecorded commitments or contingencies.
- m) Remuneration paid to the shareholders and/or non-arm's length parties was not at market rates. Based on our discussions with Management and our experience, the estimated market rates for a president to manage operations of ASR and ProEx to approximate \$150,000 and \$120,000 per annum, respectively.
- n) Annual capital reinvestment of approximately \$750,000 and \$25,000 (based on our analysis of capital expenditures in Section 8.0 and 10.0 of the Report) is required to sustain the operations of ASR and ProEx respectively at their current levels.
- o) Financial results and financial position of ASR, ProEx and Guru, (except for the net book value of trucks and trailers) as of the Valuation Date are not materially different from their respective financial results and financial position as at September 30, 2018 for ASR and July 31, 2018 for ProEx and Guru.

- p) The fair market of the overall property plant & equipment of ProEx is not materially different from its net book value as at July 31, 2018.
- q) Rent paid by ASR from FY16 to FY18 as reflected on its financial statements, represent market rent paid for use of office and parking by ASR and ProEx.
- r) ProEx utilized approximately 10% of the overall space rented by ASR from FY16 to FY18.
- s) We have assumed that all due to/from related parties and shareholders balances in the Companies' financial statements were collectible as at the Valuation Date, unless otherwise noted.
- t) The expense normalization adjustments for ASR and ProEX for the period FY15 to FY18, as set out in the document entitled "Preliminary Responses to Queries 5 & 7" reflects all required adjustments for the purpose of our valuation analysis.
- u) Fair market value as at the Valuation Date of the trucks and trailers approximated their final selling price received in auction, as conducted by the Receiver as of October 2021. We note that we have not appraised the value of trucks and trailers and the value utilized in our analysis is only an approximation of value as at the Valuation Date. The value of trucks and trailers as at the Valuation Date may be different if an appraisal of those trucks and trailers were conducted.
- v) The fair market value of trucks and trailers that were not sold in auction as of October 2021 is equivalent to average sale value of similar vehicles of the same model (year), sold in the auction.
- w) Approximately 80% of total trucks and trailers owned and registered under Guru were utilized by ASR, while the remaining 20% was utilized by ProEx.
- x) Given lack of financial information for Guru for the fiscal year ended July 31, 2018 and July 31, 2017, the value of assets and liabilities, except the value of truck and trailers, is considered nominal as at the Valuation Date.

B.02 We also note assumptions throughout this Report and the attached schedules.

Appendix C Industry overview

Summary

- C.01 As at the Valuation Date, the Companies operated in the long-distance freight trucking industry in Canada. Below is a summary of industry research data compiled from IBISWorld⁸.
- C.02 This industry provides long-distance general freight trucking between metropolitan areas. The industry provides truckload services, less-than-truckload services and climate-controlled carrier services.
- C.03 The long-distance freight trucking industry in Canada has hit a few bumps in the road in recent years, though the industry is estimated to experience relatively stable revenue growth over the five years to December 31, 2018.
- C.04 During the first half of the five-year period, many downstream clients maintained limited inventory stock in an attempt to reduce costs, constraining Canadian manufacturing activity and hampering demand for industry services.
- C.05 Moreover, while economic recovery has stimulated industrial production and consumer spending in recent years, sharp declines in the world price of crude oil have limited the ability of industry operators to generate revenue through fuel surcharges.
- C.06 Overall, industry revenue is estimated to increase at an annualized rate of 2.1% to \$23.8 billion over the five years to 2018, including projected growth of 1.7% in 2018 alone.

Competition

- C.07 The industry has also experienced rising competition from external industries. Low barriers to entry and weakened downstream demand have intensified price competition, especially among smaller carriers. Moreover, rail transportation has become an attractive alternative to long-distance trucking

due to its relative fuel efficiency and ability to transport goods in greater quantities.

Outlook

- C.08 Over the next five years, industry revenue is expected to increase at an annualized rate of 1.6%, reaching \$25.8 billion in 2028. Though increased trade, manufacturing, and retail activity will stimulate revenue growth during this period, competition from other modes of transportation will continue to curb the industry's expansion. In coming years, operators will also be challenged by a growing shortage of truck drivers. Difficult working conditions, relatively low pay, and an aging workforce are all projected to put pressure on carriers' ability to fill job openings. At the same time, a projected upswing in the price of crude oil will enable operators to generate additional revenue through fuel surcharges, though this development will also cause industry profit margins to contract.



⁸ Long-Distance Freight Trucking in Canada, IBISWorld Industry Report 48412CA, March 2018

Appendix D Economic overview

Canadian economy⁹

D.01 Based on our review of various information sources, we observed the following trends and outlook for the general economic environment in which the Companies operate.

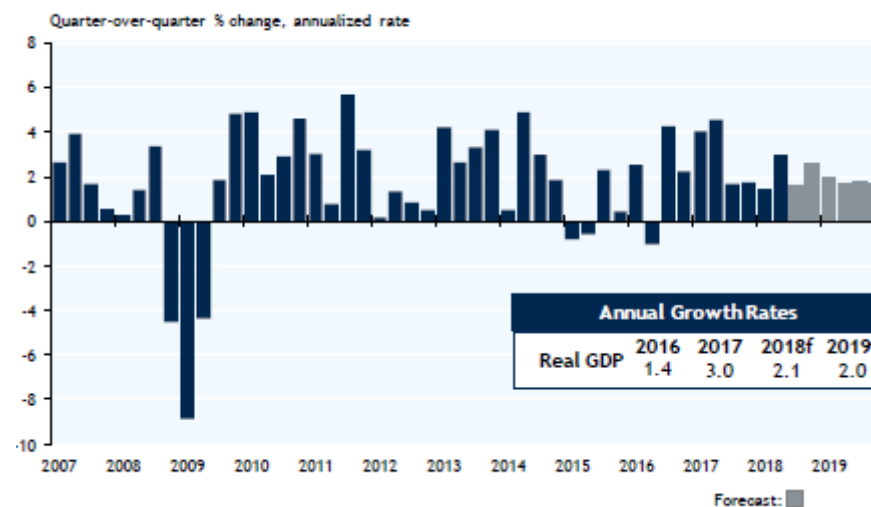
Gross domestic product

D.02 Canada's economic performance was uneven over the first half of 2018 with 1st quarter's mild 1.4% gain followed by a 2.9% rise in quarter two. Economists expect the second half will be much the same, with a shutdown at a major oil sands producer in July expected to weigh on the quarter's performance to be followed by a rebound in quarter four as production recovers.

D.03 On net, the economy is forecast to grow by 2.1% in 2018 and slow just a shade in 2019 to 2%. Despite the uncertain trade backdrop, consumer and business confidence remains high. Canada's trade gap narrowed in the second quarter with exports surging as US buyers got ahead of US import tariffs. Given the tense trade backdrop with tariffs being levied on both sides of the border, exports and imports are forecast to rise at a significantly slower pace going forward.

D.04 The consumer will continue to underpin the expansion although spending growth will slow markedly from 2017's 3.5% pace. The persistence of solid job gains is generating modest upward pressure on wages although disposable income growth softened a bit in the first half of 2018. In part this reflects a rise in tax payments. Households' net worth also dipped slightly but remains historically elevated and sufficient to sustain consumer spending growth of 2% in 2018. The outlook for 2019 is for somewhat softer activity as higher interest rates push up debt service costs.

Real GDP growth: Canada



Environment

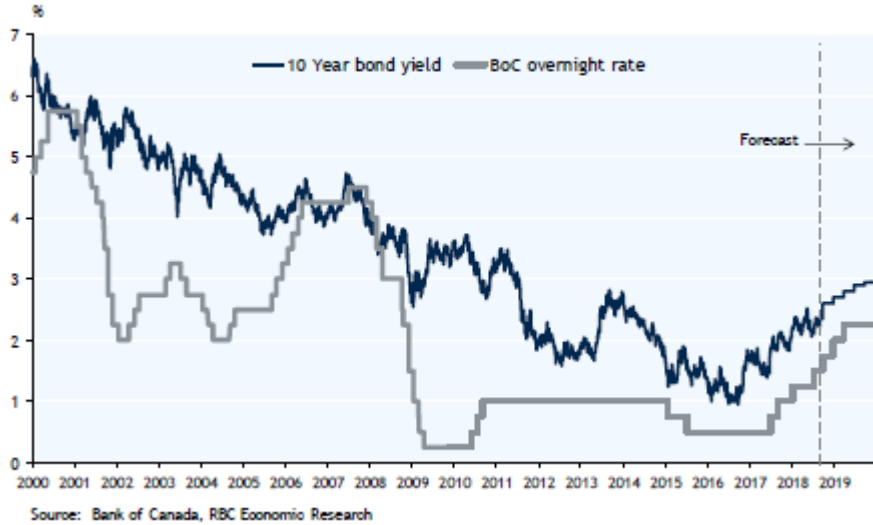
D.05 Business investment continued to firm in the first half of 2018 as companies expanded their capacity. Since bottoming in late 2016, investment is up more than 12% and an elevated number of Canadian businesses still report they would have difficulty meeting stronger demand. The June survey was conducted before the US levied tariffs on Canadian steel and aluminum. While 39% of companies still intended to address supply constraints by upping spending on M&E, the number came down sharply from previous surveys. Uncertainty about NAFTA, US tax cuts, and tariffs likely played some role in the pullback. A resolution on NAFTA could fuel further gains in investment activity while the dissolution of the trade pact could see companies pull back significantly.

⁹ Quarterly Economic Forecast, RBC Economics, September 2018

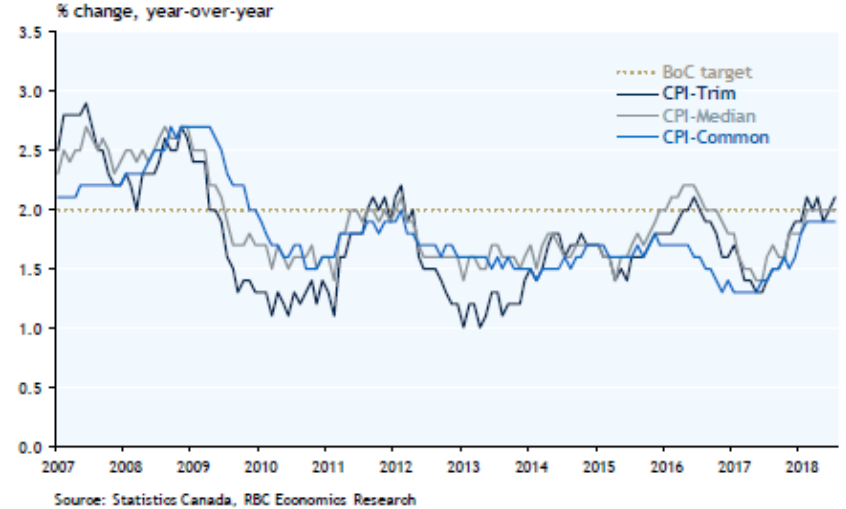
Interest rates

D.06 The Bank of Canada raised the overnight rate to 1.50% in July. Another hike is likely in the fourth quarter as the bank works to move the policy rate closer to neutral given limited slack in the economy and core inflation running at the 2% target.

Interest rates: Canada



Core measures of inflation: Canada



Inflation

D.07 Canada's headline inflation touched 3% in July in large part due to energy prices as well as an unusually large surge in airfares while the bank's core inflation measures converged at 2%. A growing number of businesses expect inflation will be 2% or higher in the year ahead suggests inflation rates are unlikely to slide below target in a meaningful way. Additionally, albeit modest, upward pressure on inflation is being generated by Canada's retaliatory tariffs on US imports.

Appendix E Glossary

General Terms	
ABV	Adjusted book value
BEV	Business enterprise value
CAD	Canadian dollar
CAGR	Cumulative annual growth rate
CBV	Chartered Business Valuator
CCA	Capital cost allowance
CCF	Capitalized cash flow
CCPC	Canadian-controlled private corporation
CICBV	The Canadian Institute of Chartered Business Valuators
CICBV Standard 110	CICBV Practice Standard No. 110, <i>Valuation Reports: Report Disclosure Standards and Recommendations</i>
COS	Cost of sales
CPA	Chartered Professional Accountant
CPI	Consumer price index
DCF	Discounted cash flow
Debt-Free CCF	Capitalization of debt-free after-tax cash flow
EBITDA	Earnings before interest, taxes, depreciation and amortization
EV	Enterprise Value
GDP	Gross domestic product
Grant Thornton	Grant Thornton LLP
Information	The information provided to us, by Management and others, on behalf of the Companies.
ITC	Income tax credit

General Terms	
Report	This Estimate Valuation Report
SCR	Sustaining capital reinvestment
SR&ED	Scientific research and experimental development
TAB	Tangible asset backing
TEV	Total enterprise value
UCC	Undepreciated capital cost
WACC	Weighted average cost of capital
We	Grant Thornton LLP
You	1542300 Ontario Inc., ProEx Logistics Inc. and Guru Logistics Inc.

Periods	
FYXX	12-month period ended September 30, 20XX
FYXX	12-month period ended July 31, 20XX
NTM	Next twelve (12) months
TTM/LTM	Trailing/Last twelve (12) months

Company Specific	
ASR	1542300 Ontario Inc.
ProEx	ProEx Logistics Inc.
Guru	Guru Logistics Inc.
222 Co.	2221589 Ontario Inc.
Final Sale	Liquidation of trucks and trailers in October 2021 auction

Company Specific

Management	Swinderpal Singh Randhawa ("Paul") and Rana Partap Singh Randhawa ("Rana") and the court-appointed receiver Noah Goldstein, Managing Director, KSV
Receiver	The court-appointed receiver Noah Goldstein, Managing Director, KSV
Report Date	May 02, 2022
The Companies	ASR, ProEx and Guru
Valuation Date	October 31, 2018



Schedules

CAPITALIZED CASH FLOW ANALYSIS - ASR TRANSPORTATION

In CAD

	Notes & Reference	Low	Midpoint	High
1	Maintainable EBITDA	1,700,000	1,800,000	1,900,000
2	Less: Income taxes	(450,500)	(477,000)	(503,500)
3	After-tax cash flow before adjustments	1,249,500	1,323,000	1,396,500
4	Less: Net non-cash working capital requirement	(8,112)	(8,112)	(8,112)
5	Less: Sustaining capital reinvestment	(750,000)	(750,000)	(750,000)
6	Add: Tax shield on sustaining capital reinvestment	151,600	151,600	151,600
7	Discretionary after-tax cash flow	642,988	716,488	789,988
8	Divided by: Capitalization rate	10.4%	10.7%	11.0%
9	Capitalized value of discretionary after-tax cash flow	6,182,576	6,696,149	7,181,708
10	Add: Present value of tax shield on existing undepreciated capital cost	262,248	262,248	262,248
11	Enterprise value	6,444,824	6,958,397	7,443,957
12	Add: Redundant net assets	170,732	170,732	170,732
13	Less: Interest-bearing debt and debt equivalents	(1,858,888)	(1,858,888)	(1,858,888)
14	En bloc fair market value of 1542300 Ontario Inc. (dba ASR Transportation)	4,756,668	5,270,241	5,755,801
15	Rounded	4,757,000	5,270,000	5,756,000
Valuation metrics				
Enterprise value to:				
16	LTM EBITDA	4.5x	4.9x	5.2x
17	Maintainable EBITDA	3.8x	3.9x	3.9x
18	LTM Revenue	0.7x	0.7x	0.8x
Implied goodwill				
19	Enterprise Value	6,444,824	6,958,397	7,443,957
20	Less: Tangible Asset Backing (operating net assets)	(5,323,917)	(5,323,917)	(5,323,917)
21	Less: Trucks and trailers owned by Guru but operated by ASR	(941,238)	(941,238)	(941,238)
22	Implied fair market value of goodwill	179,669	693,242	1,178,801
Payback Period on Implied Goodwill:				
23	Number of years maintainable discretionary after-tax cash flow	0.28x	0.97x	1.49x
24	Number of years maintainable EBITDA	0.11x	0.39x	0.62x

Notes

- This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
- Represents fair market value of trucks and trailers as owned by Guru with plate numbers registered to ASR, plus value of trailers owned and registered under Guru that were allocated to ASR. Refer to Schedule D1.

Calculation Valuation of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018

DETERMINATION OF MAINTAINABLE EBITDA - ASR TRANSPORTATION

In CAD

	Notes & Reference	For the Years Ended September 30,					
		2014	2015	2016	2017	2018	
1	Revenue, as reported	Schedule A5	8,266,003	8,036,550	8,405,086	9,667,814	9,847,071
2	Expenses, as reported	Schedule A5	7,404,011	6,873,380	7,167,520	8,180,124	8,922,316
	Add (deduct) normalizing adjustments:						
	Non-arm's length remuneration	[2]					
3	Charged to operations		(104,900)	(128,400)	(128,400)	(128,400)	(190,400)
4	Economic basis		150,000	150,000	150,000	150,000	150,000
	Economic rent	[3]					
5	Charged to operations		(247,500)	(94,000)	-	-	-
6	Economic basis		162,000	27,000	-	-	-
7	Rent expense related to ProEx charged to ASR	[4]	-	-	(22,503)	(18,928)	(20,359)
8	Equipment rent paid to Guru	[5]	(188,620)	(90,000)	(66,000)	(60,000)	(72,938)
9	Personal discretionary expenses	[6]					
10	Rana's home costs		-	-	(18,912)	(370,200)	(67,475)
11	Paul's home costs		-	-	-	(30,229)	(9,781)
12	Rana's personal costs		-	(15,137)	(13,348)	(17,921)	(107,944)
13	Petty cash for shareholder personal use expensed in ASR		-	-	(52,800)	(104,200)	(151,200)
14	Rana's personal expenses transferred to due from shareholder account	[7]	-	-	-	155,824	-
15	Reversal of transfer to due from shareholder	[8]	-	-	-	-	(32,938)
16	Normalized expenses		7,174,991	6,722,843	7,015,556	7,756,071	8,419,281
	As % of revenue		86.8%	83.7%	83.5%	80.2%	85.5%
17	Normalized EBITDA		1,091,012	1,313,707	1,389,530	1,911,743	1,427,790
18	As % of revenue		13.2%	16.3%	16.5%	19.8%	14.5%

Maintainable Earnings		Low	Midpoint	High	
19	Maintainable EBITDA range	[9]	1,669,767	1,790,755	1,911,743
20	Rounded	[9]	1,700,000	1,800,000	1,900,000

DETERMINATION OF MAINTAINABLE EBITDA - ASR TRANSPORTATION

In CAD

Notes

- This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
- Salaries paid to Rana and related parties were adjusted to economic level based on their respective role and position in the company. In this regard, actual salaries paid to Mr. Rana, were deducted from expenses and an economic salary of \$150,000 based on his role as president of the company was added. Actual salaries paid to Rana and related parties is summarized as follows:

	2014	2015	2016	2017	2018
Rana	68,650	83,400	83,400	83,400	100,900
Sukhdeep (spouse)	36,250	45,000	45,000	45,000	62,500
Nimrat (son)					13,500
Subeet (son)					13,500
Total	104,900	128,400	128,400	128,400	190,400

- ASR and ProEx rented office and parking from related company; 222 Co. during 2014 and early 2015. The rental payments were determined by Management based on estimates of 222's cash flow needs and plans to expand the RGC business and were not considered market. Management asserted that economic rent for use of the facilities was approximately \$15,000 per month. Therefore, we deducted the rent charged and added economic rent for use of the facilities of 222 Co. In this regard we allocated this estimated market rent between ASR and ProEx based on 90:10 split between ASR and ProEx as provided by Management. We understand that the property owned by 222 Co. was sold in 2015, and since then both ASR and ProEx have operated from common office rented out from a third party, therefore no adjustment to market rent is required beyond FY15.

	2014	2015
Market rent	15,000	15,000
Months facility used	12	2
Total rent	180,000	30,000
ASR revenue %	90%	90%
Rent allocated to ASR	162,000	27,000

- Deducted rent paid by ASR for space used by ProEx from FY16 to FY18, equivalent to 10% of total rent expenses for each year, based on our discussion with Management. Prior to FY16, ProEx paid its own rent, therefore no adjustment required.
- Deducted rental payments made to Guru for ASR's use of trucks and trailers owned by Guru, sourced from document "Queries 6, 8 & 9". The rental payments are deducted as our valuation approach combines the fair market value of Guru related to ASR operations within the overall fair market value of ASR.
- Represent personal expenses for Rana and Paul charged in ASR, sourced from the Normalization Adjustments provided by Management.
- Represents personal discretionary expenses as incurred by Rana transferred to due from shareholder account, sourced from the Normalization Adjustments provided by Management.
- Represents reversal of personal expenses transferred to due from shareholder account, as they were recorded in the financial statements, sourced from the Normalization Adjustments provided by Management.
- The low end of the maintainable EBITDA range represents average of normalized EBITDA for FY17 and FY18, while the high end represents normalized EBITDA achieved in FY17. The midpoint maintainable EBITDA is based on average of low and end maintainable EBITDA.

WEIGHTED AVERAGE COST OF CAPITAL - BUILD-UP METHOD - ASR TRANSPORTATION

In CAD

	Notes & References	Low	Midpoint	High	
Cost of equity					
1	Risk-free rate	[2]	3.50%	3.50%	3.50%
2	Equity risk premium	[2]	5.50%	5.50%	5.50%
Beta					
3	Unlevered beta	[3]	0.96	0.96	0.96
4	Debt to equity	[9]	66.67%	66.67%	66.67%
5	Levered beta	[4]	1.43	1.43	1.43
6	Equity risk premium - adjusted		7.84%	7.84%	7.84%
7	Company size and specific risk premium	[5]	4.00%	4.50%	5.00%
8	Cost of equity		15.34%	15.84%	16.34%
After-tax cost of debt					
9	Cost of debt	[6]	10.90%	10.90%	10.90%
10	Corporate tax rate	[7]	26.50%	26.50%	26.50%
11	After-tax cost of debt	[8]	8.01%	8.01%	8.01%
Weighting					
12	Equity/enterprise value	[9]	60%	60%	60%
13	Debt/enterprise value	[9]	40%	40%	40%
Weighted average cost of capital					
14	Weighted cost of equity	[10]	9.20%	9.50%	9.80%
15	Weighted after-tax cost of debt	[11]	3.20%	3.20%	3.20%
16	Nominal WACC, rounded		12.4%	12.7%	13.0%
17	Less: Long-term inflation rate	[12]	(2.0%)	(2.0%)	(2.0%)
18	Less: Real growth	[13]	0.0%	0.0%	0.0%
19	Real WACC/capitalization rate		10.4%	10.7%	11.0%

WEIGHTED AVERAGE COST OF CAPITAL - BUILD-UP METHOD - ASR TRANSPORTATION

In CAD

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Duff & Phelps, LLC Valuation Handbook - Guide to Cost of Capital 2018.
3. Source: S&P Capital IQ, median of unlevered beta of comparable companies. See Schedule E1.
4. Beta relevered based on industry debt to equity ratios as referred in note 9. Formula used to relever is: unlevered beta x (1 + (1-tax rate) x Debt / Equity).
5. Based on a Grant Thornton analysis of the size and specific risks relating to ASR.
6. Based on ASR's interest rate on debt as per ASR's financial statements for the fiscal years ended September 30, 2017.
7. Combined federal and provincial tax rates in Ontario.
8. After-tax cost of debt equals: Corporate interest rate * (1 - Corporate income tax rate)
9. From a Grant Thornton analysis of the ASR's historical structure and an optimal capital structure for comparable companies per 2018 RMA Financial Statement Studies for NAICS code 484110 - General Freight Trucking, Local.
10. Weighted cost of equity formula equals: Cost of equity * Equity / Enterprise Value
11. Weighted cost of debt equals: After-tax cost of debt * Debt / Enterprise Value
12. Bank of Canada target inflation rate.
13. Real growth is expected to be 0.0% per annum.

DETERMINATION OF TANGIBLE ASSET BACKING - ASR TRANSPORTATION

In CAD

	Notes & Reference	Net Book Value 30-Sep-18 <i>Schedule A6</i>	FMV Adjustment	Adjusted Book Value 31-Oct-18	Allocation	Redundant Net Assets	Net Financing Liabilities	Operating Net Assets
Assets								
Current								
1	Cash	170,732	-	170,732	170,732			-
2	Accounts receivable	1,333,630	-	1,333,630				1,333,630
3	Government remittances receivable	87,185	-	87,185				87,185
4	Prepaid expenses	341,794	-	341,794				341,794
5	Due from shareholder	454,224	(454,224)	-				-
6		2,387,565	(454,224)	1,933,341	170,732		-	1,762,609
Long-term								
7	Due from related parties	1,362,484	(1,362,484)	-				-
8	Property, plant & equipment, net	3,255,609	1,688,836	4,944,445				4,944,445
9		4,618,093	326,352	4,944,445			-	4,944,445
10	Total assets	7,005,658	(127,872)	6,877,786	170,732		-	6,707,054
Liabilities								
Current								
11	Accounts payable	1,355,982	-	1,355,982				1,355,982
12	Income tax payable	1,022	-	1,022				1,022
13	Current portion of loan payable	13,579	-	13,579			13,579	-
14	Current portion of capital lease obligation	806,970	-	806,970			806,970	-
15		2,177,553	-	2,177,553			820,549	1,357,004
Long-term liability								
16	Long-term debt	307,160	-	307,160			307,160	-
17	Capital lease obligation	731,179	-	731,179			731,179	-
18		1,038,339	-	1,038,339			1,038,339	-
19	Total liabilities	3,215,892	-	3,215,892	-		1,858,888	1,357,004
20	Net assets	3,789,766		3,661,894				
21	Add (less): Pro-rated net profits/(loss) for 1 month ending October 31, 2018	(26,133)		(26,133)				(26,133)
22	Net assets as at October 31, 2018	3,763,633		3,635,761				
23	Redundant assets				170,732			
24	Debt and debt equivalents						(1,858,888)	
25	Operating assets							5,323,917

DETERMINATION OF TANGIBLE ASSET BACKING - ASR TRANSPORTATION

In CAD

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Break down of PP&E as at the Valuation Date.

	Cost	Net Book Value	Fair Market Value
	[3]	[3]	[4]
Equipment	63,913	28,956	28,956
Towing motor	3,240	159	159
Trucks	6,596,822	3,124,286	4,813,124
Furniture and fixtures	4,250	2,529	2,529
Computer equipment	23,688	9,850	9,850
Automobile	114,235	89,828	89,828
Total	6,806,148	3,255,607	4,944,445

3. Source: Unaudited internally prepared financial statement of 1542300 Ontario Inc. signed by Rana for fiscal year ended September 30, 2018.
4. We have assumed that the fair market value of capital assets as at the Valuation Date, other than trucks and trailers is not materially different from their respective balances as at September 30, 2018.
5. We have been directed by the Receiver to assign a fair market value of \$nil for the purpose of our valuation, as it is Receiver's understanding that the amounts were fully collected and funds distributed to Rana and Paul subsequent to the Valuation Date.

HISTORICAL STATEMENTS OF PROFITS & LOSSES - ASR TRANSPORTATION

In CAD

	Notes & Reference	For the Years Ended September 30,				
		2014	2015	2016	2017	2018
		[2]	[2]	[2]	[2]	[3]
1 Revenue		8,266,003	8,036,550	8,405,086	9,667,814	9,847,071
Expenses						
2 Advertising and promotion		48,489	36,053	37,726	50,971	38,254
3 Automotive		7,436	7,807	12,741	22,229	15,211
4 Bad debts		10,247	81,595	26,766	108,446	10,842
5 Business taxes		127,081	146,773	165,265	158	145,621
6 Equipment rental		133,612	90,000	84,000	26,783	95,526
7 Fuel and lubrication		1,704,750	1,466,489	1,680,626	2,001,247	2,248,326
8 Insurance		323,754	305,942	314,401	283,148	455,703
9 Interest and bank charges		7,320	7,468	5,516	7,982	14,004
10 Management salaries and bonuses		108,954	166,445	208,091	152,461	196,585
11 Office		37,622	34,254	20,161	32,842	19,342
12 Professional fees		86,557	55,928	43,666	44,326	43,404
13 Rent		272,421	223,328	225,029	189,279	203,594
14 Repairs and maintenance		497,571	576,946	687,211	837,848	936,498
15 Subcontract		3,783,384	3,384,345	3,387,296	3,998,924	4,017,039
16 Telephone and utilities		16,020	16,482	18,409	54,021	48,425
17 Tolls and other road expenses		228,813	270,142	245,859	358,956	420,619
18 Travel		9,980	3,383	4,757	10,503	13,323
19		7,404,011	6,873,380	7,167,520	8,180,124	8,922,316
20 Income before other income (expenses)		861,992	1,163,170	1,237,566	1,487,690	924,755
Other income/(expense)						
21 Amortization		(374,422)	(648,580)	(763,758)	(904,588)	(1,142,475)
22 Loss (gain) on sale of capital assets		-	-	751	52,243	(36,335)
23 Interest income		36,776	18,825	24,039	28,370	33,807
24 Loss on foreign exchange		-	-	-	-	(61,336)
25 Gain on unrealized foreign exchange		-	-	-	-	74,425
26 Interest on long term debt		(41,287)	(77,952)	(92,246)	(81,019)	(106,437)
27		(378,933)	(707,707)	(831,214)	(904,994)	(1,238,351)
28 Income before income taxes		483,059	455,463	406,352	582,696	(313,596)
29 Income taxes				50,266	42,850	
30 Net income		483,059	455,463	356,086	539,846	(313,596)
31 <i>Net income margin %</i>		5.8%	5.7%	4.2%	5.6%	(3.2%)

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Reviewed financial statements of 1542300 Ontario Inc., prepared by MDP LLP.
3. Source: Unaudited internally prepared financial statements signed by Rana.

HISTORICAL STATEMENTS OF FINANCIAL POSITION - ASR TRANSPORTATION

In CAD

	Notes & Reference	As at September 30,				
		2014 [2]	2015 [2]	2016 [2]	2017 [2]	2018 [3]
Assets						
Current						
1	Cash	593,064	1,312,364	1,043,340	820,055	170,732
2	Short-term investment	151,781	152,318	-	-	-
3	Accounts receivable	1,181,471	1,202,834	1,721,995	1,583,226	1,333,630
4	Prepaid expenses	92,697	103,451	88,280	82,280	87,185
5	Government remittances receivable	339,209	127,516	119,105	119,251	341,794
6	Due from shareholder	71,289	94,077	-	204,781	454,224
7		2,429,511	2,992,560	2,972,720	2,809,593	2,387,565
Long-term						
8	Due from related parties	1,187,876	761,984	1,091,188	1,187,511	1,362,484
9	Property, plant & equipment, net	1,354,647	2,485,884	1,945,297	3,417,294	3,255,609
10		2,542,523	3,247,868	3,036,485	4,604,805	4,618,093
11	Total assets	4,972,034	6,240,428	6,009,205	7,414,398	7,005,658
Liabilities						
Current						
12	Accounts payable	1,063,820	1,159,670	1,292,091	1,374,373	1,355,982
13	Income tax payable	30,685	39,093	34,415	34,150	1,022
14	Current portion of loan payable	33,306	21,650	-	13,579	13,579
15	Current portion of capital lease obligation	363,344	691,729	525,702	803,841	806,970
16		1,491,155	1,912,142	1,852,208	2,225,943	2,177,553
Long-term liability						
17	Due to related parties					
18	Due to shareholder	21,650	-	16,159	-	-
19	Long-term debt	-	-	-	44,198	307,160
20	Capital lease obligation	395,315	903,395	377,691	1,040,895	731,179
21		416,965	903,395	393,850	1,085,093	1,038,339
22	Total liabilities	1,908,120	2,815,537	2,246,058	3,311,036	3,215,892
Shareholders' equity						
23	Common shares	1,135	1,135	1,135	1,135	1,135
24	Retained earnings	3,062,779	3,423,756	3,762,012	4,102,227	3,788,631
25		3,063,914	3,424,891	3,763,147	4,103,362	3,789,766
26	Total liabilities and shareholders' equity	4,972,034	6,240,428	6,009,205	7,414,398	7,005,658

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Reviewed financial statements of 1542300 Ontario Inc., prepared by MDP LLP.
3. Source: Unaudited internally prepared financial statements signed by Rana.

ADJUSTED NET BOOK VALUE - PROEX LOGISTICS INC.

In CAD

	Notes & Reference	Net Book Value 31-Oct-18	FMV Adjustments		Fair Market Value	
			Low	High	Low	High
<i>Schedule B7</i>						
Assets						
Current						
1	Cash	76,492	-	-	76,492	76,492
2	Accounts receivable	94,329	-	-	94,329	94,329
3	Prepaid expenses	18,020	-	-	18,020	18,020
4	Income tax receivable	2,836	-	-	2,836	2,836
5		<u>191,677</u>	-	-	<u>191,677</u>	<u>191,677</u>
6	Due from related parties	305,270	-	-	305,270	305,270
7	Property, plant & equipment, net	132,168	-	-	132,168	132,168
8		<u>437,438</u>	-	-	<u>437,438</u>	<u>437,438</u>
6	Total assets	629,115	-	-	629,115	629,115
Liabilities						
Current						
9	Accounts payable	508,516	-	-	508,516	508,516
11		<u>508,516</u>	-	-	<u>508,516</u>	<u>508,516</u>
12	Due to shareholder	10,890	-	-	10,890	10,890
13	Loan payable	44,580	-	-	44,580	44,580
14		<u>55,470</u>	-	-	<u>55,470</u>	<u>55,470</u>
15	Total liabilities	563,986	-	-	563,986	563,986
16	Net Book Value	65,129				
17	Add (less): Pro-rated net profits/(loss) for 3 months ending October 31, 2018				(11,526)	(11,526)
18	Adjusted Net Book Value				53,604	53,604
18	Add: Fair market value trucks and trailers owned by Guru but operated by ProEx [2]				212,690	212,690
19	Fair market value of ProEx Logistics Inc.				266,294	266,294
20	Fair market value of ProEx Logistics Inc., rounded				266,000	266,000

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Represents the fair market value of trucks and trailers as owned by Guru with plate numbers registered to ProEx, plus value of trailers owned and registered under Guru that were allocated to ProEx. Refer to Schedule D1.

CAPITALIZED CASH FLOW ANALYSIS - PROEX LOGISTICS INC.

In CAD

	Notes & Reference	Low	Midpoint	High
1	Maintainable EBITDA	37,648	41,831	46,014
2	Less: Income taxes	(9,977)	(11,085)	(12,194)
3	After-tax cash flow before adjustments	27,671	30,746	33,821
4	Less: Net non-cash working capital requirement	(52)	(52)	(52)
5	Less: Sustaining capital reinvestment	(25,000)	(25,000)	(25,000)
6	Add: Tax shield on sustaining capital reinvestment	5,100	5,100	5,100
7	Discretionary after-tax cash flow	7,719	10,794	13,868
8	Divided by: Capitalization rate	10.4%	10.7%	11.0%
9	Capitalized value of discretionary after-tax cash flow	74,221	100,875	126,075
10	Add: Present value of tax shield on existing undepreciated capital cost	5,900	5,900	5,900
11	Enterprise value	80,122	106,775	131,975
12	Add: Redundant net assets	(90,680)	(90,680)	(90,680)
13	Less: Interest-bearing debt and debt equivalents	(55,470)	(55,470)	(55,470)
14	En bloc fair market value of ProEx Logistics Inc.	(66,028)	(39,375)	(14,175)
15	Rounded	(66,000)	(39,000)	(14,000)
	Conclusion	ProEx's cash flows are not sufficient to generate a positive en bloc fair market of the company. Therefore, we selected the asset book value approach to be the relevant approach in this regard. See Schedule B1.		
	Valuation metrics			
	Enterprise value to:			
16	Maintainable EBITDA	2.13x	2.55x	2.87x
17	LTM EBITDA	1.92x	2.55x	3.15x
18	LTM Revenue	0.11x	0.14x	0.18x
	Implied goodwill			
19	Enterprise Value	80,122	106,775	131,975
20	Less: Tangible Asset Backing (operating net assets)	(199,754)	(199,754)	(199,754)
21	Add: Fair market value of trucks and trailer owned by Guru but operated by ProEx	(212,690)	(212,690)	(212,690)
21	Implied fair market value of goodwill	(332,322)	(305,668)	(280,468)
	Payback Period on Implied Goodwill:			
22	Number of years maintainable discretionary after-tax cash flow	(43.05x)	(28.32x)	(20.22x)
23	Number of years maintainable EBITDA	(8.83x)	(7.31x)	(6.10x)

Notes

- This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
- Represents fair market value of trucks and trailers as owned by Guru with plate number registered to ProEx, plus value of trailers owned and registered under Guru that were allocated to ProEx. Refer to Schedule D1.

DETERMINATION OF MAINTAINABLE EBITDA - PROEX LOGISTICS INC.

In CAD

	Notes & Reference	For the Years Ended September 30,					
		2014	2015	2016	2017	2018	
1	Revenue, as reported	Schedule B6	1,193,061	1,081,402	873,091	870,744	738,213
5	Expenses, as reported	Schedule B6	1,437,704	1,027,280	856,482	838,643	772,686
6	Add (deduct):						
7	Depreciation/amortization	Schedule B6	(10,574)	(15,189)	(17,281)	(24,315)	(24,696)
8	Interest on debt						
	Add (deduct) normalizing adjustments:						
	Non-arm's length remuneration	[2]					
9	Charged to operations		(95,500)	(128,400)	(128,400)	(160,250)	(157,800)
10	Economic basis		120,000	120,000	120,000	120,000	120,000
	Economic rent	[3]					
11	Charged to operations		(122,500)	(35,000)	-	(10,400)	-
12	Economic basis		18,000	3,000	-	-	-
13	Rent expense related to ProEx charged to ASR	[4]	-	-	22,503	18,928	20,359
14	Equipment rent charged by Guru	[5]	(65,500)	(49,000)	(24,000)	(24,000)	(24,000)
	Personal discretionary expenses	[6]					
15	Paul's personal cost			(3,750)	(21,073)	(13,970)	(23,018)
16	Paul's personal expenses transferred to due from shareholder account	[7]					12,850
17	Normalized expenses		1,281,630	918,941	808,231	744,636	696,382
18	Normalized EBITDA		(88,569)	162,461	64,860	126,108	41,831
19	As % of normalized revenue		(7.4%)	15.0%	7.4%	14.5%	5.7%

Maintainable Earnings		Low	Midpoint	High	
20	Maintainable EBITDA range	[8]	37,648	41,831	46,014

DETERMINATION OF MAINTAINABLE EBITDA - PROEX LOGISTICS INC.

In CAD

Notes

- This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
- Salaries paid to Mr. Paul and related parties were adjusted to economic level based on their respective role and position in the company. In this regard, actual salaries paid to Mr. Paul, were deducted from expenses and an economic salary of \$120,000 based on his role as President of the company was added. Salaries paid to his spouse and sons were deducted from expenses as they were paid for income splitting purposes. Actual salaries paid to Mr. Rana and related parties is summarized as

	2014	2015	2016	2017	2018
Paul	62,750	83,400	83,400	83,400	83,400
Rajpreet (spouse)	32,750	45,000	45,000	45,000	45,000
Amarpreet (son)				31,850	29,400
Total	95,500	128,400	128,400	160,250	157,800

- ASR and ProEx rented office and parking from related company; 222 Co. during 2014 and early 2015. The rental payments were determined by Management based on estimates of 222's cash flow needs and plans to expand the RGC business and were not considered market. Management asserted that economic rent for use of the facilities is approximately \$15,000 per month. Therefore, we deducted the rent charged and added economic rent for use of the facilities of 222 Co. In this regard we allocated this estimated market rent between ASR and ProEx based on 90:10 split between ASR and ProEx as provided by Management. We understand that the property owned by 222 Co. was sold in 2015, and since then both ASR and ProEx have operated from common office rented out from a third party, therefore no adjustment to market rent is required beyond FY15.

	2014	2015
Market rent	15,000	15,000
Months facility used	12	2
Total rent	180,000	30,000
ProEx share	10%	10%
Rent allocated to ProEx	18,000	3,000

- Added rent for space used by ProEx from FY16 to FY18 paid by ASR, equivalent to 10% of total rent expenses for each year, based on our discussion with Management.
- Deducted rental payments made to Guru for ProEx's use of trucks and trailers owned by Guru, sourced from document "Queries 6, 8 & 9". The rental payments are deducted as our valuation approach combines the fair market value of Guru related to ProEX operations within the overall fair market value of ProEX.
- Represent personal expenses for Rana and Paul charged in ProEx, as provided by Management, sourced from the Normalization Adjustments provided by Management.
- Represents personal discretionary expenses as incurred by Paul transferred to due from shareholder account, sourced from the Normalization Adjustments provided by Management.
- The midpoint maintainable EBITDA is based on the normalized EBITDA of FY18, while the low and high end maintainable EBITDA represent +/- 10% of the selected midpoint maintainable EBITDA.

WEIGHTED AVERAGE COST OF CAPITAL - BUILD-UP METHOD - PROEX LOGISTICS INC.

In CAD

	Notes & References	Low	Midpoint	High	
Cost of equity					
1	Risk-free rate	[2]	3.50%	3.50%	3.50%
2	Equity risk premium	[2]	5.50%	5.50%	5.50%
Beta					
3	Unlevered beta	[3]	0.96	0.96	0.96
4	Debt to equity	[9]	66.67%	66.67%	66.67%
5	Levered beta	[4]	1.43	1.43	1.43
6	Equity risk premium - adjusted		7.84%	7.84%	7.84%
7	Specific risk premium	[5]	4.00%	4.50%	5.00%
8	Cost of equity		15.34%	15.84%	16.34%
After-tax cost of debt					
9	Cost of debt	[6]	10.90%	10.90%	10.90%
10	Corporate tax rate	[7]	26.50%	26.50%	26.50%
11	After-tax cost of debt	[8]	8.01%	8.01%	8.01%
Weighting					
12	Equity/enterprise value	[9]	60%	60%	60%
13	Debt/enterprise value	[9]	40%	40%	40%
Weighted average cost of capital					
14	Weighted cost of equity	[10]	9.20%	9.50%	9.80%
15	Weighted after-tax cost of debt	[11]	3.20%	3.20%	3.20%
16	Nominal WACC, rounded		12.4%	12.7%	13.0%
17	Less: Long-term inflation rate	[12]	(2.0%)	(2.0%)	(2.0%)
18	Less: Real growth	[13]	0.0%	0.0%	0.0%
19	Real WACC/capitalization rate		10.4%	10.7%	11.0%

WEIGHTED AVERAGE COST OF CAPITAL - BUILD-UP METHOD - PROEX LOGISTICS INC.

In CAD

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Duff & Phelps, LLC Valuation Handbook - Guide to Cost of Capital 2018.
3. Source: S&P Capital IQ, median of unlevered beta of comparable companies. See Schedule E1.
4. Beta relevered based on industry debt to equity ratios as referred in note 9. Formula used to relever is: unlevered beta x (1 + (1-tax rate) x Debt / Equity).
5. Based on a Grant Thornton analysis of the size and specific risks relating to ProEx Logistics Inc..
6. Assumed to be same as 1542300 Ontario Inc. (dba ASR Transportation).
7. Combined federal and provincial tax rates in Ontario.
8. After-tax cost of debt equals: Corporate interest rate * (1 - Corporate income tax rate)
9. From a Grant Thornton analysis of the ProEx Logistics Inc.'s historical structure and an optimal capital structure for comparable companies per 2018 RMA Financial Statement Studies for NAICS code 484110 - General Freight Trucking, Local.
10. Weighted cost of equity formula equals: Cost of equity * Equity / Enterprise Value
11. Weighted cost of debt equals: After-tax cost of debt * Debt / Enterprise Value
12. Bank of Canada target inflation rate.
13. Real growth is expected to be 0.0% per annum.

DETERMINATION OF TANGIBLE ASSET BACKING - PROEX LOGISTICS INC.

In CAD

	Notes & Reference	Net	FMV	Adjusted	Allocation		
		Book Value 31-Oct-18	Adjustment	Book Value 31-Oct-18	Redundant Net Assets	Net Financing Liabilities	Operating Net Assets
<i>Schedule A6</i>							
Assets							
Current							
1	Cash	76,492		76,492			76,492
2	Accounts receivable	94,329		94,329			94,329
3	Prepaid expenses	18,020		18,020			18,020
4	Income tax receivable	2,836		2,836			2,836
5		<u>191,677</u>	-	<u>191,677</u>	-	-	<u>191,677</u>
Long-term							
6	Due from related parties	305,270		305,270	305,270		-
7	Property, plant & equipment, net	132,168		132,168			132,168
8		<u>437,438</u>	-	<u>437,438</u>	<u>305,270</u>	-	<u>132,168</u>
9	Total assets	629,115	-	629,115	305,270	-	323,845
Liabilities							
Current							
10	Accounts payable	508,516		508,516	395,950		112,566
11		<u>508,516</u>	-	<u>508,516</u>	<u>395,950</u>	-	<u>112,566</u>
Long-term liability							
12	Due to shareholder	10,890		10,890		10,890	-
13	Loan payable	44,580		44,580		44,580	-
14		<u>55,470</u>	-	<u>55,470</u>	-	<u>55,470</u>	-
15	Total liabilities	563,986	-	563,986	395,950	55,470	112,566
16	Net assets	65,129		65,129			
17	Add (less): Pro-rated net profits/(loss) for 3 months ending October 31, 2018	(11,526)		(11,526)			(11,526)
18	Net assets as at October 31, 2018	53,604		53,604			
19	Redundant assets				(90,680)		
20	Debt and debt equivalents					(55,470)	
21	Operating assets						199,754

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.

HISTORICAL STATEMENTS OF PROFITS & LOSSES - PROEX LOGISTICS INC.

In CAD

	Notes & Reference	For the Years Ended July 31,				
		2014 [2]	2015 [3]	2016 [3]	2017 [2]	2018 [4]
1 Revenue		1,193,061	1,081,402	873,091	870,744	738,213
Expenses						
2 Advertising and promotion		10,301	8,024	13,704	11,181	7,629
3 Amortization		10,574	15,189	17,281	24,315	24,696
4 Automotive		9,234	9,121	10,572	8,805	9,167
5 Bad debts		558	(15,988)	8,950	-	16,755
6 Business taxes		-	-	-	-	-
7 Equipment rental		65,500	49,000	24,000	24,000	24,000
8 Fuel and lubrication		335,311	216,566	117,768	118,390	84,423
9 Insurance		115,621	41,575	33,402	45,052	43,776
10 Interest and bank charges		3,121	2,932	3,396	2,679	2,511
11 License, fees and dues		17,492	13,753	8,459	5,862	12,793
12 Management salaries and bonuses		84,004	133,539	132,934	132,999	133,018
13 Office		3,886	4,175	4,387	3,339	2,620
14 Professional fees		8,587	9,235	15,592	13,831	15,036
15 Rent		136,296	35,000	-	10,400	-
16 Repairs and maintenance		147,367	134,450	114,379	92,133	106,242
17 Subcontract		442,851	342,648	332,449	328,084	281,817
18 Telephone and utilities		5,685	4,521	5,756	4,614	3,295
19 Tolls and other road expenses		38,407	23,038	10,119	11,622	4,908
20 Travel		2,909	502	3,334	1,337	-
21		1,437,704	1,027,280	856,482	838,643	772,686
22 Income before other income (expenses)		(244,643)	54,122	16,609	32,101	(34,473)
Other income/(expense)						
23 Loss (gain) on sale of capital assets		-	-	-	-	(18,136)
24		-	-	-	-	(18,136)
25 Income before income taxes		(244,643)	54,122	16,609	32,101	(52,609)
26 Income taxes		(37,360)	8,668	617	2,712	(6,507)
27 Net income		(207,283)	45,454	15,992	29,389	(46,102)
28 <i>Net income margin %</i>		<i>(17.4%)</i>	<i>4.2%</i>	<i>1.8%</i>	<i>3.4%</i>	<i>(6.2%)</i>

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Notice to reader financial statements of ProEx Logistics Inc., prepared by MDP LLP.
3. Source: Unaudited internally prepared financial statements of ProEx Logistics Inc.
4. Source: Draft Notice to reader financial statement of ProEx Logistics, prepared by MDP LLP.

HISTORICAL STATEMENTS OF FINANCIAL POSITION - PROEX LOGISTICS INC.

In CAD

	Notes & Reference	As at July 31,				
		2014 [2]	2015 [3]	2016 [3]	2017 [2]	2018 [4]
Assets						
Current						
1	Cash	201,628	178,532	41,606	18,179	76,492
2	Accounts receivable	248,575	173,842	138,534	244,190	94,329
3	Prepaid expenses	71,295	71,295	17,645	18,300	18,020
4	Income tax receivable	48,008	-	-	-	2,836
5		569,506	423,669	197,785	280,669	191,677
Long-term						
6	Due from related parties	187,550	339,115	238,613	219,472	305,270
7	Property, plant & equipment, net	8,897	33,956	121,574	97,260	132,168
8		196,447	373,071	360,187	316,732	437,438
9	Total assets	765,953	796,740	557,972	597,401	629,115
Liabilities						
Current						
10	Accounts payable	531,876	542,724	456,237	456,483	508,516
11	Income tax payable	-	8,668	392	3,201	-
12		531,876	551,392	456,629	459,684	508,516
Long-term liability						
13	Due to shareholder	161,860	116,623	19,501	26,486	10,890
14	Loan payable	-	13,471	-	-	44,580
15	Capital lease obligation	26,821	24,404	-	-	-
16		188,681	154,498	19,501	26,486	55,470
17	Total liabilities	720,557	705,890	476,130	486,170	563,986
Shareholders' equity						
18	Common shares	100	100	100	100	100
19	Retained earnings	45,296	90,750	81,742	111,131	65,029
20		45,396	90,850	81,842	111,231	65,129
21	Total liabilities and shareholders' equity	765,953	796,740	557,972	597,401	629,115

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Notice to reader financial statements of ProEx Logistics Inc., prepared by MDP LLP.
3. Source: Unaudited internally prepared financial statements of ProEx Logistics Inc.
4. Source: Draft Notice to reader financial statement of ProEx Logistics, prepared by MDP LLP.

HISTORICAL STATEMENTS OF FINANCIAL POSITION - GURU LOGISTICS INC.

In CAD

	Notes & Reference	As at December 31,	
		2015	2016
		[2]	[2]
Assets			
Current			
1	Cash	34,961	28,915
2	Accounts receivable	1,009,523	1,046,073
3	Income tax receivable		7,810
4	Due from related parties	810	1,710
5	Due from shareholder	13,061	
6		1,058,354	1,084,508
Long-term			
7	Due from related parties	60,000	
8	Property, plant & equipment, net	17,716	22,743
9		77,716	22,743
10	Total assets	1,136,070	1,107,251
Liabilities			
Current			
11	Accounts payable & accrued liabilities	49,959	32,698
12	Income tax payable	4,747	
13		54,706	32,698
Long-term liability			
14	Due to shareholder	112,688	112,688
15	Long-term debt	51,211	
16		163,898	112,688
17	Total liabilities	218,604	145,385
Shareholders' equity			
18	Common shares	100	100
19	Retained earnings	917,366	961,765
20	Total shareholders' equity	917,466	961,865
21	Total liabilities and shareholders' equity	1,136,070	1,107,251

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Internally prepared financial statements as provided by Management.
3. The financial statements for fiscal year ended December 31, 2017 and 2018 were not available.

HISTORICAL STATEMENTS OF PROFITS & LOSSES - GURU**LOGISTICS INC.***In CAD*

		<i>Notes & Reference</i>	2015	2016
			[2]	[2]
1	Revenue		139,000	90,000
	Expenses			
2	Bank Service Charges		600	937
3	Depreciation Expense		94,880	68,268
4	Equipment Rental		78,948	81,290
5	Management wages		6,000	(17,540)
6	Office maintenance		1,949	(99)
7	Repairs and Maintenance		1,634	-
8	Utilities		(137)	
9	Interest expense			(3,190)
10	Automobile Expense			(24,541)
11			183,874	105,125
12	Income before other income (expenses)		(44,874)	(15,125)
	Other income			
13	Gain/Loss on sale of assets		50,416	28,551
14	Insurance Proceeds Received		-	
15			50,416	28,551
16	Income before income taxes		5,541	13,426
17	Income taxes			
18	Net income		5,541	13,426

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Internally prepared financial statements as provided by Management.
3. The financial statements for fiscal year ended December 31, 2017 and 2018 were not available.

SUMMARY OF FLEET

In CAD

	Vehicle Owner: ASR or ProEx Plate Owner: ASR or ProEx		Vehicle Owner: Guru Plate Owner: ASR or ProEx		Vehicle Owner Guru Plate owner: Guru		Total	
	#	Value	#	Value	#	Value	#	Value
	Schedule D2		Schedule D2		[2]			
ASR								
1 Trucks	47	1,687,898	13	176,158	-	-	60	1,864,056
2 Trailers	108	3,075,026	33	608,200	8	156,880	149	3,840,106
3 Company Car	7	50,200	-	-	-	-	7	50,200
4 Total	162	4,813,124	46	784,358	8	156,880	216	5,754,362
ProEx								
5 Trucks	4	50,200	3	14,700	-	-	7	64,900
6 Trailers	2	23,900	23	158,770	2	39,220	27	221,890
7 Company Car	2	-	-	-	-	-	2	-
8 Total	8	74,100	26	173,470	2	39,220	36	286,790
Total								
9 Trucks	51	1,738,098	16	190,858	-	-	67	1,928,956
10 Trailers	110	3,098,926	56	766,970	10	196,100	176	4,061,996
11 Company Car	9	50,200	-	-	-	-	9	50,200
12 Total	170	4,887,224	72	957,828	10	196,100	252	6,041,152

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. There were 10 trailers that were owned by Guru, with plate number also issued to Guru. Therefore, we allocated these trailers to ASR and ProEx based on their proportion of Guru fleet registered in their name. In this regard, 80% was allocated to ASR and remaining 20% was allocated to ProEx.

		Proportion	#	Value
Trailers owned and registered under Guru	Schedule D2		10	196,100
Allocated to ASR		80%	8	156,880
Allocated to ProEx		20%	2	39,220

DETAILED LIST OF FLEET

In CAD

								Final Sale Price	
Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes		Oct-21	
1	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D7FL867998			[2]
2	Truck	2014	Volvo	ASR	ASR	4V49C9EH6EN162892			36,100
3	Trailer	2005	Stoughton	ASR	ASR	1DW1A5320S761001			29,000
4	Trailer	2005	Stoughton	ASR	ASR	1DW1A5320S761001	[3]		4,200
5	Trailer	2012	Stoughton	ASR	ASR	1DW1A5320CB348928			12,657
6	Trailer	2012	Stoughton	ASR	ASR	1DW1A5320CS348833			24,100
7	Trailer	2013	Stoughton	ASR	ASR	1DW1A5320DB378965			23,500
8	Trailer	2012	Stoughton	ASR	ASR	1DW1A5321CB348923			27,000
9	Trailer	2013	Stoughton	ASR	ASR	1DW1A5321DB378957			24,100
10	Trailer	2012	Stoughton	ASR	ASR	1DW1A5322CS348834			21,000
11	Trailer	2012	Stoughton	ASR	ASR	1DW1A5323CB348924			20,600
12	Trailer	2013	Stoughton	ASR	ASR	1DW1A5323DB378927			23,600
13	Trailer	2013	Stoughton	ASR	ASR	1DW1A5323DB378958			23,000
14	Trailer	2013	Stoughton	ASR	ASR	1DW1A5323DB378961			24,300
15	Trailer	2012	Stoughton	ASR	ASR	1DW1A5324CB348916			24,100
16	Trailer	2003	Stoughton	Guru Logistics Inc.	ASR	1DW1A5325S621930			23,500
17	Trailer	2012	Stoughton	ASR	ASR	1DW1A5325CB348925			9,000
18	Trailer	2013	Stoughton	ASR	ASR	1DW1A5325DB378928			23,100
19	Trailer	2012	Stoughton	ASR	ASR	1DW1A5326CB302147			22,000
20	Trailer	2011	Stoughton	ASR	ASR	1DW1A5326CB302150			20,100
21	Trailer	2013	Stoughton	ASR	ASR	1DW1A5326DB378968			25,000
22	Trailer	2007	Stoughton	ProEx Logistics Inc.	ProEx Logistics Inc.	1DW1A53277B991816			28,100
23	Trailer	2012	Stoughton	ASR	ASR	1DW1A5328CB302148			13,600
24	Trailer	2012	Stoughton	ASR	ASR	1DW1A5328CB348918			23,100
25	Trailer	2013	Stoughton	ASR	ASR	1DW1A5328DB378955			24,000
26	Trailer	2012	Stoughton	ASR	ASR	1DW1A532XCB302149			21,100
27	Company Car	2009	Ford	ASR	ASR	1FAHP28W49G106870	[3]		22,200
28	Company Car	2011	Ford	Guru Logistics Inc.	ProEx Logistics Inc.	1FTFW1EFXBKD14483	[3]		-
29	Company Car	2007	Ford	ASR	ASR	1FTVX14557NA34252	[3]		-
30	Truck	2005	Freightliner	Guru Logistics Inc.	ProEx Logistics Inc.	1FUJA6AV75LU16897			4,100
31	Truck	2006	Freightliner	Guru Logistics Inc.	ASR	1FUJA6CK16LW08918			12,500
32	Truck	2005	Freightliner	Guru Logistics Inc.	ProEx Logistics Inc.	1FUJA6CK75LN85093			5,600
33	Truck	2003	Freightliner	Guru Logistics Inc.	ProEx Logistics Inc.	1FUJAHCG83LK46461			5,000
34	Truck	2005	Freightliner	ASR	ASR	1FUJBBCG55LU38269	[3]		40,489
35	Truck	2005	Freightliner	ASR	ASR	1FUJBBCGX5LN96963			2,600
36	Truck	2014	Freightliner	ProEx Logistics Inc.	ProEx Logistics Inc.	1FUJGEBG9ELFN8227			25,600
37	Truck	2011	Freightliner	ProEx Logistics Inc.	ProEx Logistics Inc.	1FUJGEDR9BSAZ1424			15,500
38	Truck	2012	Freightliner	ASR	ASR	1FUJGEDV0CLBC2421			21,200

Calculation Valuation of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price	
								Oct-21
39	Truck	2012	Freightliner	ASR	ASR	1FUJGEDV2CLBC2419		[2] 6,200
40	Truck	2014	Freightliner	ProEx Logistics Inc.	ProEx Logistics Inc.	1FUJGEDV2ELFR8936		25,500
41	Truck	2012	Freightliner	ASR	ASR	1FUJGEDV4CLBC2468		4,200
42	Truck	2012	Freightliner	ProEx Logistics Inc.	ProEx Logistics Inc.	1FUJGEDV6CLBB5358		14,700
43	Truck	2012	Freightliner	ASR	ASR	1FUJGEDV6CLBC2424		19,000
44	Truck	2014	Freightliner	ASR	ASR	1FUJGLD54ELFR8988		19,300
45	Truck	2014	Freightliner	ASR	ASR	1FUJGLD56ELFS1460		36,600
46	Truck	2014	Freightliner	ASR	ASR	1FUJGLD5XELFR9000		30,500
47	Truck	2005	Freightliner	ASR	ASR	1FULA6DE25LN70512		12,800
48	Truck	1998	Freightliner	Jeff King (Owner Operator)	ASR	1FUYSSEB2WP946659	[3]	-
49	Trailer	2007	Great Dane	Guru Logistics Inc.	ASR	1GRAA0277T537117		10,600
50	Trailer	2000	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA0620YB007840		6,400
51	Trailer	2000	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA0620YB009121	[3]	5,200
52	Trailer	2018	Great Dane	ASR	ASR	1GRAA0621JW122963		74,500
53	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06221T004356	[3]	5,240
54	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06231T004348		5,900
55	Trailer	2018	Great Dane	ASR	ASR	1GRAA0623JW122964		82,300
56	Trailer	2007	Great Dane	Guru Logistics Inc.	ASR	1GRAA06247W700188		11,200
57	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06251T004237	[3]	5,240
58	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06261B089403	[3]	5,240
59	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06261T004277		6,400
60	Trailer	2001	Great Dane	Guru Logistics Inc.	ASR	1GRAA06261T004327		6,300
61	Trailer	2000	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA0626YB009124		4,300
62	Trailer	2014	Great Dane	ASR	ASR	1GRAA0628EW700594	[3]	36,895
63	Trailer	2018	Great Dane	ASR	ASR	1GRAA0628JW122961		81,800
64	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06291T004208		7,200
65	Trailer	2001	Great Dane	Guru Logistics Inc.	ProEx Logistics Inc.	1GRAA06291T004306		4,500
66	Trailer	2014	Great Dane	ASR	ProEx Logistics Inc.	1GRAA0629EW700605		41,100
67	Trailer	2018	Great Dane	ASR	ASR	1GRAA062XJW122962		82,100
68	Trailer	2014	Great Dane	ASR	ASR	1GRAP0621ET591038		32,500
69	Trailer	2012	Great Dane	ASR	ASR	1GRAP0623CD441150		21,000
70	Trailer	2014	Great Dane	ASR	ASR	1GRAP0623ET591039		32,600
71	Trailer	2012	Great Dane	ASR	ASR	1GRAP0624CD441156		26,200
72	Trailer	2014	Great Dane	ASR	ASR	1GRAP0626ED453554		35,200
73	Trailer	2014	Great Dane	ASR	ASR	1GRAP062XET591037		36,300
74	Trailer	2014	Great Dane	ASR	ASR	1GRAP062XET591040		34,100
75	Company Car	2017	Cadillac	ASR	ASR	1GYS4CKJ3HR381283	[3]	25,100
76	Truck	2014	International	ASR	ASR	1HSDJAPR2EH770919		24,700

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price	
								Oct-21
77	Truck	2014	International	ASR	ASR	1HSDJAPROEH770918		21,000
78	Truck	2012	International	ProEx Logistics Inc.	ProEx Logistics Inc.	1HSDJSJR4CH054387		6,000
79	Trailer	2015	Wabash	ASR	ASR	1JJU532D6GL919073		38,500
80	Trailer	2015	Wabash	ASR	ASR	1JJU532D8GL919074		38,500
81	Trailer	2015	Wabash	ASR	ASR	1JJV53201GL919076		38,900
82	Trailer	2015	Wabash	ASR	ASR	1JJV532B1FL865596	[3]	46,167
83	Trailer	2015	Wabash	ASR	ASR	1JJV532B3FL865597	[3]	36,895
84	Trailer	2015	Wabash	ASR	ASR	1JJV532B6FL842296	[3]	5,800
85	Trailer	2015	Wabash	ASR	ASR	1JJV532B8FL842297		49,200
86	Trailer	2016	Wabash	ASR	ASR	1JJV532B8GL924838	[3]	33,878
87	Trailer	2015	Wabash	ASR	ASR	1JJV532B9FL842292		36,000
88	Trailer	2015	Wabash	ASR	ASR	1JJV532BXFL842298		45,500
89	Trailer	2016	Wabash	ASR	ASR	1JJV532BXGL924839		61,600
90	Trailer	2014	Wabash	ASR	ASR	1JJV532D0EL802800		27,600
91	Trailer	2015	Wabash	ASR	ASR	1JJV532D0FL868040		37,000
92	Trailer	2015	Wabash	ASR	ASR	1JJV532D0FL868071		36,800
93	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D1FL868032		33,100
94	Trailer	2015	Wabash	ASR	ASR	1JJV532D1FL868046		36,600
95	Trailer	2015	Wabash	ASR	ASR	1JJV532D1FL868063		37,100
96	Trailer	2014	Wabash	ASR	ASR	1JJV532D2EL802801		32,500
97	Trailer	2015	Wabash	ASR	ASR	1JJV532D2FL842331		33,900
98	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D2FL868038		37,000
99	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D2FL868041		35,500
100	Trailer	2015	Wabash	ASR	ASR	1JJV532D2FL868055		35,000
101	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D2FL868069		36,900
102	Trailer	2015	Wabash	ASR	ASR	1JJV532D3FL868002		36,700
103	Trailer	2015	Wabash	ASR	ASR	1JJV532D3FL868033		36,500
104	Trailer	2015	Wabash	ASR	ASR	1JJV532D3FL868047		37,500
105	Trailer	2015	Wabash	ASR	ASR	1JJV532D3FL868064		38,100
106	Trailer	2015	Wabash	ASR	ASR	1JJV532D4FL842332		33,100
107	Trailer	2015	Wabash	ASR	ASR	1JJV532D4FL867991		35,800
108	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D4FL868039		36,500
109	Trailer	2015	Wabash	ASR	ASR	1JJV532D4FL868042		35,500
110	Trailer	2015	Wabash	ASR	ASR	1JJV532D4FL868073		37,000
111	Trailer	2015	Wabash	ASR	ASR	1JJV532D5FL868034	[3]	36,895
112	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D5FL868048		36,500
113	Trailer	2015	Wabash	ASR	ASR	1JJV532D5FL868051	[3]	36,895
114	Trailer	2016	Wabash	ASR	ASR	1JJV532D5GL919095		38,500

Calculation Valuation of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price	
								Oct-21
								[2]
115	Trailer	2015	Wabash	ASR	ASR	1JJV532D6FL842333		37,000
116	Trailer	2015	Wabash	ASR	ASR	1JJV532D7FL867984		35,000
117	Trailer	2015	Wabash	ASR	ASR	1JJV532D7FL868066		37,100
118	Trailer	2014	Wabash	ASR	ASR	1JJV532D8EL802799		33,000
119	Trailer	2015	Wabash	ASR	ASR	1JJV532D8FL842334		32,300
120	Trailer	2015	Wabash	ASR	ASR	1JJV532D8FL867976		35,900
121	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D8FL868044		37,600
122	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D8FL868058		36,200
123	Trailer	2015	Wabash	Guru Logistics Inc.	ASR	1JJV532D9FL868036		36,500
124	Trailer	2015	Wabash	ASR	ASR	1JJV532D9FL868053		37,000
125	Trailer	2015	Wabash	ASR	ASR	1JJV532D9FL868067		37,000
126	Trailer	2015	Wabash	ASR	ASR	1JJV532D9FL868070		36,000
127	Trailer	2015	Wabash	ASR	ASR	1JJV532DXFL842335		36,500
128	Trailer	2016	Wabash	ASR	ASR	1JJV532DXGL919075		38,400
129	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W17L087305		11,800
130	Trailer	2006	Wabash	Guru Logistics Inc.	ASR	1JJV532W26L952345		9,500
131	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W27L037223		14,900
132	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W27L059724		11,400
133	Trailer	2007	Wabash	ASR	Trans Way Logistics	1JJV532W37L025890		10,300
134	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W37L059716		12,400
135	Trailer	2006	Wabash	Guru Logistics Inc.	ASR	1JJV532W46L952346		9,900
136	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W47L059725		13,900
137	Trailer	2006	Wabash	ProEx Logistics Inc.	ProEx Logistics Inc.	1JJV532W56L952758		10,300
138	Trailer	2006	Wabash	ASR	ASR	1JJV532W66L982223	[3]	33,878
139	Trailer	2006	Wabash	ASR	ASR	1JJV532W66L982237	[3]	10,950
140	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W77L087714		12,100
141	Trailer	2008	Wabash	Guru Logistics Inc.	ASR	1JJV532W77L087762		11,200
142	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532W87L059727		12,900
143	Trailer	2007	Wabash	Guru Logistics Inc.	ASR	1JJV532WX7L087304		16,300
144	Truck	2013	Mack	ASR	ASR	1M1AW07Y8DM031638	[3]	5,020
145	Trailer	2002	Trailmobile	Guru Logistics Inc.	ASR	1PT01ANH329002048	[3]	-
146	Trailer	2004	Utility	Guru Logistics Inc.	ProEx Logistics Inc.	1UYVS25314P153533		9,200
147	Trailer	2004	Utility	Guru Logistics Inc.	ProEx Logistics Inc.	1UYVS25324P153539		9,200
148	Trailer	2006	Utility	Guru Logistics Inc.	ASR	1UYVS25326M672336		15,000
149	Trailer	1999	Utility	Guru Logistics Inc.	ProEx Logistics Inc.	1UYVS2535XP927853	[3]	3,750
150	Trailer	2007	Utility	Guru Logistics Inc.	ASR	1UYVS25367P192705		10,800
151	Trailer	2000	Utility	Guru Logistics Inc.	ProEx Logistics Inc.	1UYVS2536YP359923		7,500
152	Trailer	2004	Utility	Guru Logistics Inc.	ProEx Logistics Inc.	1UYVS25374P153536		8,500

Calculation Valuation of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price	
								Oct-21
153	Trailer	2005	Utility	Guru Logistics Inc.	ASR	1UYVS25375G559317		[2] 9,300
154	Trailer	2004	Utility	Guru Logistics Inc.	ProEx Logistics Inc.	1UYVS25384P153545		9,200
155	Trailer	2007	Utility	Guru Logistics Inc.	ASR	1UYVS25397M135108		15,000
156	Company Car	2014	VW	ASR	ASR	1VWBN7A32EC009099	[3]	-
157	Truck	2006	Kenworth	Guru Logistics Inc.	ASR	1XKADB9X56J107606		1,000
158	Truck	2006	Kenworth	Guru Logistics Inc.	ASR	1XKADB9XX6J107729		7,700
159	Truck	2011	Kenworth	Guru Logistics Inc.	ASR	1XKDD49X3BJ945278		20,100
160	Truck	2011	Kenworth	Guru Logistics Inc.	ASR	1XKDD49XBBJ945275		21,000
161	Truck	2007	Peterbilt	Guru Logistics Inc.	ASR	1XP7DU9X47D691674		3,300
162	Trailer	2010	Diamond	ASR	ASR	2DM421A30AM011503		7,700
163	Trailer	2010	Diamond	ASR	ASR	2DM421A32AM011504		7,500
164	Trailer	2010	DMND	ASR	ASR	2DM421A32AM011504	[3]	8,180
165	Trailer	2010	DMND	ASR	ASR	2DM421A34AM011505	[3]	10,950
166	Trailer	2010	Diamond	ASR	ASR	2DM421A37AM011501		7,600
167	Trailer	2010	Diamond	ASR	ASR	2DM421A39AM011502		8,000
168	Truck	Unknown	Ford	ASR	ASR	2FWBA2CG92AJ51002	[3]	-
169	Company Car	2015	Honda	ProEx Logistics Inc.	Amarpreet Randhawa	2HGFB2F41FH044802	[3]	-
170	Trailer	2001	Manac	Guru Logistics Inc.	ProEx Logistics Inc.	2M592161217076974		7,900
171	Trailer	2001	Manac	Guru Logistics Inc.	ProEx Logistics Inc.	2M592161417076975		7,100
172	Trailer	2005	Manac	Guru Logistics Inc.	ProEx Logistics Inc.	2M592161O51100021		8,500
173	Trailer	2001	Manac	Guru Logistics Inc.	ProEx Logistics Inc.	2M592161X17076978		7,100
174	Trailer	2005	Manac	Guru Logistics Inc.	ProEx Logistics Inc.	2M592161X51100091		9,900
175	Trailer	2000	Trailmobile	Guru Logistics Inc.	ProEx Logistics Inc.	2MN01JAH1Y1002362		7,800
176	Trailer	2005	Trailmobile	Guru Logistics Inc.	ASR	2MN01JAH251001197		9,000
177	Trailer	2006	Trailmobile	ASR	ASR	2MN01JAH261002478		10,000
178	Trailer	2006	Trailmobile	ASR	ASR	2MN01JAH261002481		11,000
179	Trailer	1999	Mond	Guru Logistics Inc.	ProEx Logistics Inc.	2MN123147X0069033		7,500
180	Trailer	Unknown	Atlas	Guru Logistics Inc.	ASR	2V9CS53373S009372	[3]	-
181	Company Car	2017	GMC	ASR	ASR	3GTU2NEC9HG213631		25,100
182	Truck	2015	International	ASR	ASR	3HSDJAPR5FN697004	[3]	-
183	Company Car	2018	VW	ProEx Logistics Inc.	Swinderpal Randhawa	3VV4B7AX0JM100258	[3]	-
184	Company Car	2000	VW	ASR	ASR	3VWCA21C4YM431445	[3]	-
185	Truck	2011	Volvo	ASR	ASR	4V4MC9DF6BN529510		12,000
186	Truck	2008	Volvo	ASR	ASR	4V4MC9GF58N488968		14,500
187	Truck	2008	Volvo	ASR	ASR	4V4MC9GF68N488879		11,200
188	Truck	2008	Volvo	ASR	ASR	4V4MC9GF98N488889		10,600
189	Truck	2008	Volvo	ASR	ASR	4V4MC9GFX8N488867		2,700
190	Truck	2015	Volvo	ASR	ASR	4V4NC9EG3FN910572		47,100

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price	
								Oct-21
191	Truck	2016	Volvo	ASR	ASR	4V4NC9EG4GN950967		[2] 60,100
192	Truck	2015	Volvo	ASR	ASR	4V4NC9EG5FN910573		53,000
193	Truck	2015	Volvo	ASR	ASR	4V4NC9EG7FN910574		53,000
194	Truck	2017	Volvo	Receiver to Verify	ASR	4V4NC9EH0HN951088	[3]	70,025
195	Truck	2018	Volvo	ASR	ASR	4V4NC9EH0JN888435		93,100
196	Truck	2018	Volvo	ASR	ASR	4V4NC9EH1JN889299		106,100
197	Truck	2018	Volvo	ASR	ASR	4V4NC9EH1JN889304		98,600
198	Truck	2017	Volvo	ASR	ASR	4V4NC9EH2HN951125		62,100
199	Truck	2015	Volvo	ASR	ASR	4V4NC9EH3FN920950	[3]	16,300
200	Truck	2018	Volvo	ASR	ASR	4V4NC9EH3JN886310		98,500
201	Truck	2015	Volvo	ASR	ASR	4V4NC9EH4FN928457		37,800
202	Truck	2015	Volvo	ASR	ASR	4V4NC9EH6FN928458		48,000
203	Truck	2013	Volvo	ASR	ASR	4V4NC9EH7DN564824		16,300
204	Truck	2017	Volvo	ASR	ASR	4V4NC9EH7HN951282		77,200
205	Truck	2014	Volvo	Gurmail Sonar (Owner Op	ASR	4V4NC9EH8EN169732	[3]	28,033
206	Truck	2017	Volvo	ASR	ASR	4V4NC9EH9HN951302		69,500
207	Truck	2017	Volvo	ASR	ASR	4V4NC9EH9HN967306		71,300
208	Truck	2018	Volvo	ASR	ASR	4V4NC9EHXJN889303		120,000
209	Truck	2014	Volvo	ASR	ASR	4V4NC9EJ0EN170036		40,100
210	Truck	2015	Volvo	ASR	ASR	4V4NC9EJ0FN174539		36,000
211	Truck	2012	Volvo	ASR	ASR	4V4NC9EJ4CN540062		8,600
212	Truck	2015	Volvo	ASR	ASR	4V4NC9EJ4FN188248		36,000
213	Truck	2015	Volvo	ASR	ASR	4V4NC9EJ5FN179428		40,000
214	Truck	2015	Volvo	ASR	ASR	4V4NC9EJ9FN183644		13,500
215	Truck	2003	Volvo	Guru Logistics Inc.	ASR	4V4NC9GF93N345213		1,000
216	Truck	2006	Volvo	Guru Logistics Inc.	ASR	4V4NC9GG96N410476		2,000
217	Truck	2006	Volvo	ASR	ASR	4V4NC9GH06N412836	[3]	5,800
218	Truck	2008	Volvo	ProEx Logistics Inc.	ProEx Logistics Inc.	4V4NC9GH28N460180		14,000
219	Truck	2007	Volvo	ASR	ASR	4V4NC9GH47N447672		15,800
220	Truck	2007	Volvo	Guru Logistics Inc.	ASR	4V4NC9TG27N382057		3,700
221	Truck	2007	Volvo	Guru Logistics Inc.	ASR	4V4NC9TG67N382059		1,800
222	Truck	2007	Volvo	Guru Logistics Inc.	ASR	4V4NC9TG87N382063		4,000
223	Trailer	2011	Manac	ASR	ASR	5MC435328BK012326		17,300
224	Trailer	2011	Manac	ASR	ASR	5MC43532XBK012327		22,000
225	Trailer	2007	Vanguard	ASR	ASR	5V8VA53217M708397	[3]	12,657
226	Trailer	2007	Vanguard	ASR	ASR	5V8VA53227M708537	[3]	12,657
227	Trailer	2007	Vanguard	ASR	ASR	5V8VA53227M708540	[3]	12,657
228	Trailer	2007	Vanguard	ASR	ASR	5V8VA53237M708398	[3]	12,657

Calculation Valuation of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price	
								Oct-21
229	Trailer	2007	Vanguard	ASR	ASR	5V8VA53247M708538	[3]	12,657
230	Trailer	2007	Vanguard	ASR	ASR	5V8VA53257M708399	[3]	12,657
231	Trailer	2007	Vanguard	ASR	ASR	5V8VA53267M708394	[3]	12,989
232	Trailer	2007	Vanguard	ASR	ASR	5V8VA53267M708539	[3]	12,657
233	Trailer	2007	Vanguard	ASR	ASR	5V8VA53287M708400	[3]	12,657
234	Trailer	2007	Vanguard	ASR	ASR	5V8VA532X7M708401	[3]	12,657
235	Trailer	2013	Vanguard	ASR	ASR	5V8VC5320DM300558		23,000
236	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5321BM100835		19,000
237	Trailer	2010	Vanguard	ASR	ASR	5V8VC5322AM001701		15,800
238	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5322BM100777		21,000
239	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5322BM100780		20,000
240	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5322BM100830		18,000
241	Trailer	2009	Vanguard	Guru Logistics Inc.	ASR	5V8VC53239M902684		13,800
242	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5323BM100836		20,000
243	Trailer	2010	Vanguard	ASR	ASR	5V8VC5324AM001702		16,500
244	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5324BM100831		21,000
245	Trailer	2010	Vanguard	ASR	ASR	5V8VC5326AM001703		15,900
246	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5326BM100832		22,300
247	Trailer	2010	Vanguard	ASR	ASR	5V8VC5328AM001704		16,800
248	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5328BM100833		16,000
249	Trailer	2013	Vanguard	ASR	ASR	5V8VC5328DM300551		23,500
250	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC5329BM100775		18,100
251	Trailer	2010	Vanguard	ASR	ASR	5V8VC532XAM001705		21,100
252	Trailer	2011	Vanguard	Guru Logistics Inc.	Guru Logistics Inc.	5V8VC532XBM100834		20,700
253	Trailer	2014	Vanguard	ASR	ASR	5V8VC53BXEM400586	[3]	36,895
254	Other	2003	Volvo	ASR	N/A	EC360BLCV10566	[3]	-
255	Truck	Unknown	Ford	ASR	ASR	Unknown	[3]	-
256	Trailer	Unknown	Unknown	ASR	ASR	Unknown	[3]	-
257	Other	2006	John Deere	ASR	N/A	Unknown	[3]	-
258	Other	Unknown	Zetor	ASR	N/A	Unknown	[3]	-
259	Other	Unknown	Toyota	ASR	N/A	Unknown	[3]	-
260	Other	Unknown	Caterpillar	ASR	N/A	Unknown	[3]	-
261	Other	Unknown	Unknown	ASR	N/A	Unknown	[3]	-
262	Other	Unknown	Caterpillar	ASR	N/A	W829076	[3]	-
263	Company Car	2014	Audi	ASR	ASR	WA1CMCFP7EA013153	[3]	-
264	Total							6,044,574

DETAILED LIST OF FLEET

In CAD

Type	Year	Make	Unit Owner	Plate Owner	VIN Number	Notes	Final Sale Price Oct-21
							[2]

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Disclosure as provided by Management.
3. For the trucks and trailers owned by the Companies as at the Valuation Date, but were not part of the Final Sale as of October 2021, we have extrapolated their value based on average Final Sale price of comparable trucks or trailers (based on year of purchase).

CAPITAL EXPENDITURE ANALYSIS

In CAD

		ASR				ProEx			
		FMV over Rem. Useful life	Cost over Useful life	CAPEX % of Revenue	Average Amortization	FMV over Rem. Useful life	Cost over Useful life	CAPEX % of Revenue	Average Amortization
Approach # 1	[2]								
1 Trucks and trailers - FMV		5,704,162			286,790				
2 Weighted average life of company's fleet		6			12				
3 Useful life trucks as per below		12			12				
4 Remaining useful life		5			-				
5 CAPEX		1,063,227			-				
Approach # 2	[3]								
6 Trucks and trailers - Cost as at September 30, 2018			6,596,822			N/A			
7 Useful life trucks as per below			12						
8 CAPEX			566,251						
12 Average of Approach 1, and 2					814,739				-
13 Sustainable CAPEX selected	[4]				750,000				25,000
CAPEX % of revenue					7.7%				3.4%

\$ Millions [5]	Useful lives of Trucks (Years)	Midpoint of Useful Lives	FY15			FY16			FY17			FY18			Average CAPEX % of Revenue
			Capital Expenditure	Revenue	CAPEX % of Revenue	Capital Expenditure	Revenue	CAPEX % of Revenue	Capital Expenditure	Revenue	CAPEX % of Revenue	Capital Expenditure	Revenue	CAPEX % of Revenue	
14 Landstar System, Inc. (NasdaqGS:LSTR)	7 - 10	9	4.8	3,277	0.1%	22.6	3,121	0.7%	15.6	3,599	0.4%	9.7	4,563	0.2%	0.4%
15 Yellow Corporation (NasdaqGS:YELL)	10 - 20	15	108.0	4,832	2.2%	100.6	4,698	2.1%	103.3	4,891	2.1%	145.4	5,092	2.9%	2.3%
16 Schneider National, Inc. (NYSE:SNDR)	6 - 20	13	607.3	3,959	15.3%	547.5	4,046	13.5%	532.0	4,384	12.1%	512.5	4,977	10.3%	12.8%
17 J.B. Hunt Transport Services, Inc. (NasdaqGS:JBHT)	7 - 20	14	725.1	5,516	13.1%	638.4	6,007	10.6%	526.9	6,436	8.2%	995.7	7,558	13.2%	11.3%
18 Werner Enterprises, Inc. (NasdaqGS:WERN)	12 - 12	12	454.1	2,094	21.7%	537.8	2,009	26.8%	316.3	2,117	14.9%	519.9	2,458	21.2%	21.1%
19 Old Dominion Freight Line, Inc. (NasdaqGS:ODFL)	4 - 15	10	462.1	2,972	15.5%	417.9	2,992	14.0%	382.1	3,358	11.4%	588.3	4,044	14.5%	13.9%
20 Knight-Swift Transportation Holdings Inc. (NYSE:KNX)	3 - 20	12	221.7	1,062	20.9%	154.6	1,028	15.0%	388.7	2,199	17.7%	786.3	4,810	16.3%	17.5%
21 Saia, Inc. (NasdaqGS:SAIA)	10 - 14	12	86.5	1,221	7.1%	119.4	1,250	9.5%	186.7	1,405	13.3%	223.7	1,654	13.5%	10.9%
22 Titanium Transportation Group Inc. (TXSV:TTR)	5 - 15	10	2.7	87	3.1%	8.7	92	9.5%	1.1	102	1.1%	3.9	145	2.7%	4.1%
23 TFI International Inc. (TSX:TFII)	3 - 20	12	122.2	2,845	4.3%	86.6	2,903	3.0%	203.1	3,432	5.9%	246.3	3,533	7.0%	5.0%
24 Min	3 - 10	9	2.7	86.5	0.1%	8.7	91.5	0.7%	1.1	101.7	0.4%	3.9	145.1	0.2%	0.4%
25 Max	12 - 20	15	725.1	5,516.3	21.7%	638.4	6,007.4	26.8%	532.0	6,435.9	17.7%	995.7	7,557.7	21.2%	21.1%
26 Average	7 - 17	12	279.5	2,786.6	10.3%	263.4	2,814.5	10.5%	265.6	3,192.2	8.7%	403.2	3,883.3	10.2%	9.9%
27 Median	6.5 - 17.5	12	172.0	2,908.9	10.1%	137.0	2,947.3	10.1%	259.7	3,394.9	9.8%	379.4	4,303.3	11.7%	11.1%

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. We estimated CAPEX based on the fleet's fair market value and their remaining useful life as at the Valuation Date. In order to determine the remaining useful life of the company's fleet, we deducted the weighted average life of the company's fleet as at the Valuation Date of 6.3 years from the typical useful lives of such vehicles found in comparable companies of 11.7 years, to get to remaining useful life of fleet of approximately 5.4 years.
3. We estimated CAPEX based on the cost of fleet as owned by the company as at the Valuation Date and the useful lives of fleets as found in comparable companies of 15 years. Given cost of fleet for ProEx was not available, we did not consider this approach for estimating CAPEX for ProEx.
4. Based on our analysis, we have judgementally selected sustainable CAPEX for ASR of \$750k based on the two approaches as shown above. While for ProEx, although the two approaches yielded a \$nil value for CAPEX, we selected minimum CAPEX of \$25k, based on our discussion with Management.
5. Source: Publicly available information sourced from S&P Capital IQ and Annual Reports.

Calculation Valuation of 1542300 Ontario Inc. (dba ASR Transportation), ProEx Logistics Inc. and Guru Logistics Inc. as at October 31, 2018

COMPARABLE COMPANY ANALYSIS*In Millions of Stated Currency*

Company Name	Ticker	Currency		TEV	Market Cap	Tangible Book Value	Market Cap / TBV	Current Ratio	EV / LTM Revenue	EV / LTM EBITDA	Debt / EV		5 Year Beta	
		Filing	Trading								Total	Net	Levered	Unlevered
1 TFI International Inc.	TFII	CAD	CAD	5,331.2	3,854.0	(309.6)	(12.45x)	1.05x	1.09x	8.58x	27.9%	27.7%	1.05	0.88
2 Titanium Transportation Group Inc.	TTR	CAD	CAD	121.1	58.2	32.9	1.77x	0.79x	0.74x	6.72x	52.3%	52.0%	(0.25)	(0.18)
3 Yellow Corporation	YELL	USD	USD	1,015.8	281.3	(344.1)	(0.82x)	1.30x	0.20x	4.05x	87.9%	72.3%	3.80	2.56
4 Landstar System, Inc.	LSTR	USD	USD	4,016.9	4,115.1	685.3	6.01x	1.94x	0.90x	11.23x	3.8%	0.0%	1.10	1.10
5 Schneider National, Inc.	SNDR	USD	USD	3,922.7	3,870.9	1,753.8	2.21x	2.41x	0.84x	6.43x	10.8%	1.3%	1.32	1.31
6 J.B. Hunt Transport Services, Inc.	JBHT	USD	USD	13,138.0	12,076.0	2,080.6	5.80x	1.11x	1.59x	11.61x	8.1%	8.1%	0.95	0.89
7 Werner Enterprises, Inc.	WERN	USD	USD	2,407.1	2,291.7	1,243.5	1.84x	1.41x	1.01x	5.79x	5.2%	4.8%	1.07	1.03
8 Old Dominion Freight Line, Inc.	ODFL	USD	USD	10,561.5	10,694.0	2,616.9	4.09x	1.92x	2.70x	10.96x	0.4%	0.0%	1.40	1.40
9 Knight-Swift Transportation Holdings Inc.	KNX	USD	USD	6,582.0	5,699.5	1,042.5	5.47x	1.43x	1.24x	7.12x	14.8%	13.4%	0.99	0.90
10 Saia, Inc.	SAIA	USD	USD	1,721.8	1,601.0	646.3	2.48x	1.07x	1.09x	7.52x	7.0%	7.0%	1.01	0.96
11 EVO Transportation & Energy Services, Inc.	EVOA	USD	USD	21.4	0.3	(14.9)	(0.02x)	0.27x	5.79x	-	99.4%	98.4%	0.71	0.41
12 Minimum							(12.45x)	0.27x	0.20x	4.05x	0.4%	0.0%	(0.25)	(0.18)
13 Average							1.49x	1.34x	1.56x	8.00x	28.9%	25.9%	1.19	1.02
14 Median							2.21x	1.30x	1.09x	7.32x	10.8%	8.1%	1.05	0.96
15 Maximum							6.01x	2.41x	5.79x	11.61x	99.4%	98.4%	3.80	2.56

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Standard & Poor's Capital IQ

COMPARABLE TRANSACTION ANALYSIS*In Millions of Stated Currency*

	Target Company	Buyer	Close Date	Currency	Total Transaction Value	Implied Enterprise Value	LTM Revenue	LTM EBITDA	EV / LTM Revenue	EV / LTM EBITDA
1	YRC Worldwide Inc. (nka:Yellow Corporation)	-	16-Oct-13	USD	7.8	1,327.9	4,826.3	231.9	0.28x	5.73x
2	Contrans Group	TFI International (TSE: TFII)	14-Nov-14	CAD	455.9	488.1	577.6	77.1	0.85x	6.33x
3	Steelman Transportation	Daseke (NAS: DSKE)(Don Daseke)	01-Jul-17	USD	18.8	32.8	46.0	7.0	0.71x	4.69x
4	Southwest International Freight	Central States Trucking	01-Oct-18	USD	16.3	16.3	20.0	3.0	0.81x	5.42x
5	Minimum								0.28x	4.69x
6	Median								0.76x	5.57x
7	Average								0.66x	5.54x
8	Maximum								0.85x	6.33x

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Standard & Poor's Capital IQ

COMPARABLE COMPANY DESCRIPTIONS

Target Company	Descriptions
1 YRC Worldwide Inc. (nka:Yellow Corporation)	Yellow Corporation, through its subsidiaries, provides various transportation services primarily in North America.
2 Contrans Group	Contrans Group Inc., through its subsidiaries, provides freight transportation services to shippers in Canada and the United States. The company offers logistics services comprising third party outsourcing of transportation services. The company provides haul freight through vans, flatbed, dump, and dry bulk and liquid tank trailers. As of May 1, 2014, it owned or leased 1,400 power units and 2,600 trailers. The company was founded in 1985 and is headquartered in Woodstock, Canada. As of December 2, 2014, Contrans Group Inc. operates as a subsidiary of TransForce Inc.
3 Steelman Transportation	Steelman Transportation, Inc. offers freight trucking, transportation, brokerage and logistics services. The company was founded in 1981 and is headquartered in Springfield, Missouri. As of July 1, 2017, Steelman Transportation, Inc. operates as a subsidiary of Daseke Inc.
4 Southwest International Freight	In business for over 40 years, SWF's 120-driver fleet does everything from local and interstate intermodal drayage, to local and regional LTL / FTL delivery, and dedicated driver/tractor contract work at customer distribution centers and a number of national accounts

Notes

1. This schedule forms a part of, and must be read in conjunction with, the accompanying Grant Thornton LLP report, dated May 2, 2022.
2. Source: Standard & Poor's Capital IQ



[grantthornton.ca](https://www.grantthornton.ca)

Audit | Tax | Advisory

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Appendix “G”

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

THE HONOURABLE
T. MCEWEN

)
)
)

MONDAY, THE 28th
DAY OF FEBRUARY, 2022



SWINDERPAL SINGH RANDHAWA

Applicant

- and -

**RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS
ASR TRANSPORTATION), 2221589 ONTARIO INC., 2435963
ONTARIO INC., NOOR RANDHAWA CORP., SUPERSTAR
TRANSPORT LTD., R.S. INTERNATIONAL CARRIERS INC.,
SUBEET CARRIERS INC., SUPERSTAR LOGISTICS INC.,
CONTINENTAL TRUCK SERVICES INC., and ASR
TRANSPORTATION INC.**

Respondents

ORDER

THIS APPLICATION, made by the Applicant, Swinderpal Singh Randhawa (“**Paul**”), for an Order recognizing and enforcing the arbitral Order (the “**Arbitral Order**”) of Larry Banack (the “**Arbitrator**”) dated November 17, 2021, was heard by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 crisis;

ON READING the Arbitral Order and Award of the Arbitrator dated November 17, 2021 and granted pursuant to the arbitration clause set out in the Minutes of Settlement dated October 1, 2018 between Paul and Rana Partap Singh Randhawa (“**Rana**”), and the Consent:

IT IS HEREBY ORDERED THAT:

1. The Arbitral Order, a copy of which is attached hereto as Schedule "A", is recognized and enforced as a judgment or order of this Honourable Court, but only in respect of the costs ordered to be paid; and
2. Rana shall pay to Paul post-judgment interest on the principal amount owing under the Arbitral Order at a rate of 0.5% in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C. 43, from December 17, 2021 to the date that payment of all amounts owing under this Order are satisfied in full.



Schedule "A"

IN THE MATTER OF AN ARBITRATION under the *Arbitration Act, 1991*, SO 1991, C 1:

BETWEEN:

SWINDERPAL SINGH RANDHAWA

Applicant

- and -

**RANA PARTAP SINGH RANDHAWA, PROEX LOGISTICS INC.,
GURU LOGISTICS INC., 1542300 ONTARIO INC. (OPERATED AS ASR
TRANSPORTATION), 2221589 ONTARIO INC., 2435963 ONTARIO INC.,
NOOR RANDHAWA CORP., SUPERSTAR TRANSPORT LTD.,
R.S. INTERNATIONAL CARRIERS INC., SUBEET CARRIERS INC.,
SUPERSTAR LOGISTICS INC., CONTINENTAL TRUCK SERVICES INC., and ASR
TRANSPORTATION INC.**

Respondents

ORDER

THIS MOTION, made by Swinderpal Singh Randhawa ("**Paul**") was heard before me by videoconference on November 9, 2021.

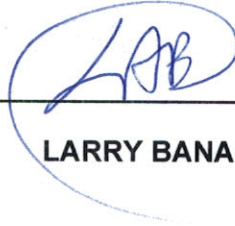
ON READING the evidence and written submissions filed by Paul and by Rana Partap Singh Randhawa ("**Rana**") in respect of this motion, and upon hearing the submissions of counsel by video-conference;

AND UPON delivering my Award dated November 17, 2021 in respect of this motion (the "**November Award**"), the following is so ordered:

1. Rana shall pay Paul \$525,000.00, inclusive of disbursements and HST, within 30 days of the date of this Order, in full and final satisfaction of Paul's claims for costs incurred in respect of Paul's *ex parte* motion that resulted in my Award and Order issued *ex parte* on July 3, 2020 and Rana's motion that resulted in my Award issued on October 26, 2020.
2. The parties' dispute in respect of the transfer of the India Properties (as defined in the November Award) is referred for mediation to Mr. Derry Millar, or to an alternate mediator if Mr. Millar is unavailable.

3. The parties shall immediately comply with my directions at paragraph 104 to 106 of my November Award in respect to the India Properties.
4. Costs of this motion shall be determined in accordance with the procedure outlined at paragraph 107 of my November Award.

DATED: NOVEMBER 17, 2021



LARRY BANACK, ARBITRATOR

Swinderpal Randhawa
Applicant

and

Rana Randhawa et al.
Respondents

Court File No. CV-18-593636-00CL

28 Feb 22

The order shall go on consent as per the draft filed and signed.
The March 4/22 hearing date is vacated.



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

Proceeding commenced at Toronto

ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
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Lawyers for the Applicant

Appendix “H”



SUPERIOR COURT OF JUSTICE

ENDORSEMENT

COURT FILE NO.: CV-18-00593636-00CL DATE: March 12, 2023

NO. ON LIST: 4

TITLE OF PROCEEDING: **RANDHAWA v RANDHAWA et al**

BEFORE: **MADAM JUSTICE STEELE**

PARTICIPANT INFORMATION

For Applicant:

Name of Person Appearing	Name of Party	Contact Info
Aaron Kreaden & Sam Dukesz	Swinderpal Singh Randhawa	akreaden@strikeman.com

For Respondents:

Name of Person Appearing	Name of Party	Contact Info
Jayson Thomas	Rana Partap Singh Randhawa	jthomas@loonix.com91
John M. Picone	KSV in its capacity as receiver	jpicone@cassels.com

ENDORSEMENT OF JUSTICE STEELE:

[1] Swinderpal Singh Randhawa (“Paul”) seeks an order that the respondent, Rana Partap Singh Randhawa (“Rana”), is responsible for all fees and expenses of the receiver and its counsel and an order requiring Rana to pay Paul’s legal costs incurred in connection with the receivership on a full indemnity basis. All other relief requested in the Notice of Motion was addressed at a motion before Justice Kimmel in November 2022.

[2] Rana brings a cross-motion staying the applicant’s motion pending the trial of the applicant’s action against him and others commenced in March 2022 (the “2022 Action”) or consolidating the applicant’s motion with the 2022 Action.

[3] The issues for determination on the motion are:

- Is Rana required to: (i) indemnify Paul for his legal costs associated with the Receivership; and (ii) fund the costs and disbursements that have been incurred by the Receiver and its counsel in connection with the Receivership?
- Should the motion be stayed pending the hearing of the 2022 Action or consolidated with the 2022 Action?

[4] For the reasons that follow, I am granting the applicant’s motion in respect of the fees associated with the Investigation Mandate but not the Sales Mandate and dismissing the respondent’s cross-motion.

I. Request to Stay or Consolidate

[5] I will first address the respondent’s cross motion.

[6] The matter before me is under receivership. Pursuant to paragraph 3 of the Receivership Order, the Receiver was authorized to:

- Operate and manage RGC and sell the trucking, warehousing and logistics business (the “Sales Mandate”); and
- Conduct an investigation of issues identified by the parties, including those identified by an arbitrator previously appointed in the dispute and by the Receiver, to ensure that the trucking business is being sold in a manner that maximizes value (the “Investigation Mandate”).

[7] Rana submits that this matter and the 2022 Action ought to be consolidated because, among other things, there are overlapping issues and evidence and a risk of inconsistent findings or judgments.

[8] The Receivership is coming to an end. Both the Sales and Investigation Mandates have been completed. There are minor items such as tax filings left to be completed. As noted by McEwen J. in his September 28, 2022 endorsement refusing to transfer the 2022 Action to the commercial list: the 2022 Action “largely involves a private dispute involving allegations of fraud between brothers.”

[9] The 2022 Action was commenced by the applicant prior to the completion of the Receivership to avoid limitations issues. Paul argues that the Receivership should not be suspended and rolled into a civil proceeding. I agree. The role of the Receiver is as set out in the Receivership Order. Where a receiver is appointed, there may be other civil claims that surface in the course of the receivership and these claims should not be consolidated with the receivership.

[10] The sales proceeds from the business are being held in escrow pending further order of the Court or resolution of the issue of allocation of costs. The 2022 Action is in very early stages. I agree with Paul’s submission that the proceeds of sale should not continue to be held in escrow pending these other civil proceedings.

II. Costs of Receivership

[11] Section 131 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, provides the Court with the inherent jurisdiction and discretion to order “the cost of and incidental to a proceeding or a step in a proceeding.” As noted above, the Receivership is in its final stages.

[12] In *Randhawa v. Randhawa*, 2021 ONSC 3643 (the “Koehnen Decision”), Justice Koehnen determined that the Receiver appointed to sell the parties’ trucking business, should also have investigatory powers. The parties had consented to the appointment of the Receiver for the Sales Mandate, but Rana had opposed the appointment of the Receiver for the Investigation Mandate.

[13] The Receiver was appointed pursuant to section 101 of the *Courts of Justice Act*. Section 101(2) of the *Courts of Justice Act* provides that an order made by the Court appointing a receiver may include such terms as are considered just. Paul submits that in exercising the discretion under section 101, Justice Koehnen imposed terms that gave the parties the right to move before the court for a re-allocation of costs “based on the interim and/or final results of the Sale Mandate and the Investigation Mandate.”

[14] Paul argues that the costs and disbursements of the Receiver and its counsel (the “Receiver’s Costs”) in respect of both the Investigation Mandate and the Sales Mandate should be allocated to Rana.

[15] With regard to the Investigation Mandate of the Receiver, Paul points to paragraphs 46-47 of the Koehnen Decision, which state:

Rana is entitled to dispute the facts on which the Arbitrator based his order for an investigation. The Arbitrator did not make definitive findings of fact in this regard nor is he entitled to. Indeed, the whole point of appointing an inspector is because facts need to be investigated. The test for the Arbitrator was whether there were sufficient grounds to have concerns about wrongdoing to warrant investigation. There were more than ample grounds in this regard. Rana also suggested before me that his son was no longer working at Motion. This may or may not be the case but it has nothing to do with the allegations of past misconduct levelled against Rana and his relationship with Motion.

With respect to the costs of the investigation, Paul has agreed to fund the investigation initially. If it finds wrongdoing, Paul will be compensated for the cost of the investigation out of the proceeds of sale. If it finds no wrongdoing, then the cost will remain for Paul’s account.
[emphasis added]

[16] Justice Koehnen clearly contemplated a reallocation of the Receiver’s Costs in the event it found wrongdoing. The bolded wording above suggests that if the Receiver finds wrongdoing, Paul will be compensated for the cost of the investigation out of the proceeds of sale. It does not address whether it is to come out of Rana’s portion of the proceeds of sale or the proceeds of sale generally (which would effectively mean both parties would cover the cost). Paul submits that Rana is to bear the cost from his portion of the proceeds of sale if wrongdoing is found.

[17] In any event, Justice Koehnen’s Order, dated June 4, 2021 (the “Koehnen Order”) in respect of the Koehnen Decision, contemplated that the parties could move for reallocation of the costs. Paragraphs 29 and 30 of the Koehnen Order state:

Paul will post \$100,000 with the Receiver, which shall be used to fund the initial fees and expenses of the Receiver and its counsel in respect of the Investigation Mandate. To the extent the \$100,000 is exhausted by the Receiver and its counsel, Paul will continue to post additional funds, in increments of \$25,000, to fund the fees and expenses of the Receiver and its counsel in respect of the Investigation Mandate until such time as the Investigation Mandate is completed or the Court orders otherwise.

Both Paul and Rana reserve their rights to claim at any time for a revised allocation of any past or future fees and disbursements paid to the Receiver or its counsel, or any other amounts ordered to be paid in connection with these proceedings and the proceedings before the Arbitrator, based on the interim and/or final results of the Sales Mandate and the Investigation Mandate. To this end, the Receiver shall hold in escrow all proceeds from the sale of the Trucking Business that are otherwise to be distributed to Paul or Rana pursuant to the October Minutes or otherwise until the issue of the allocation of costs has been resolved or further order of the court. For the avoidance of doubt, subject to further order of the Court, the Receiver may use the proceeds of the sale of the Trucking Business to fund the costs of the receivership as set out in this order, including the fees and expenses of the Receiver and its counsel. [emphasis added]

[18] The Receiver found wrongdoings (See section 4.1 of the Receiver's fifth report). Among other things, the Fifth Report makes clear that:

- "Rana was actively engaged with the set-up and operation of Motion to the detriment of the efforts to sell the Trucking Business" (section 4.1a)
- "ASR, at the direction or with the knowledge of Rana, actively solicited business for Motion at the expense of RGC and in particular, ProEx, a business that was operated by Paul" (section 4.2.1.1)
- "ASR permitted the use of ASR resources for Motion's benefit" (section 4.2.5)
- "the Receiver believes that rather than attempting to advance the sale of ASR, Rana was working to sell assets from ASR to Motion and transfer business from ASR to Motion" (section 4.3.2(e))
- "Had Rana been working in good faith to sell the business as required by the October Minutes, the Receiver is of the view that the business could have been sold within six months of the October Minutes" (section 4.3.7).

[19] The Receiver further indicated that that it had confidence in its findings. Section 3.4(3) of the Fifth Report stated:

...the Receiver is confident that its findings are supported by the steps it has taken and that an additional investigation is not required to make the findings that are the subject of this Report.

[20] Kimmel J. granted Rana the opportunity to ask questions in writing to the Receiver, which he did. The Receiver provided written responses to the questions. Rana has had a full opportunity to understand the

wrongdoings that are alleged. In the circumstances, I accept that there has been a fair process. I further note that the Receiver is a Court appointed officer.

[21] Rana argues that the Court cannot delegate its fact-finding role to the Receiver. I agree, however, with Paul's submission that I am not being asked to make factual findings at this stage. I am being asked to give effect to the costs regime that was put in place by Justice Koehnen. Justice Koehnen ordered that a party could move for the reallocation of any past or future Receiver's Costs based on the interim or final results of either mandate. The results of the Receiver's Investigation Mandate are clear. I further note that they are similar to the connections identified by the arbitrator set out at para. 22 of Paul's factum. In addition, as stated by Koehnen J. in the July 23, 2021 costs endorsement, at para. 10: "The entire investigation and appointment of an Inspector would have been unnecessary had Rana simply complied with what he had agreed to do."

[22] The parties had an agreement to sell the business. There should not have been a need for an investigation. The investigation was only needed because Rana had failed to provide the information he was required to produce.

[23] I am satisfied that Paul is entitled to be compensated by Rana, out of Rana's portion of the proceeds of sale, for the Receiver's Costs in respect of the Investigation Mandate paid by Paul, in accordance with the Koehnen Order.

[24] Paul also seeks to allocate the Receiver's Costs in respect of the Sales Mandate. Unlike the Investigation Mandate, the Koehnen Decision did not contemplate a regime regarding allocation of the Receiver's Costs for the Sales Mandate. The parties had agreed that a receiver should be appointed to sell the trucking business.

[25] The Receiver was of the view that Rana delayed the sale of the Trucking Business. Paul submits that Rana's wrongful conduct required the appointment of the Receiver to carry out the Sales Mandate. However, the Receiver was appointed on consent for the Sales Mandate and there was no specific costs re-allocation regime contemplated in the Koehnen Decision. There is not a full evidentiary record before me upon which I can make factual findings and allocate costs in respect of the Sales Mandate.

[26] Accordingly, it is my view that the Receiver's Costs in respect of the Sales Mandate ought to be paid out of the proceeds of sale of the Trucking Business.

III. Paul's Legal Costs

[27] Paul seeks an order requiring Rana to indemnify him for his legal costs and disbursements in the Receivership, which total approximately \$158,000. It is not clear what portion of the costs were incurred in respect of the Sales Mandate versus the Investigation Mandate. For the reasons set out above, it is my view that Paul's legal costs and disbursements in respect of the Investigation Mandate ought to be paid by Rana. If the parties are unable to agree on the portion allocable to the Investigation Mandate, they may schedule a 30-minute case conference before me to discuss next steps.

IV. Disposition and Costs

[28] Rana is solely responsible for the Receiver's Costs in respect of the Investigation Mandate, which shall be paid out of Rana's portion of the proceeds of sale of the Trucking Business.

[29] The Receiver's Costs in respect of the Sales Mandate shall be paid out of the proceeds of sale of the Trucking Business.

[30] If the parties are unable to agree on the portion of Paul's legal costs and disbursements in the Receivership that are allocable to the Investigation Mandate and therefore payable by Rana, they may schedule a 30-minute case conference with me to discuss next steps.

[31] Rana's motion is dismissed.

[32] Rana shall pay Paul's partial indemnity costs of this motion fixed in the amount of \$25,000.



Justice Steele

Date: March 12, 2023

Appendix “I”

Sure thAugust 30, 2024

Samantha Hargreaves
Direct line: 416-238-7446
Direct fax: 416-865-9010
Email: shargreaves@litigate.com

Via Email (nlevine@cassels.com)

Natalie Levine
Cassels Brock
Bay Adelaide Centre
North Tower, 40 Temperance St Suite 3200
Toronto, ON M5H 0B4

Dear Counsel:

**RE: In the Matter of Bankruptcy of Proex Logistics Inc., Guru Logistics Inc.,
1542300 Ontario Inc. (operated as ASR Transportation) and 2221589 Ontario Inc.
Court File No: BK-24-03014702-0031**

I write in response to your letter of August 23, 2024 advising of distributions the Trustee will seek to make in the bankruptcy proceedings for Proex Logistics Inc., Guru Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation) and 2221589 Ontario Inc.. We understand these distributions include payments to Swinderpal Singh Randhawa (“**Paul**”) pursuant to equity claims, and to Rana Partap Singh Randhawa (“**Rana**”) as a shareholder as the Bankrupt Entities.

As you are aware, Lenczner Slaght LLP has issued a Statement of Claim against Rana seeking payment of \$253,897.20 plus interest in unpaid legal fees (the “**Lenczner Action**”). A significant portion of Lenczner Slaght’s fees were incurred through our firm’s representation of Rana in the Receivership Proceedings in Court File No. CV-18-593636-00CL.

We intend to bring a motion in the bankruptcy proceedings seeking a solicitor’s lien and charging order over any funds to be distributed to either Rana or Paul to the extent that his claims are equity or similar claims over funds that would, but for those claims, have been distributed to Rana from any of the Bankrupt Entities.

I enclose a draft Notice of Motion in that regard.

In brief, as you will see from the Notice of Motion, we satisfy the criteria for a solicitor’s lien and charging order set out in section 34(1) of the *Solicitor’s Act*.¹ In particular, our work in the Receivership Proceedings was instrumental to the preservation and recovery of any funds now being distributed from the Bankrupt Entities which are going to or would, but for other equity or similar claims, go to Rana.

¹ *Solicitors Act*, RSO 1990, c S15, [s 34\(1\)](#); *Weenan v Baidi*, 2018 ONCA 288 at [para 15](#).

Any charging order obtained by our firm will take priority over payments made to Paul pursuant to his equity claims. A solicitor's charging order is a proprietary interest equivalent to that of a secured creditor in the property recovered or preserved through the instrumentality of the solicitor.² The charging order attaches to the property recovered or preserved through the instrumentality of the solicitor.³

I acknowledge receipt of the proof of claims sent earlier today. We will review this documentation and advise if further information is required. We anticipate seeking further particulars with respect to the exact distributions to be made by the Trustee.

We propose that our motion be scheduled alongside that of KSV for directions pursuant to section 34(1) of the *Bankruptcy and Insolvency Act*. Please keep our office apprised of any steps taken in that regard.

We have CC'd parties with email addresses available on the most up to date service list on the trustee's website. I ask that you provide us with an up-to-date service list so that we may ensure all parties to the bankruptcy proceeding are served with our notice of motion.

We are available to discuss this matter.

Yours truly,



Samantha Hargreaves

SJH/ap

Encl.

- c. Brian Kolenda, *Lenczner Slaght*
Aaron Kreadon and Sam Dukesz, *Stikeman Elliot LLP*
Jason Thomas, *Loopstra Nixon*
Christina Bowman and Jitesh Bhalla, *Bridge Law PC*
John Picone and Stephanie Fernandes, *Cassels Brock LLP*
Noah Goldstein and Christian Vit, *KSV Restructuring Inc.*
Jeff Johnston and Ferdous Ahmed, *Bank of Nova Scotia*
Jason Cowley, *VFS Canada Inc*
2412115 Ontario Inc O/A Diesel Solutions
Travelers Leasing Ltd. c/o Coast Capital Saving Federal Credit Union
Raymond Martin, *Penske*
Doris Hubner and Bill Southern, *Anchor Property Management*
Stacey Martin, *Riordan Leasing*

² See *Dalcor Inc v Unimac Group Ltd et al*, 2017 ONSC 945 at [para 17](#).

³ *Budinsky v The Breakers East Inc*, [1993 CanLII 5442 \(ON SC\)](#).

Insolvency Unit, Steven Groenveld and Leslie Crawford, *Ministry of Finance (Ontario)*

Elizabeth Woo, *Suncor Energy, Inc.*

Pat Confalone, *Canada Revenue Agency*

Napinder Masaun, *Xcent Lawyers PC*

Bicky Dhugga, *RZCD Law Firm LLP*

Jason Spetter, *Lipman, Zener and Waxman PC*

Chandra Gunaratna, *Teranet Inc.*

Appendix “J”

Cassels

August 23, 2024

Via E-Mail

Lenczner Slaght
130 Adelaide Street West
Suite 2600
Toronto, ON M5H 3P5

nlevine@cassels.com
tel: +1 416 860 6568
file # 54670-5

Attention: Brian Kolenda
bkolenda@litigate.com

Loopstra Nixon LLP
135 Queens Plate Drive
Suite 600
Toronto, ON M9W 6V7

Attention: Jayson Thomas
jthomas@LN.Law

Dear Sirs:

**Re: In the Matter of the Bankruptcy of ProEx Logistics Inc., Guru Logistics Inc.,
1542300 Ontario Inc. (operated as ASR Transportation) and 2221589 Ontario Inc. –
Court File No.: BK-24-03014702-0031**

As you know, we are counsel to KSV Restructuring Inc. in its capacity as trustee (the “**Trustee**”) of ProEx Logistics Inc., Guru Logistics Inc., 1542300 Ontario Inc. (operated as ASR Transportation) and 2221589 Ontario Inc. (collectively, the “**Bankrupt Entities**”).

Further to Mr. Kolenda’s letter dated January 8, 2024, we are writing to advise you of the upcoming distributions from the Bankrupt Entities.

Following a meeting with the inspectors of the Bankrupt Entities (the “**Inspectors**”), the Inspectors have approved a distribution to unsecured claimants and equity claimants. The Trustee intends to make these distributions following the expiry of the required timelines under the *Bankruptcy and Insolvency Act* (the “**BIA**”). Certain of the distributions expected to be made include amounts payable to Swinderpal Singh Randhawa (“**Paul**”) in connection with (i) a claim for wages, expenses and other amounts paid on behalf of the company of approximately \$118,000 and (ii) a claim for the failure to liquidate the assets of the trucking business in a timely manner. The Inspectors have approved payment of all unsecured claims, including

Paul's unsecured claim. In addition, the Inspectors have approved the payment to Paul of approximately \$2.65 million as an equity claim in respect of his claim related to the sale of the business.

Following payment of creditor claims the Trustee expects to distribute the balance of the proceeds in the estate to the shareholders of the business. Given that the BIA does not provide a mechanism for the return of funds to shareholders, the Trustee expects to bring a motion under section 34(1) of the BIA to establish a process to distribute the funds to shareholders, subject to any other orders that may be made, including orders in respect of the costs of the receivership. The Trustee expects to have approximately \$300,000 to distribute to shareholders.

Should you have any questions or concerns, please advise us no later than August 30, 2024, so that we may make appropriate arrangements to obtain directions from the Court if necessary.

Yours truly,

Cassels Brock & Blackwell LLP



Natalie E. Levine
Partner
Services provided through a professional corporation

NL/bn

IN THE MATTER OF THE BANKRUPTCY OF PROEX LOGISTICS INC., GURU LOGISTICS INC., 1542300 ONTARIO INC. AND 2221589 ONTARIO INC.

Court File Numbers: BK-24-03014702-0031

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

PROCEEDING COMMENCED AT
TORONTO

**SECOND REPORT OF KSV RESTRUCTURING INC.
AS TRUSTEE**

Cassels Brock & Blackwell LLP

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Lawyers for KSV Restructuring Inc. in its capacity as Trustee