

Court File No.

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

BETWEEN:

**KSV RESTRUCTURING INC., IN ITS CAPACITY AS PROPOSAL TRUSTEE OF
2806401 ONTARIO INC. o/a ALLIED TRACK SERVICES INC.**

Applicant

- and -

2806401 ONTARIO INC. o/a ALLIED TRACK SERVICES INC.

Respondent

**AIDE MEMOIRE OF THE APPLICANT
(Appointment of Interim Receiver)
Returnable September 6, 2022**

September 4, 2022

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

Chris Burr, LSO #55172H
Tel: 416-863-3261
Email: chris.burr@blakes.com

Caitlin McIntyre, LSO #72306R
Tel: 416-863-4174
Email: caitlin.mcintyre@blakes.com

Lawyers for the Applicant

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**IN THE MATTER OF AN APPLICATION PURSUANT
SECTION 47.1 OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, c. B-3, AS AMENDED**

**AIDE MEMOIRE OF THE APPLICANT
(APPOINTMENT OF INTERIM RECEIVER)**

1. The parties to the application are KSV Restructuring Inc. (“**KSV**”) in its capacity as proposal trustee (in such capacity, the “**Proposal Trustee**”) of 2806401 Ontario Inc. o/a Allied Track Services Inc. (“**Allied**”) and Allied.
2. This application is supported by Allied’s primary secured creditor and sole shareholder, Bridging Finance Inc., acting by its receiver, PricewaterhouseCoopers Inc. (“**Bridging**”). This application is not opposed by Allied.
3. On August 25, 2022, Allied filed a Notice of Intention to Make a Proposal (“**NOI**”), which triggered personnel departures, customer uncertainty and the Proposal Trustee has concerns about the short-term viability of Allied’s management.
4. The Proposal Trustee brings this application for the appointment of KSV as interim receiver of Allied pursuant to section 47.1 of the *Bankruptcy and Insolvency Act* (“**BIA**”) in order to urgently provide KSV with the powers necessary to facilitate the wind-down of Allied’s business, including providing assurances to employees, collecting receivables, securing equipment and completing the services under an agreement with Canadian Pacific Railway Company (“**CP**”).

that, if completed, will provide for greater stakeholder recoveries. This agreement is referred to as the “**Close Out Agreement**.”

5. The Close Out Agreement was finalized on Saturday, September 3, and provides for CP to pre-fund services in trust, which will enable Allied to complete the work and maximize receivables from CP. CP has required that the Proposal Trustee be appointed as interim receiver in order that the Close Out Agreement can be performed by a Court officer, as opposed to an insolvent company. Fulfilment of the terms of the Close Out Agreement will generate additional proceeds for Allied’s creditors and is in the best interest of Allied’s stakeholders generally (including Bridging, CP and Allied’s employees).

6. Allied has insufficient liquidity to complete the terms of its contracts with CP or wind itself up in a coordinated way. Bridging has advised that it will not provide any additional funding unless Allied is subject to bankruptcy or receivership proceedings. An interim receivership is superior to a bankruptcy for the reasons set out in the Proposal Trustee’s report.

7. The interim receivership is intended to be temporary and, if appointed, the interim receiver will return to court in due course to seek to either have itself discharged or appointed as a receiver.

8. The Proposal Trustee is seeking charges securing the fees and disbursement of KSV as interim receiver and its counsel, and to secure any funding it requires to administer the interim receivership. As the Proposal Trustee’s application is not being made on notice to Allied’s secured creditors (other than the Bridging), the draft order provides that the charges will be in priority to Bridging, but subordinate to all other registered encumbrances on Allied’s assets. If appointed, the interim receiver may return to Court to seek an order elevating the priority of these charges.

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(COMMERCIAL LIST)
Proceeding Commenced at Toronto

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