

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

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

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

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

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, AS AMENDED

RESPONDING PARTY'S APPLICATION RECORD

(Returnable Wednesday, July 7, 2021)

July 5, 2021

KIRWIN PARTNERS LLP
423 Pelissier Street
Windsor Ontario N9A 4L2

Rodney M. Godard
LSO# 18062F
Telephone: 519.255.9840 ext. 112
Facsimile: 519.255.1413
Email: rgodard@kirwinpartners.com

Angela Kubica
LSO# 74148E
Telephone: 519.255.9840 ext. 136
Facsimile: 519.255.1413
Email: akubica@kirwinpartners.com

Lawyers for the Plaintiffs

TO: **SERVICE LIST**

SERVICE LIST

CHAITONS LLP

5000 Young Street, 10th Floor
Toronto, Ontario M2N 7E9

Harvey Chaiton (LSO# 21592F)

Tel: (416) 218-1129
Fax: (416) 218-1849
Email: harvey@chaitons.com

Sanea Tanvir (LSO# 77838T)

Tel: (416) 218-1129
Fax: (416) 218-1853
Email: stanvir@chaitons.com

Lawyers for Skymark Finance Corporation

KIRWIN PARTNERS LLP

423 Pelissier Street
Windsor Ontario N9A 4L2

Rodney M. Godard (LSO# 18062F)

Telephone: 519.255.9840 ext. 112
Facsimile: 519.255.1413
Email: rgodard@kirwinpartners.com

**Counsel for Mahal Venture Capital Inc.
and Golden Miles Food Corporation**

KSV RESTRUCTURING INC.

150 King Street West, Suite 2308
Toronto, Ontario M5H 1J9

Noah Goldstein

Tel: (416) 932-6207
Email: ngoldstien@ksvadvisory.com

Proposed Receiver

WATEROUS HOLDEN AMEY HITCHON LLP

20 Wellington Street
P.O. Box 1510
Brantford, Ontario N3T 5V6

Dennis Touesnard

Tel: (519) 759-6220

Email: dtouesnard@waterousholden.com

Counsel for Vicano Construction Limited

DEPARTMENT OF JUSTICE OF CANADA

Ontario Regional Office

120 Adelaide Street West, Suite 400
Toronto, Ontario M5H 1T1

Diane Winters

Tel: (416) 973-3172

Fax: (416) 973-0810

Email: Diane.Winters@justice.gc.ca

Lawyers for Canada Revenue Agency

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS
REPRESENTED BY THE MINISTER OF FINANCE**

Legal Services

11th Floor, 777 Bay Street

Toronto, Ontario M5G 2C8

Tel: (416) 327-8463

Fax: (416) 325-1460

Email: insolvency.unit@ontario.ca

SANTOKH MAHAL

800 Swinbourne Drive

Mississauga, Ontario L5V 1J6

Email: s.mahal@rogers.com

JESSE MAHAL

800 Swinbourne Drive

Mississauga, Ontario L5V 1J6

Email: Jesse.mahal@gmail.com

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

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

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

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

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND
INSOLVENCY*
ACT, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF
JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

INDEX

Tab		Page No.
1	Affidavit of Santokh Mahal, sworn July 5, 2021	1 – 18
A	Exhibit “A” – Summary of the Mill operation and market overview	19 – 24
B	Exhibit “B” – Neil Boyko Letter of June 26, 2021	25 - 26
C	Exhibit “C” – Statement of Claim Issued June 21, 2021	27 – 37
D	Exhibit “D” – Audited Financial Statements, ending October 30, 2020	38 – 43

TAB 1

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

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

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

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

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, AS AMENDED

AFFIDAVIT

I, Santokh Mahal, of the City of Mississauga, in the Regional Municipality of Peel, MAKE OATH AND SAY;

1. I am the sole shareholder, officer and director of the Defendant, Golden Miles and, as such, have personal knowledge of the facts deposed to in this Affidavit unless otherwise indicated. Where I do not have personal knowledge, I identify the source of my information and belief and believe these facts to be true.

-2-

2. This affidavit is sworn in response to the application by Skymark for the appointment of KSV as receiver over all of the property, assets and undertakings of the Respondents.
3. I adopt the defined terms set out in the affidavit of Paul Millar sworn June 24th, 2021 (the “Millar Affidavit”).

A) OVERVIEW

4. Mahal owns the Real Property upon which Golden Miles constructed a flour mill (the “Mill”). The Mill employs eight individuals and will be the largest capacity automated flour mill in North America.
5. The Mill is on the cusp of commencing full production on two 12 hour shifts per day. It will produce 800 tons of flour per day at full production.
6. When in production, the Mill will generate a net annual profit of \$60,000,000.
7. Golden Miles acknowledges the Mahal Loans but disputes the amount alleged due for the Mahal Loans. Further, I dispute that there are GM Loans totalling \$9,972,473 as alleged in paragraph 6 of the Millar Affidavit.
8. The total advanced under the Mahal Loans was \$12,233,031.75. The total advanced under the GM Loans was \$2,159,499.48. Between August, 2020 and April, 2021, Golden Miles paid Skymark \$1,882,694.54 on account of the GM Loans. The balance due under the GM Loan, with interest and fees is \$1,139,433.97, not the \$9,972,437.18 alleged by Skymark at paragraph (i) of its Notice of Application.

-3-

9. The Debtors dispute that they are in default under the Mahal Loans or the GM Loans which, by agreement of Skymark and Mahal and Golden Miles, were not due until the Mill was in production. Further, Golden Miles did not execute and is not a party to the Forbearance Agreement, the breach of which is said by Skymark to justify the appointment of a receiver over the assets of Golden Miles.
10. There is no need for a receiver to take possession, preserve, market and sell the Real Property upon which is the Mill to maximize value for Skymark and the Debtors' other stakeholders. Golden Miles is a solvent company with sufficient resources to satisfy the full amounts due under the Mahal Loans and the GM Loans.
11. There is sufficient value in the Mill as a going concern to satisfy claims by all stakeholders including Skymark and Vicano, whose interests are in any event protected by its construction liens registered against the Real Property. All three of the mortgages registered by Skymark over the Real Property are building mortgages as defined in both the Construction Lien Act and the Construction Act which therefore have priority over Skymark's three mortgages to the extent of any deficiency in the holdback funds.
12. Further, Golden Miles is prepared to post an irrevocable letter of credit from a Schedule 1 bank to stand as security for the full amount of the amounts Skymark claims are due under the Mahal Loans and GM Loans until the appropriate balances due are determined by this court.
13. Under these circumstances, it is not just or convenient to appoint a receiver over the assets of the Debtors including the Real Property to maximize value for Skymark.

-4-

B) THE PARTIES

14. I agree with the description of the parties set forth in paragraphs 8 to 11 of the Millar Affidavit.

C) MAHAL

(i) Loans to Mahal

15. I agree with the facts set forth in paragraphs 12 to 16 of the Millar Affidavit with respect to the June 8, 2015, \$4 million Commitment Letter at Millar's exhibit C, except that Golden Miles retained Vicano to design and construct the Mill.
16. I also agree with the facts set forth in paragraphs 17, 18 and 19 of the Millar Affidavit with respect to the November 30, 2016, \$9.6 million Commitment Letter at exhibit D of the Millar Affidavit except that all amounts advanced under the \$4 million mortgage would be transferred to the \$9.6 million loan.
17. I also agree with the facts set out in paragraphs 20 and 21 of the Millar Affidavit with respect to the September 4, 2018, Commitment Letter at Miller's exhibit F.
18. The common theme to each of the three Commitment Letters was that the mortgage security was taken to secure the financing of an improvement, the construction of the Mill.
19. Also common to all three mortgage Commitment Letters was the obligation by Skymark to advance in stages as construction progressed against architect's certificates. Payments were to be made by Skymark directly to Vicano.

-5-

20. Philip Cohoon Architecture (“Cphoon”) was the payment certifier for the Mill construction. I arranged for Cohoon to provide Skymark with every certificate for payment issued to Vicano as construction progressed.
21. From the outset, Skymark was delinquent in the timing of its payments under the Mortgage Commitments. Skymark’s last payment to Vicano was made on November 26th, 2018, in the amount of \$1,500,000.00. That left an unpaid, but architect approved, balance of \$204,350.71 owing to Vicano.
22. The delayed payments caused friction with the contractor, Vicano which delayed progress on the Mill. The delinquency increased to the point that by March 31, 2019, Vicano’s receivable based on approved Cohoon architect’s certificates was \$3,074,498.48. This amount was payable by Skymark under its Commitment Letters to Mahal. As a direct result of not receiving payment on its Cohoon approved payment certificates, Vicano walked off the Mill site and abandoned the work in April, 2019 and registered the two construction liens referred to in paragraph 34 and exhibits K and L of the Millar Affidavit for \$5,079,998.47.
23. As of November 26th, 2018, Skymark had only advanced \$11,213,832.00 of the total of \$20,000,000.00 it had committed to advance under the three Commitment Letters.
24. Skymark made two further advances under the Commitment Letters. In January, 2019, it paid \$650,000 of the total of \$950,000 payable to MSM, a mechanical contractor on the Mill and in July, 2019, it paid \$454,405.84 to Coco Paving, which had performed site work and paving for the Mill.

-6-

25. As of July, 2019, Skymark had advanced only \$12,315,237.82 from the \$20,000,000 it had contracted to advance under the three Mahal loan Commitment Letters. No further advances have been made by Skymark on the Mahal loans.

D) GOLDEN MILES

(i) Loans to Golden Miles

26. I acknowledge that starting in October, 2017, Golden Miles signed the series of five HICA agreements referred to in paragraph 26 and exhibits H and I to the Millar Affidavit. Skymark did not, however, make loans to Golden Miles to finance the purchase of the equipment required in the operation of the Mill. Golden Miles had already purchased and paid for the equipment subject to the HICA agreements.

27. Resorting to the HICA agreements was proposed to me by Paul Millar and Slattery as an additional mechanism to raise the funds required by Skymark to comply with its three Mahal Loan Commitment Letters obliging Skymark to pay Vicano's progress draws. I was told by Slattery that Skymark was having difficulty in syndicating the Mahal loans.

28. It was their view that Skymark could more easily find participating lenders under the HICA agreements whose funds would then be used to pay Vicano, not purchase the equipment.

29. As it turned out, Skymark did advance a total of \$2,159,499.48 on account of the purchase of machinery by Golden Miles by payments made directly to Imas and Horst. These were the only advances made under the HICA agreements used for the purchase of equipment

-7-

and that is the measure of the debt obligation of Golden Miles to Skymark under the HICA agreements, subject to the payments made by Golden Miles to Skymark set out hereafter.

(ii) Security under the GM Loans

30. I agree with the description of the security interest in favour of Skymark under the HICA agreements set out in paragraphs 28 to 30 of the Millar Affidavit, including the fact that Skymark's PPSA security interest was not registered until May 31st, 2021.

31. I deny that Golden Miles was under default of any of the HICA agreements.

32. Golden Miles made a series of payments to Skymark from August 2020 to April, 2021 as referred to in paragraphs 45 and 46 of the Millar Affidavit. I caused these payments to be made by Golden Miles because of Slattery's personal request and his assertion that Skymark required the money to service its obligations related to the Mahal loans. Over that period, Golden Miles paid Skymark a total of \$1,882,694.54. Amounts due under the HICA agreements, including fees and interest is set out as follows:

loan	\$2,159,499.48
Paid	(\$1,882,694.54)
Fee 5%	\$107,974.97
interest	<u>\$754,654.06</u>
Balance:	\$1,139,433.97

-8-

33. Golden Miles will immediately pay that amount, or such other amount that is determined due on an accounting of the GM Loan, to Skymark in satisfaction of Golden Miles' HICA debt obligation to Skymark.

E) ALLEGED DEFAULT, FORBEARANCE AND DEMAND

(i) No Default: The Forbearance Undertaking

34. Mahal acquired the Real Property for the express purpose of constructing the Mill to be leased to Golden Miles for Golden Miles to operate a fully automated high-capacity flour milling operation. Skymark's offer to loan a total of \$20 million to Mahal for construction financing was agreed to because it permitted Mahal and Golden Miles to use their resources to pay the significant additional costs that would be incurred both for construction and for the purchase and installation of the sophisticated equipment required for the Mill operation. Attached hereto as Exhibit "A" is a summary of the nature of the Mill operation and market overview. I believe it to be true. This business plan was made known to Slattery and Paul Millar.
35. The agreement that I made with Slattery and Paul Millar as a precondition to agreeing to the Commitment Letters was that the construction aspect of the loans would be repayable only when the Mill was in full production at which point Skymark's related mortgage brokerage company, Skylark Holdings Limited, would obtain a bank first mortgage which would be used to payout the Skymark debt. This included both interest and principal (the "Forbearance Undertaking").

-9-

36. The Forbearance Undertaking applied equally to the GM Loans. The Forbearance Undertaking is acknowledged by Skymark at paragraphs 19, 22 and 23 of the Millar Affidavit. It was for that reason that no interest payments were made by Mahal or demanded by Skymark on any of the Mahal Loans or the GM Loans from Skymark's initial construction advance of \$1,593,224.95 on the 16th of May, 2017 until Slattery's email on June 25th, 2019, referred to at paragraph 36 and exhibit N (p.169) of the Millar Affidavit.
37. In the June 25th email, Slattery advised that none of the three mortgages would be renewed as a result of the Vicano construction lien the registration of which, ironically, was the direct result of Skymark's failure to advance under the Commitment Letters.
38. Slattery's June 25th email resulted from a meeting I had with Slattery and Paul Millar in May, 2019 following Vicano's abandonment of the work. I insisted that Skymark live up to its Commitment Letter obligation to pay Vicano, who was then owed over \$3 million but who had agreed to return to finish the work upon payment of \$2 million. I was told that Skymark did not have the money. I asked for a payout figure so that I could explore alternate financing to get the Mill to production.
39. I was then told that the balance due included the entire \$9 million amount of the HICA agreements with Golden Miles. I pointed out that only a portion had been advanced and provided Slattery and Paul Millar with a spread sheet that detailed that to May, 2019, total construction advances were only \$11,860,830 and HICA advances to Golden Miles were \$2,159,499.48.

-10-

40. Slattery then sent me his June 25, 2019 email which reiterated Skymark's position that the entire \$9 million amount of the HICA agreements was due and payable. I asked my then lawyer, Neil Boyko, to respond which he did by letter of June 26th attached as Exhibit "B".
41. That exchange resulted in a continuing dialogue over the actual balance due by Mahal and Golden Miles to Skymark, the payment of which would entitle Mahal and Golden Miles to have the \$29 million in security released.
42. The dialogue included Slattery's email of September 24, 2019, found at Exhibit O of the Millar Affidavit, which proposed further extensions of "your mortgages and other financial instruments" but proposed monthly payments commencing October 1st, 2019.
43. The inability to agree on the fundamental issue of how much was owing led to Mahal, Golden Miles, Canadafresh Corporation and me, personally, issuing the Mahal Litigation against Skymark and others on November 21, 2019, which claimed, in paragraphs 1(b) and (c) an accounting for all amounts due under the Mahal Loans and the GM Loans. The statement of claim in the Mahal Litigation is found at Exhibit P of the Millar Affidavit.
44. A further meeting was held with Slattery and Paul Millar at the offices of Bridging Finance Corporation ("Bridging") in December, 2019 to discuss the Mahal Litigation. Participants at the meeting included David Sharpe and Graham Marr from Bridging. I understood from Slattery that Bridging had advanced the bulk of the Mahal Loan to Skymark. When I pointed out the significant shortfall in the advances which had caused significant damages to Mahal and Golden Miles, the Bridging and Skymark participants walked out of the meeting and have refused to further discuss the issues with me.

-11-

(ii) Golden Miles not a party to the Forbearance Agreement dated March 12, 2020

45. I acknowledge the statement in paragraph 40 of the Millar Affidavit that Jesse had discussions with Slattery designed to conclude a formal forbearance agreement. Jesse was not authorized by Golden Miles to make agreements on behalf of Golden Miles in any forbearance agreement negotiated, although I was prepared for Golden Miles to enter into a formal forbearance agreement if it accurately reflected the balances due under the Mahal Loans and the GM Loans and essentially formalized the Forbearance Undertaking that had governed the relationship of the parties to that point. I was not involved in the negotiation of the Forbearance Agreement because Slattery and Millar refused to meet with me to discuss the issues.
46. As a result, the Forbearance Agreement that was negotiated did not accurately reflect the state of accounts on the GM Loans. For that reason, I did not execute it on behalf of Golden Miles. Golden Miles' failure to execute the Forbearance Agreement was deliberate and not the result of an "administrative error" as asserted in paragraph 40 of the Miller Affidavit.
47. Golden Miles is not a party to the Forbearance Agreement

(iii) Alleged Default under the Forbearance Agreement

48. For the reasons expressed in paragraphs 45 and 46, Golden Miles is not a party to the Forbearance Agreement and is not bound by its terms.

-12-

49. Further, Skymark was immediately in breach of its obligations to Mahal under paragraph 5.2 of the Forbearance Agreement in that it failed to advance the entire \$1.6 amount of the Jesse Loan which at that point was critical to the timely completion of the fire stopping component of the construction of the Mill.
50. This breach caused significant and foreseeable damage to Golden Miles, which was intended to be the beneficiary of the Jesse Loan. These damages are the subject of a Superior Court action in Milton issued on June 21st, 2021, a copy of which is attached as Exhibit “C” wherein Golden Miles claims damages from Skymark which exceed the amount of the Mahal Loan and the GM Loan.
51. Golden Miles has brought a motion to set aside the Dismissal Order of the Mahal Litigation, found at Exhibit W of the Millar Affidavit on the basis that only one of the four plaintiffs in the Mahal litigation, Mahal, had executed the Forbearance Agreement that contemplated the dismissal. Golden Miles had neither executed the Forbearance Agreement nor instructed its then lawyer to consent to a dismissal of the Mahal Litigation. and intends to proceed with the Mahal Litigation. The motion to set aside the Dismissal Order is returnable in Toronto on August 18th, 2021.

(iv) Demand

52. I acknowledge receipt of the letter and the NITES referred to in paragraphs 55 and 56 of the Millar Affidavit.

F) OTHER SECURED CREDITORS

-13-

53. Golden Miles registered a Charge over the Real Property on March 26, 2021, to secure the amount of \$35 million that Golden Miles has expended for the construction of the Mill for Mahal. This reflects the amount of the loan from Golden Miles to Mahal on that account.
54. I acknowledge the existence and accuracy of the financing statements registered under the Ontario PPSA set out in paragraph 61, 62 and Exhibit J (p.114) of the Millar Affidavit.
55. None of these debt obligations are in default.
56. The PPSA registration that I personally registered against Golden Miles secures the \$35 million in advances to Golden Miles as detailed in paragraphs 69 and 71 of this affidavit related to the purchase and installation of equipment and a number of construction costs funded by Golden Miles. This registration was prior in time to Skymark's.

G) IT IS NOT JUST AND CONVENIENT TO APPOINT A RECEIVER

57. There is a serious issue to be tried as to the actual value of the Debtors' debt obligation to Skymark.
58. I have tracked since the outset Skymark's advances under both the Mahal Loan and the GM Loan. Including interest and fees, my records reflect that the balance due on the Mahal Loan as at July 2nd, 2021 is \$17,859,772.45. The balance due on the GM Loan including interest and fees but net of the payments from Golden Miles from August, 2020, to April, 2021, is \$1,139,433.97 for a combined total of \$18,999,205.00.

-14-

59. This contrasts with Skymark's assertion at paragraph 63 of the Millar Affidavit that it is owed "in excess of \$29 million" and the amounts set out in paragraph (i) of the Notice of Application which claims a total amount owing as of June 21, 2021, of \$29,017,923.00
60. Determination of the actual balance due under the Mahal Loan and the GM Loan is a critical first step before a determination can be made as to whether it is just and convenient to appoint a receiver.
61. Pending determination of the actual balance due under the Mahal Loan and the GM Loan, Golden Miles is prepared to post security in the form of an irrevocable letter of credit from a Schedule I or II bank in the full amount of Skymark's claim as substitute security in place of Skymark's mortgage and HICA security registered against the Real Property.
62. There are no competing claims to certain assets as alleged in paragraph 65 of the Millar Affidavit. Skymark has priority by virtue of its three mortgages over the Real Property subject to Vicano's claim for priority for any deficiency in the holdbacks, which will be determined in the Vicano Lien action in Brantford.
63. The \$35 million mortgage in favour of Golden Miles is in support of actual advances by Golden Miles to Mahal for the construction of the Mill. In any event, Skymark's three mortgages have priority of registration. Golden Miles is not in favour of the appointment of a receiver to take possession, preserve, market and sell the Mill.

(iii) Golden Miles is not insolvent

-15-

64. The assertion in paragraph 33 of the Millar Affidavit that the Mill failed to become operational because Mahal and Golden Miles had insufficient funds to pay for completion of the Mill has no foundation.
65. Millar's belief expressed in paragraph 67 of his affidavit that the flour mill is not operating is not accurate. The Mill will be in full production commencing the week of July 5, 2021.
66. There is no question that the Mill has taken longer to complete than initially anticipated. This was primarily because of safety issues resulting from the building design by Vicano and its engineer, Lahnack. Because of the dust generation issue, a flour mill is classified as an F-1 high hazard building under the Ontario Building Code. F-1 buildings can be no more than four stories and cannot have a basement.
67. The Vicano building design had a basement and was six stories. Despite that reality, the City of Brantford issued a foundation building permit that allowed construction to go ahead. It subsequently issued a stop work order until the dust and safety issues were satisfactorily resolved. The resulting additional costs and Golden Miles delay damages are the subject of a consolidated action in Brantford between Golden Miles, Mahal, Vicano and Lahnack. That action is under the direction of a case management judge appointed by the RSJ and is progressing through a case managed timetable.
68. Golden Miles has funded the bulk of the Mill construction. It was as a direct result of Skymark's failure to advance the funds it had committed to advance that Vicano abandoned the site. Golden was obliged to retain replacement contractors to complete the work which has only just recently been done.

-16-

69. Golden Miles has expended from its own resources \$25 million to complete and equip the Mill comprised of these components:

i.	Equipment	\$12 million
ii.	Electrical	\$2.5 million
iii.	Electric motors	\$1.6 million
iv.	Flour silo	\$1.5 million
v.	Grain silo	\$1.3 million
vi.	Electrical PLC (automation)	\$.75 million
vii.	Machinery and silo installation	\$4.0 million
viii.	Engineering; electrical, architectural, high hazard dust analysis	\$.25 million
ix.	Fire safety equipment	\$1.5 million.

70. The \$25 million in additional costs were in addition to amounts paid by Skymark to Vicano under the Commitment Letters and prior to Vicano abandoning the work.

71. After Vicano abandoned the work in April, 2019, Golden Miles has disbursed an additional \$10 million comprised of these components:

i.	Fluid Construction (replacement contractor)	\$1.5 million paid (.5 million payable)
ii.	RBT (electrical)	


-17-

- iii. Fike (safety systems)
 - iv. Viva Mechanical (sprinkler system)
 - v. MSM (heating)
 - vi. Advance Grain (to commission equipment)
 - vii. Spark Electric (replaced RBT).
72. There has been over \$50 million expended for the purchase of the land, construction of the Mill and purchase and installation of equipment by Golden Miles which includes the \$15,474,737 in construction advances from Skymark under the Commitment Letters.
73. Golden Miles has received 500 tons of grain over the last two days and has contracted for delivery of an additional 4,500 tons which is being delivered by truck at a rate of 400 tons per day. Golden Miles has purchased a further 20,000 tons of wheat, one month's production, secured by a letter of credit for \$9 million.
74. The Mill is ready to begin full production on July 5, 2021. There have been 4 engineers on site commissioning the equipment since May 9, 2021. One month's production will generate \$15.4 million gross resulting in a net monthly profit of \$5 million. Golden Miles has a purchase order for full production.
75. Golden Miles has eight employees working in the Mill supporting two 12-hour shifts. Each shift requires one miller, one lab tech to test both wheat and flour every two hours and one mechanical employee.

-18-

76. The value of the Mill was addressed in an appraisal secured by Skymark in July, 2020 which opined that its fair market value was \$47 million. This was before production.
77. Based on a multiple of earnings, the value of the Mill as a going concern even at 3 times the current annual profits would be \$180 million.
78. Further, Golden Miles is an operating company producing and marketing food products in operations which do not yet include the Mill. Golden Miles' net profit for the period ending November 30, 2020, was \$7,162,971.98 on sales of \$11,964,113.09. Attached hereto as Exhibit "D" is a copy of the audited financial statements for Golden Miles for the period ending October 30, 2020.
79. For those reasons, Golden Miles is not insolvent and the appointment of a receiver to take possession of the Real Property and equipment to market and sell it is not just and convenient.
80. This affidavit is made in response and in opposition to Skymark's application for the appointment of a receiver and for no other or improper purpose.

SWORN by Santokh Mahal at the City of Brantford, in the County of Brant, before me at the City of Windsor, in the Province of Ontario, on July 5th, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.


 Commissioner for Taking Affidavits
 (or as may be)

MAJA BAKALIC


 SANTOKH MAHAL

RCP-E 4D (February 1, 2021)

TAB A

This is Exhibit "A" referred to in the Affidavit
of SANTOKH MAHAL, sworn before me this
5th, day of July, 2021.



A Commissioner, etc.

Summary

Golden Miles Food Corporation is the newest Flour Mill facility in the world. Construction Started in December 2015 and was completed in May 2020. The state-of-the-art facility can produce over 25,000 tons of flour per month, making it also the largest facility in North American. The Plant took several years to design its custom automation process which requires 5 operational staff to run the entire plant, compared to our competitors who employ hundreds of staff per process. Golden Miles Food Corporation is located at 155 Adams Blvd, Brantford Ontario on 26 acres of land with rail siding and 2 main track lines. All production processes are on site within three buildings. Grain Receiving and Storage (currently can hold 200,000 tons of grain with plans to increase to 2,000,000 tons on site), Grain cleaning and Dampening, Flour Production, Packaging and Bulk Load Out, and Warehousing. Totally over 100,000 square feet and over 90 feet in ceiling height.

Milling, according to experts, is one of Canada's oldest and most stable industries. In fact, the milling industry in this country was thriving as early as 1767, a full one hundred years before Canada even became a nation (BakersJournal.com).

Currently, according to the Canadian Millers Association, the flour milling industry in Canada is operating at over 100% capacity and bakery with production continuing 24 hours each day, with the majority of that capacity being made up of older facilities and equipment. The older plant technology used by the competition is one key area where Golden Miles have a real competitive advantage, as Golden Miles' labour costs will be reduced, as Golden Miles' milling operations are automated and non-union, requiring few individuals to run the plant, unlike the older labour-intensive technology utilized by the competition.

Golden Miles will not only be competitive on price, but will also be producing an extremely high-quality product with no human contamination within our entire production process. Sales of bulk flour will be to customers in both Southern Ontario and the United States. The U.S. market offers a significant opportunity for growth, not only because of the large population south of the border, but also due to the superior quality of Canadian wheat, which is highly sought after within the U.S. market and worldwide. 20-30% of production will go to grocery retailers and the remaining 70-80% will be sold to wholesale flour and medium/large bakeries.

Mr. Santosh Mahal, President, has spent the past 30 years in the flour milling industry, and will be a valuable resource and leader. Mr. Mahal began Golden Gate Flour Mill in 2001, creating a successful operation with a 40-tonne per day milling capacity, and was profitable throughout Mr. Mahal's leadership. The company was sold in May 2004 to Lorretta Food Group, but Mr. Mahal has retained close business relationships with a number of his previous customers who have agreed to purchase Golden Miles' products.

Golden Miles Food Corporation has over 15 years in the food Industry with its previous mill being sold in 2004. Now Golden Miles is primed for re-entrant in the flour milling and bakery production market with its new facility.

The mill will be operational 24 hours per day, 28 days each month, as the facility will be shut down for 1-2 days every month for routine maintenance.

Golden Mile Foods Corporation is a private corporation 100% owned by Mr. Santokh Mahal.

Products

Bakery Flour

- First Clear: Ash 48% Protein 12%
- Second Clear: Ash 65% Protein 13.5%
- Whole Wheat: Ash 100% Protein 14.5%

Durum Pasta Flour

- Fine Flour
- Coarse Flour
- Semolina
- Whole Wheat Durum Pasta Flour

Flour is packed in 5lbs (2.5Kg) 20lbs (10kg) 44lbs (20kg) paper bags, as well as 1 tonne totes and 40 tonne bulk tankers (which Golden Miles owns its own fleet of).

There will be no downtime required in switching from Hard Wheat to Durum Pasta Flour. The mill can produce any type of flour without stopping operations between productions of durum flour to production of bakery flour.

While other flourmills blend the bran and flour to make whole-wheat flour (60% low grade flour mixed with 40% coarse and fine bran), Golden Miles' whole-wheat flour uses higher-quality flour (based on protein and fibre content), making our stone ground whole-wheat flour with cracked wheat. Wheat and bran are therefore blended and ground together to produce better flour with more fibre and healthier flour.

Market Overview

Bakery Flour

Since bakery flour is a well-established commodity where the main operating cost is the cost of the wheat itself, all millers face the same reality of having to rise and lower prices with the changing price of wheat. These price fluctuations are transferred through to the end customer and as such will not dramatically impact Golden Miles' bottom line. The Chicago, Minnesota & Kansas City wheat Board controls the wheat price and all flour milling companies pay same price for the wheat.

The recent dramatic rise in commodity prices caused the pricing of flour to swing from \$10 per 100 CWT bag to \$18 per CWT in the span of a few years. This recent price volatility was partly responsible for the high price of wheat and fuel.

Durum Pasta Flour

Three types of durum Pasta flour - fine, coarse and whole wheat - made from durum wheat, are commonly used in Pasta and South Asian breads. This market represents a significantly large segment of the flour industry, making up about 8% of the total wheat market, and is currently serviced mainly by one miller in Saskatoon, Saskatchewan (Robin Hood). Margins will likely remain high in the durum market because there is no competition, due to the high quality of USA durum wheat and flour products.

Current total milling capacity in Canada is approximately 5000 tonnes per day of flour output (after applying adjustments to the numbers due to the recent phasing out of some older plants, and considering that certain flour mills in Canada are dedicated to feeding flour into production lines for cookies, pastries and other pre-packaged foods), which translates into significant amounts of flour having to be imported from the U.S. Until recently the supply balance was almost in equilibrium, with Canada actually having a small net export of wheat-based products. The recent closures of a 600-tonnes-per-day facility (Robin Hood's Port Colborne plant) as well as the destruction by fire of another 400-tonnes-per-day facility (Hayhoe Mill owned by Parrish & Heimbecker) are the two main factors responsible for the current supply deficit in Canada.

Competition

Key figures in the flour market are two major U.S.-owned competitors: Cargill Inc., which owns the Robin Hood line of flours, and Archer-Daniels-Midland (ADM), with their Five Roses flour products. These two companies control 65% of the market, with the remaining 35% highly fragmented amongst smaller competitors.

Golden Miles' most direct competitors in terms of size and location will be:

Bakery Flour Manufacturers in the Market

- 1) ADM
- 2) Cargill
- 3) Parrish & Heimbecker

These three companies supply flour to large bakeries, and have minimum order requirements of one truckload.

Flour Distributor

- 1) Far East distributor
- 2) Olympics distributor

These two distributors supply flour to small and medium size bakery, with 10 bags to one pallet. Golden Miles can supply direct to small and medium sized bakeries at a lower cost than these companies, all the while providing clients with a better-quality flour.

In the durum Atta flour market, Robin Hood's Golden Temple flour has a 95% market share and is a good quality product, which is produced, in fine, coarse and whole-wheat varieties, selling at \$1,650 per tonne. There are three other small players in the market that control the remaining 5%, but their durum Atta flour is only one type: coarse flour with lower quality, whereas demand

in the market is for all three varieties: fine, coarse and whole-wheat durum Atta flour. These other suppliers all buy flour from Howson and Howson, based in Blythe, Ontario.

Golden Miles will be the second largest competitor in durum flour market, as we will produce three types of flour using our new technology. Today's high demand for healthy food requires more fibres in the diet, hence the production of whole wheat and stone-ground flour.

Competitive Edge

Golden Miles' key advantage is our use of the newest equipment employing automatic controls throughout the milling and bakery process, thereby reducing the labour component to almost zero. Using the latest technology will also allow the company to:

- Produce a quality product
- Have the lowest price compared to our competition
- Provide consistent, on-time delivery
-

With the combination of modern equipment, leveraging the latest Internet B2B technologies, and implementing an advanced CRM/ERP system, Golden Miles will be able to quickly make a name for itself as one of the top flour and bakery product producers in North America.

Strategy and Implementation Summary

Golden Miles' sales and marketing strategy is centred on establishing our flour mill as the lowest-cost producer in the industry. Providing high-quality flour and bakery products coupled with superior customer relations, Golden Miles will become a trusted member of the milling community.

Current Customers – NDA with all clients

Retail Flour

- Maxi
- Zehr's
- Loblaws
- Real Canadian Superstore
- Walmart
- Longo's
- No Frills
- Fortino's

Bulk Orders

- Weston bulk
- Costco bulk
- US Flour

In discussions with

- Dare
- Give and Go
- Commercial Bakeries
- Fiera Foods
- Dimpflmeier
- Rudolph's Bakeries
- Dr. Oetker
- Molinaro's
- ARYZTA Canada Co.
- Pizza Pizza

TAB B

This is Exhibit "B" referred to in the Affidavit
of SANTOKH MAHAL, sworn before me this
5th, day of July, 2021.



A Commissioner, etc.

NEIL L. BOYKO
BARRISTER, SOLICITOR AND NOTARY

TEL: [416] 743-3232
FAX: [416] 743-5034
E-mail: neil@neilboykolaw.com

3500 DUFFERIN STREET
SUITE 303
TORONTO, ONTARIO
M3K 1N2

June 26, 2019

Via Fax 905-272-1905

Skymark Finance Corporation
46 Village Centre Place,
MISSISSAUGA, Ontario
L4Z 1V9

Attention: Mr. Michael Slattery and to Mr. Jerry Korman

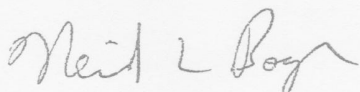
Re: Mahal Venture Capital Inc. first mortgage on 155 Adams Blvd. Brantford

As you are aware I am the solicitor for Mr. Mahal and his various companies. There seems to be some confusion on the amount owing on the various mortgages and the construction and machine advances. These can be divided into the following categories:

1. Land- One million advance;
2. Mortgage registered for 4 million-only 1 million advance;
3. Construction advances of \$11,213,831.98-Vicano Construction;
4. Paid to MSM \$650,000.00 secured by 9.6 million mortgage;
5. Machinery \$3,157,811.95 mortgage registered for 7.5 million against the machine Only;
6. Interest calculation on the 22nd day of each month in the amount of \$8,333.33 and leaving interest paid up to date;
7. Interest calculation for construction will be from June 6, 2017 to June 30, 2019.

Total owing on Construction and to MSM is \$11,863,831.98 plus interest.

Yours truly



NEIL L. BOYKO
NLB/la

TAB C

This is Exhibit "C" referred to in the Affidavit
of SANTOKH MAHAL, sworn before me this
5th, day of July, 2021.

A handwritten signature in blue ink, appearing to read "M. B. Adic", is written over a horizontal line.

A Commissioner, etc.



Court File No./N° du dossier du greffe: CV-21-0001817-0000

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued
Délivré par voie électronique : 21-Jun-2021
Milton

JESSE MAHAL, HELENA MAHAL, SANTOKH MAHAL and GOLDEN
MILES FOOD CORPORATION

Plaintiffs

and

SKYLARK HOLDINGS LIMITED and SKYMARK FINANCE
CORPORATION

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff.
The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

-2-

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: 491 Steeles Avenue East
Milton, Ontario L9T 1Y7

TO: Skylark Holdings Limited
46 Village Centre Place
Mississauga, Ontario L4Z 1V9

AND TO: Skymark Finance Corporation
46 Village Centre Place
Mississauga, Ontario L4Z 1V9

-3-

CLAIM

1. The Plaintiffs claim:

- (a) A Declaration that the Defendants are in breach of a mortgage commitment dated March 3, 2020 (the “Mortgage Commitment”) to advance to the individual plaintiffs the sum of \$1.6 million to be used by the corporate plaintiff to pay outstanding invoices due by it for costs related to development of a flour mill at 155 Adams Blvd in Brantford, Ontario;
- (b) A Declaration that the bonus and brokerage fee payable under the Mortgage Commitment have been forfeited as a result of the Defendants’ breach of the Mortgage Commitment;
- (c) An accounting to determine the actual amount due to the Defendant, Skymark Finance Corporation, for actual advances under the Mortgage Commitment secured by the charge/mortgage dated March 23, 2020 registered as instrument No. PR3630675 in the Land Registry Office for the Land Titles Division of Peel (No. 43) (the “Mortgage”);
- (d) Damages estimated in the amount of \$148 million resulting from the Defendants’ breach of the Mortgage Commitment;
- (e) An order that the Plaintiffs be entitled to set off their damages from the amounts determined to be due under the Mortgage;

-4-

- (f) An order that the Mortgage be discharged upon the Plaintiffs paying into court the amount claimed due by the Defendants under the Mortgage, \$837,809.07 to abide the determination of the issues raised in this proceeding;
- (g) Alternatively, an interlocutory injunction restraining the defendant, Skymark Finance Corporation from proceeding with a sale of the Property under a Notice of Sale dated June 8th, 2021 or otherwise exercising its mortgage remedies under the Mortgage pending determination of the issues raised in this proceeding;
- (h) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (i) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (j) the costs of this proceeding on an appropriate scale, plus all applicable taxes; and
- (k) such further and other Relief as to this Honourable Court may seem just.

The Parties

2. The Plaintiff, Jesse Mahal (“Jesse”), is an individual residing in the City of Mississauga, in the Province of Ontario. Jesse is an owner of the lands and premises Municipally known as 6845 Second Line West, Mississauga, Ontario L5W 1M8 (the “Property”) and a mortgager pursuant to the Mortgage Commitment.

-5-

3. The Plaintiff, Helena Mahal (“Helena”), is an individual residing in the City of Mississauga, in the Province of Ontario. Helena is an owner of the Property and a mortgagor pursuant to the Mortgage Commitment.

4. The Plaintiff, Santokh Mahal (“Santokh”), is an individual residing in the City of Mississauga, in the Province of Ontario. Santokh is an owner of the Property and a mortgagor pursuant to the Mortgage Commitment.

5. The Plaintiff, Golden Miles Food Corporation (“Golden”), is an Ontario corporation which is developing a flour mill at 155 Adams Boulevard in Brantford, Ontario (the “Mill”). Golden was to be the sole beneficiary of the proceeds of the loan made pursuant to the Mortgage Commitment.

6. The Defendant, Skylark (“Skylark”), is an Ontario corporation which carries on business as a mortgage brokerage with its head office in Mississauga, Ontario. Skylark was the mortgage broker for the Mortgage Commitment acting on behalf of both the lender and the borrowers.

7. The Defendant, Skymark (“Skymark”), is an Ontario corporation which carries on business as a national provider of financing and leasing solutions for residential and commercial clients with its head office in Mississauga, Ontario. Skymark was the lender and mortgagee under the Mortgage Commitment. Skylark and Skymark are related corporations.

The Mortgage Commitment

8. On or around March 3, 2020, Skylark prepared the Mortgage Commitment which provided that Skymark would lend to the individual Plaintiffs the sum of \$1.6 million to be secured by a second mortgage over the Property subject to an existing first mortgage of \$2,350,000.00.

-6-

9. The Mortgage Commitment resulted from the Defendant, Skymark's, obligations under article 5.2 of a Forbearance Agreement made as of March 12, 2020 between Skymark and Mahal Venture Capital Inc. under which Skymark agreed to provide an additional loan to Jesse Mahal in the amount of \$1.6 to be used solely to pay for the balance of the construction of the Mill. The additional loan was to be secured by a second-ranking charge on the Property.

10. Under the accepted Mortgage Commitment, the individual Plaintiffs formed a binding contract to take the \$1.6 million loan and the Defendants committed to provide the \$1.6 million loan subject to the terms of the Mortgage Commitment (the "Loan").

11. Skymark and Skylark knew that the sole purpose for the Loan was to pay debts of Golden related to the fire stopping portion of construction of the Mill to facilitate its completion and the issuance of an occupancy permit by the City of Brantford Chief Building Official. Details of the amounts to be paid were provided to the Defendants prior to the Mortgage Commitment and the defendant, Skymark, was to pay these debt obligations directly to the creditors from the \$1.6 million proceeds of the Loan.

12. The Defendants knew that the failure to do so would cause a delay in Golden's ability to obtain an occupancy permit, which would delay Golden's ability to operate the Mill and cause Golden significant economic damages.

13. It was in reliance upon the obligation of the Defendants under the Mortgage Commitment to advance the entire amount of the Loan that the individual Plaintiffs consented to registration of the Mortgage. The Defendants were under a contractual obligation to the individual Plaintiffs to

-7-

advance the entire amount of the Loan as consideration for the Mortgage, fees, bonus and interest rate payable under the Mortgage Commitment.

14. The Defendants owed a duty of care to Golden to advance the entire amount of the Loan upon the registration of the Mortgage to enable timely payment of Golden's fire stop debt obligations relating to the Mill and thereby secure an occupancy permit.

15. The Defendants breached their contractual obligation to the individual Plaintiffs and their duty of care to Golden by failing to advance the entire amount of the Loan upon registration of the Mortgage.

16. The breach was comprised of the failure by the Defendants to provide their lawyer, Kormans LLP, with the entire amount of the Loan and compounded by the failure of the Defendants to otherwise advance the entire amount of the Loan to pay Golden's agreed debt obligations for the Mill.

17. Skymark made only two advances to pay Golden's debts for the Mill and one further advance directly to Golden:

- a) \$342,440.51 bearing cheque number 26762 on March 30, 2020 to Richardson International;
- b) \$166,146.89 bearing cheque number 26904 on April 16, 2020 to RBT; and
- c) \$200,000.00 by cheque payable to Golden on March 23, 2020.

-8-

In total, the Plaintiffs assert that they owe Skymark the principal amount of \$708,587.40 advanced under the Mortgage Commitment. The Plaintiffs acknowledge this indebtedness subject, however, to their claim for set off.

18. As a result of the Defendants' breach of the Mortgage Commitment and duty of care to Golden, Golden has been delayed in the completion of the Mill and unable to secure an occupancy permit resulting in an extended delay in its ability to put the Mill into production.

19. Golden's damages resulting from this delay were the foreseeable and inevitable result of the defendants' breach of the Mortgage Commitment.

20. Golden's damages from the defendants' failure to advance the full amount are estimated at \$148 million. Golden, and the individual Plaintiffs, claim an entitlement to set off those damages against amounts otherwise due to the Defendant, Skymark, for the principal amounts and interest advanced under the Loan.

21. The Plaintiffs were not able to mitigate those damages by alternative borrowing because the Mortgage amount rendered additional borrowing on the security of the Property impossible to obtain.

22. As a further result of the Defendants' breach of the Mortgage Commitment, there has been a complete failure of the consideration provided by the individual Plaintiffs in the form of the contractual fees, bonus and excessive interest conditions contained in the Mortgage Commitment.

23. In Superior Court of Justice action CV-21-00001426-0000 the defendant, Skymark, claims payment of the sum of \$837,809.07 as the amount due under the Mortgage as at May 12, 2021.

-9-

24. The Defendant, Skymark, delivered a Notice of Sale under Charge/Mortgage of Land dated June 8th, 2021 claiming a total amount due as at June 8, 2021 of \$859,854.12.

25. The individual Plaintiffs request an interlocutory injunction restraining the defendant, Skymark, from exercising its mortgage remedies, including a sale under the Notice of Sale, pending determination of the issues in this proceeding. The individual Plaintiffs rely on s. 101 of the Courts of Justice Act and Rule 40 of the Rules of Civil Procedure.

26. The Plaintiffs request that this matter be tried in the City of Milton, in the Province of Ontario, together with Superior Court of Justice action CV-21-00001426-0000 at Milton.

June 21, 2021

KIRWIN PARTNERS LLP

423 Pelissier Street
Windsor ON N9A 4L2

Rodney M. Godard

LSO# 18062F
Telephone: 519.255.9840 ext. 112
Facsimile: 519.255.1413
Email: rgodard@kirwinpartners.com

Angela Kubica

LSO# 74148E
Telephone: 519.255.9840 ext. 136
Facsimile: 519.255.1413
Email: akubica@kirwinpartners.com

Lawyers for the Plaintiffs

RCP-E 14A (June 9, 2014)

B-1-45

B-1-45

GOLDEN MILES FOOD CORPORATION et al.
Plaintiffs

-and- SKYLARK HOLDINGS LIMITED et al.
Defendants

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Milton

STATEMENT OF CLAIM

KIRWIN PARTNERS LLP
423 Pelissier Street
Windsor ON N9A 4L2

RODNEY M. GODARD
LSO # 18062F
Telephone: 519.255.9840 ext. 112
Email: rgodard@kirwinpartners.com

ANGELA KUBICA
LSO # 74148E
Telephone: 519.255.9840 ext. 136
Email: akubica@kirwinpartners.com

Lawyers for the Plaintiffs

File Number: 101976

RCP-E 4C (September 1, 2020)

TAB D

This is Exhibit "D" referred to in the Affidavit
of SANTOKH MAHAL, sworn before me this
5th, day of July, 2021.

A handwritten signature in blue ink, appearing to read "M. Bakshic", is written over a horizontal line.

A Commissioner, etc.

GOLDEN MILES FOOD CORPORATION

FINANCIAL STATEMENTS
October 30, 2020
(AUDITED - SEE NOTICE TO READER)

INDEX

Notice to Reader	Page 1
Balance Sheet	Page 2
Statement of Income	Page 3
A/R Aging Summary	Page 4

Perry Singh

Chartered Professional Accountant

19 Nomad Crescent

Toronto, Ontario M3B 1S5

Telephone: (416) 447-9399 Fax: (416) 447-3076

Notice to Reader

On the basis of information provided by management, I have compiled the balance sheet of Golden Miles Food Corporation as at November 30, 2020 and the statements of income for the year then ended.

I have performed an audit and a review engagement in respect of these financial statements and, accordingly, I express all statements are accurate in regards to all information provided to me by Golden Miles Food Corporation.

Readers are cautioned that these statements may not be appropriate for their purposes.



Perry Singh
Chartered Professional Accountant

Toronto, Ontario December 7, 2020

Golden Miles Food Corporation
Balance Sheet
As of November 30, 2020
(Audited - See Notice to Reader)

	Total
Assets	
Current Assets	
Cash and Cash Equivalent	
Chequing	2,507,286.61
USD Chequing	0.00
Total Cash and Cash Equivalent	\$ 2,507,286.61
Accounts Receivable (A/R)	
Accounts Receivable (A/R)	1,331,365.57
Total Accounts Receivable (A/R)	\$ 1,331,365.57
Inventory Asset	915,628.53
Total Current Assets	\$ 4,754,280.71
Non-current Assets	
Property, plant and equipment	
Accumulated Depreciation Building	-854,334.07
Accumulated Depreciation Furniture & Fixtures	-1,036.82
Accumulated Depreciation Machinery and Equipment	-3,452,388.97
Buildings	22,124,725.17
Furniture and Fixtures	15,593.81
Machinery and equipment	19,141,663.92
Total Property, plant and equipment	\$ 36,974,223.04
Total Non Current Assets	\$ 36,974,223.04
Total Assets	\$ 41,728,503.75
Liabilities and Equity	
Liabilities	
Current Liabilities	
Accounts Payable (A/P)	
Accounts Payable (A/P)	5,293,413.26
Accounts Payable (A/P) - EUR	0.00
Accounts Payable (A/P) - USD	1,540,000.00
Total Accounts Payable (A/P)	\$ 6,833,413.26
Corporation Taxes Payable	-44,919.42
GST/HST Payable	-3,169,686.54
Payroll liabilities	2,346.00
Total Current Liabilities	\$ 3,621,153.30
Non-current Liabilities	
Bank loans	40,000.00
Mortgages	17,496,180.00
Obligations under finance leases	8,784,889.45
Total Non-current Liabilities	\$ 26,321,069.45
Total Liabilities	\$ 29,942,222.75
Equity	
Opening Balance Equity	191,354.51
Owner's Equity	2,689,429.76
Share capital	0.00
Retained Earnings	1,742,524.75
Profit for the year	7,162,971.98
Total Equity	\$ 11,786,281.00
Total Liabilities and Equity	\$ 41,728,503.75

Golden Miles Food Corporation
Income Statement
November 30, 2019 - November 30, 2020
(Audited - See Notice to Reader)

	Total
INCOME	
Sales of Product Income	11,964,113.09
Total Income	\$ 11,964,113.09
COST OF GOODS SOLD	
Cost of Goods Sold	2,076,039.45
Shipping, Freight and Delivery - COS	36,697.56
Total Cost of Goods Sold	\$ 2,112,737.01
Total Cost of Goods Sold	\$ 2,112,737.01
GROSS PROFIT	\$ 9,851,376.08
EXPENSES	
Auto	7,455.05
Bank charges	2,460.00
Dues and Subscriptions	2,970.04
Import Duties Taxes Paid	11,034.64
Insurance	211,733.63
Interest Expense	1,518,237.92
Legal and professional fees	84,346.69
Purchases	55,835.27
Rent or Lease of Buildings	334,968.84
Repair and maintenance	2,251.13
Shipping, Freight, and Delivery	68,468.38
Supplies	24,542.36
Travel	10,835.87
Travel meals	677.45
Utilities	352,586.83
Total Expenses	\$ 2,688,404.10
OTHER EXPENSES	
Import Clearing	0.00
Total Other Expenses	\$ 0.00
PROFIT	\$ 7,162,971.98

Golden Miles Food Corporation
A/R Aging Summary
As of November 30, 2020
(Audited - See Notice to Reader)

	Current	1 - 30	31 - 60	61 - 90	91 and over	Total
2581150 Ontario Inc					72,854.30	72,854.30
Dollar Tree Stores Canada Inc.	6,982.56	21,142.77				28,125.33
M One MFG			1,161,600.00			1,161,600.00
Warehouse Trading Inc.					1,780.55	1,780.55
William Dunne & Associates	67,005.39					67,005.39
TOTAL	\$ 73,987.95	\$ 21,142.77	\$ 1,161,600.00	\$ 0.00	\$ 74,634.85	\$ 1,331,365.57

SKYMARK FINANCE CORPORATION
Applicant

-and- MAHAL VENTURE CAPITAL INC. et al.
Respondents

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

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

Proceeding commenced at Toronto

AFFIDAVIT

KIRWIN PARTNERS LLP
423 Pelissier Street
Windsor ON N9A 4L2

RODNEY M. GODARD
LSO # 18062F
Telephone: 519.255.9840 ext. 112
Email: rgodard@kirwinpartners.com

ANGELA KUBICA
LSO # 74148E
Telephone: 519.255.9840 ext. 136
Email: akubica@kirwinpartners.com

Lawyers for the Respondents

File Number: 101937

SKYMARK FINANCE CORPORATION
Applicant

-and- MAHAL VENTURE CAPITAL INC. et al.
Respondents

Court File No. CV-21-00664778-09CL

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

**RESPONDING APPLICATION RECORD
(COMMERCIAL LIST)**

KIRWIN PARTNERS LLP
423 Pelissier Street
Windsor ON N9A 4L2

RODNEY M. GODARD
LSO # 18062F
Telephone: 519.255.9840 ext. 112
Email: rgodard@kirwinpartners.com

ANGELA KUBICA
LSO # 74148E
Telephone: 519.255.9840 ext. 136
Email: akubica@kirwinpartners.com

Lawyers for the Plaintiffs

File Number: 101937