

**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

**MOTION RECORD
(Approval of Sale Process and Ancillary Matters)
Returnable November 22, 2021**

November 15, 2021

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

Maia Jorgensen, LSO #80008B
Tel: 416-863-2498
Fax: 416-863-2653
Email: maia.jorgensen@blakes.com

Lawyers for the Receiver

TO: SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Respondents

SERVICE LIST

(as at November 3, 2021)

<p>CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, Ontario M2N 7E9</p> <p>Harvey Chaiton (LSO # 21592F) Tel: 416-218-1129 Fax: 416-218-1849 Email: harvey@chaitons.com</p> <p>Saneea Tanvir (LSO # 77838T) Tel: 416-218-1128 Fax: 416-218-1853 Email: stanvir@chaitons.com</p> <p>Lawyers for Skymark Finance Corporation</p>	<p>DICKINSON WRIGHT LLP 199 Bay Street Suite 2200, Box 447 Commerce Court Postal Station Toronto, Ontario M5L 1G4</p> <p>David P. Preger (LSO #36870L) Tel: 416-646-4606 Email: dpreger@dickinsonwright.com</p> <p>Lisa S. Corne (LSO #27974M) Email: lcorne@dickinsonwright.com</p> <p>David Z. Seifer (LSO #77474F) Tel: 416-646-6867 Email: dseifer@dickinsonwright.com</p> <p>Lawyers for the Respondents, Mahal Venture Capital Inc. and Golden Miles Food Corporation</p>
---	--

<p>KSV RESTRUCTURING INC. 150 King Street West, Suite 2308 Toronto, Ontario M5H 1J9</p> <p>Noah Goldstein Tel: 416-932-6207 Email: ngoldstein@ksvadvisory.com</p> <p>Mitch Vininsky Email: mvininsky@ksvadvisory.com</p> <p>Murtaza Tallat Email: mtallat@ksvadvisory.com</p> <p>Receiver</p>	<p>BLAKE, CASSELS & GRAYDON LLP 199 Bay Street Suite 4000, Commerce Court West Toronto, Ontario M5L 1A9</p> <p>Chris Burr Tel: 416-863-3261 Email: chris.burr@blakes.com</p> <p>Maia Jorgensen Tel: 416-863-2498 Email: maia.jorgensen@blakes.com</p> <p>Lawyers for the Receiver</p>
<p>WATEROUS HOLDEN AMEY HITCHON LLP 20 Wellington Street P.O. Box 1510 Brantford, Ontario N3T 5V6</p> <p>Dennis Touesnard Tel: 519-759-6220 Email: dtouesnard@waterousholden.com</p> <p>Lawyers for Vicano Construction Limited</p>	<p>GARDINER ROBERTS LLP Bay Adelaide Centre – East Tower 22 Adelaide Street West, Suite 3600 Toronto, Ontario M5H 4E3</p> <p>Rob Winterstein Tel: 416-865-6790 Email: rwinterstein@grllp.com</p> <p>Lawyers for Andrew Thomson, 2620509 Ontario Inc., 2580165 Ontario Inc., Cameron Renaud, 1061307 Ontario Inc. and KLN Holdings Inc.</p>
<p>DEPARTMENT OF JUSTICE CANADA Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, Ontario M5H 1T1</p> <p>Diane Winters Tel: 416-973-3172 Fax: 416-973-0810 Email: diane.winters@justice.gc.ca</p> <p>Lawyers for Canada Revenue Agency</p>	<p>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</p> <p>Tel: 416-327-8463 Fax: 416-325-1460 Email: insolvency.unit@ontario.ca</p>
<p>SANTOKH MAHAL 800 Swinbourne Drive Mississauga, Ontario L5V 1J6 Email: s.mahal@rogers.com</p>	<p>JESSE MAHAL 6845 Second Line West Mississauga, Ontario L5W 1M8 Email: jesse.mahal@gmail.com</p>

<p>BORDEN LADNER GERVAIS Bay Adelaide Centre, East Tower 22 Adelaide Street West Toronto, Ontario M5H 4E3</p> <p>Roger Jaipargas Tel: 416-367-6266 Email: rjaipargas@blg.com</p> <p>Lawyers for Ardent Mills ULC</p>	<p>FREEMAN LEGAL Exchange Tower 130 King Street West Suite 1200, P.O. Box 212 Toronto, Ontario M5X 1A6</p> <p>Joshua R. Freeman Tel: 416-492-2775 Email: jfreeman@freemanlegal.ca</p> <p>Lawyers for Garage Living Inc.</p>
<p>THORNTON GROUT FINNIGAN LLP 100 Wellington Street West, Suite 3200 TD West Tower, Toronto-Dominion Centre Toronto, Ontario M5K 1K7</p> <p>Grant B. Moffat Tel: 416-304-0599 Email: gmoffat@tgf.ca</p> <p>Adam Driedger Tel: 416-304-1152 Email: adriedger@tgf.ca</p> <p>Lawyers for PricewaterhouseCoopers Inc., in its capacity as court-appointed receiver and manager of Bridging Finance Inc. <i>et al.</i></p>	

Email Distribution List:

harvey@chaitons.com; stanvir@chaitons.com; dpreger@dickinsonwright.com;
lcorne@dickinsonwright.com; dseifer@dickinsonwright.com; ngoldstein@ksv advisory.com;
mvininsky@ksv advisory.com; mtallat@ksv advisory.com; chris.burr@blakes.com;
maia.jorgensen@blakes.com; dtouesnard@waterousholden.com; rwinterstein@grllp.com;
diane.winters@justice.gc.ca; insolvency.unit@ontario.ca; s.mahal@rogers.com;
jesse.mahal@gmail.com; rjaipargas@blg.com; jfreeman@freemanlegal.ca; gmoffat@tgf.ca;
adriedger@tgf.ca;

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

B E T W E E N:

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Applicant

- and -

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MOTION RECORD

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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

**NOTICE OF MOTION
(Approval of Sale Process and Ancillary Matters)
Returnable November 22, 2021**

KSV RESTRUCTURING INC., in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Mahal Venture Capital Inc. (“**Mahal VC**”) and Golden Miles Food Corporation (“**Golden Miles**” and, together with Mahal VC, the “**Companies**”) owned or used in connection with the flour mill (the “**Flour Mill**”) located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the “**Property**”), will make a motion to Mr. Justice McEwen on **Monday, November 22, 2021 at 9:30 a.m.**, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- In writing under subrule 37.12.1(1) because it is (*insert one of* on consent, unopposed *or* made without notice);
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

at the following location:

Join Zoom Meeting

<https://us02web.zoom.us/j/84920334449?pwd=eitKdFEwbzd4UjlDREJUdTgwWnJMUT09>

Meeting ID: 849 2033 4449

Passcode: 481684

Please refer to the video conference details attached at Schedule “A” hereto in order to attend the motion, and advise if you plan to attend the application by emailing Maia Jorgensen at maia.jorgensen@blakes.com.

THE MOTION IS FOR:

(a) An order, substantially in the form of the draft Order included in the Motion Record of the Receiver, *inter alia*:

- (i) approving the proposed sale process (the “**Sale Process**”) as described in the Second Report of the Receiver dated November 15, 2021 (the “**Second Report**”);
- (ii) amending the Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) on October 1, 2021 (the “**Appointment Order**”) to (a) increase the Receiver’s borrowing limit from \$500,000 to \$2,000,000, (b) permit the Receiver to incur fees or charges for borrowing, and (c) elevate the priority of the Receiver’s Charge and Receiver’s Borrowings Charge (both as defined in the Appointment Order) above the charges of the Companies’ three secured creditors in respect of

which the Receiver's Charge and Receiver's Borrowings Charge are currently subordinate;

- (iii) sealing Confidential Appendix "1" (the "**Confidential Appendix**") to the Second Report;
- (iv) approving the activities of the Receiver as described in the First Report of the Receiver dated October 20, 2021 (the "**First Report**") and the Second Report; and

(b) such further and other relief as counsel may request and this Honourable court may permit.

THE GROUNDS FOR THE MOTION ARE:

Background

1. Pursuant to the Appointment Order, KSV was appointed as Receiver, without security, of the assets, undertakings and properties of the Companies owned or used in connection with the Flour Mill located on the Property.
2. Forthwith after its appointment, and as authorized by the Appointment Order, the Receiver took possession and control of the Property. A detailed description of the Receiver's activities to date is included in the First and Second Reports. The Receiver now seeks to commence a sale process to market the Property and maximize value.

Approval of the Sale Process

3. The proposed Sale Process provides for: the solicitation of potential purchasers; marketing of the Property; procedure and deadlines for the submissions of bids; the criteria by which bids will be assessed; and the procedure for accepting a successful bid or bids.

4. From start to finish, the proposed Sale Process is anticipated to run for approximately 10 weeks, which takes into account approximately 3-4 weeks around the December holiday period where a significantly lower level of market activity is anticipated. By the terms of the Sale Process, certain deadlines and timelines may be revised by the Receiver.

5. The elements of the Sale Process, and the Receiver's views regarding them are discussed in detail in the Second Report.

6. The proposed Sale Process requires the Receiver to make a motion to this Court to obtain approval of any successful bid(s) and one or more vesting orders with respect to the asset purchase agreement(s) with any successful bidder(s).

7. The Receiver is of the view that the Sale Process is reasonable and appropriate in the circumstances, for the reasons detailed in the Second Report.

Amendment of the Appointment Order

8. In order that the Receiver can borrow sufficient funds to facilitate the Sale Process and otherwise administer the receivership proceedings pursuant to a "**Term Sheet**" (as defined in the Second Report) negotiated and executed by the Receiver and RCM Capital Management, the Receiver recommends that this Court amend the Appointment Order to increase the Receiver's

borrowing limit, as provided for in paragraph 21 of the Appointment Order, from \$500,000 to \$2,000,000 for the reasons detailed in the Second Report. Ancillary to this increase in borrowing authority, the Receiver is also seeking the explicit right to pay fees or charges in connection with borrowings, as provided for in the Term Sheet.

9. The Receiver also recommends that this Court amend the Appointment Order to elevate the priority of the Receiver's Charge and the Receiver's Borrowings Charge above the charges of Bodkin, a division of Bennington Financial Corp., the Bank of Nova Scotia and Caterpillar Financial Services Limited. In the Receiver's view, the proposed elevation of the Receiver's Charge and the Receiver's Borrowings Charge is fair and reasonable, and appropriate in the circumstances.

Sealing Order

10. The Confidential Appendix contains a comparison of the funding offers received from interested lenders and contains confidential, sensitive and competitive information, including proposed funding terms. If such information were disclosed, it would impact the interested lenders that submitted funding offers, as well as on any subsequent funding rounds (should the need arise).

11. Accordingly, in the Receiver's view, it is necessary and appropriate for the Confidential Appendix to be sealed.

Approval of the Receiver's Activities

12. The activities of the Receiver to date, as further detailed in the First and Second Reports, have primarily consisted of information gathering, Property logistics and development of the Sale Process, including: (a) corresponding with the Companies, the Companies' creditors and other

potential stakeholders in the Property; (b) corresponding with representatives of the City of Brantford regarding the status of the outstanding inspections and permits related to the Flour Mill; (c) coordinating with vendors and service providers to arrange key services, including insurance, at the Flour Mill; (d) corresponding with Canada Revenue Agency regarding the Companies' payroll and the harmonized sales tax accounts; and (e) corresponding with the Applicant, and certain other stakeholders in the Companies, in preparation of the Sale Process.

13. In the Receiver's view, these activities have been necessary, consistent with the Receiver's duties and powers in the Appointment Order, and undertaken with efficiency and reasonableness, in the interests of the Companies stakeholders generally. Accordingly, they ought to be approved.

Additional Grounds

14. The grounds as more particularly set out in the First and Second Reports;

15. Rules 1.04, 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, RRO 1990, Reg 194; and

16. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the First Report;

2. the Second Report; and

3. such further and other evidence as counsel may advise and this Honourable Court may permit.

November 15, 2021

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

Maia Jorgensen, LSO #80008B

Tel: 416-863-2498

Fax: 416-863-2653

Email: maia.jorgensen@blakes.com

Lawyers for the Receiver

TO: SERVICE LIST

SCHEDULE “A”
Conference Details to join Motion via Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/84920334449?pwd=eitKdFEwbzd4UjlDREJUdTgwWnJMUT09>

Meeting ID: 849 2033 4449

Passcode: 481684

One tap mobile

+15873281099,,84920334449#,,,*481684# Canada

+16132093054,,84920334449#,,,*481684# Canada

Dial by your location

+1 587 328 1099 Canada

+1 613 209 3054 Canada

+1 647 374 4685 Canada

+1 647 558 0588 Canada

+1 778 907 2071 Canada

+1 438 809 7799 Canada

+1 669 900 6833 US (San Jose)

+1 720 928 9299 US (Denver)

+1 786 635 1003 US (Miami)

+1 929 205 6099 US (New York)

+1 971 247 1195 US (Portland)

+1 206 337 9723 US (Seattle)

+1 213 338 8477 US (Los Angeles)

+1 253 215 8782 US (Tacoma)

+1 267 831 0333 US (Philadelphia)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 470 250 9358 US (Atlanta)

+1 470 381 2552 US (Atlanta)

+1 602 753 0140 US (Phoenix)

+1 646 518 9805 US (New York)

+1 651 372 8299 US (Minnesota)

+1 669 219 2599 US (San Jose)

Meeting ID: 849 2033 4449

Passcode: 481684

Find your local number: <https://us02web.zoom.us/u/kfNQ3QKRY>

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84920334449@zoomcrc.com

Join by H.323

162.255.37.11 (US West)

162.255.36.11 (US East)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

69.174.57.160 (Canada Toronto)

65.39.152.160 (Canada Vancouver)

Meeting ID: 849 2033 4449

Passcode: 481684

SKYMARK FINANCE CORPORATION
Applicant

- and -

MAHAL VENTURE CAPITAL INC., et al.
Respondents

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

Proceeding Commenced at Toronto

**NOTICE OF MOTION
(Approval of Sale Process and Ancillary Matters)
Returnable November 22, 2021**

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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

Maia Jorgensen, LSO #80008B

Tel: 416-863-2498

Fax: 416-863-2653

Email: maia.jorgensen@blakes.com

Lawyers for the Receiver

TAB 2



**Second Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Mahal Venture Capital Inc. and
Golden Miles Food Corporation**

November 15, 2021

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COURT FILE NO. CV-21-00664778-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

SKYMARK FINANCE CORPORATION

APPLICANT

- AND -

MAHAL VENTURE CAPITAL INC. AND
GOLDEN MILES FOOD CORPORATION

RESPONDENTS

SECOND REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER

NOVEMBER 15, 2021

1.0 Introduction

1. This report (this “Report”) is filed by KSV Restructuring Inc. (“KSV”) in its capacity as receiver and manager (“Receiver”) of the assets, undertakings and properties of Mahal Venture Capital Inc. (“Mahal VC”) and Golden Miles Food Corporation (“Golden Miles”, and together with Mahal VC, the “Companies”) owned or used in connection with the flour mill (the “Flour Mill”) located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the “Real Property” and together with the Flour Mill, the “Property”).
2. KSV was appointed Receiver of the Companies pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “Court”) made on October 1, 2021 (the “Receivership Order”). A copy of the Receivership Order is provided as Appendix “A”.
3. The principal purpose of the receivership proceedings is to allow the Receiver to take possession, preserve, market and sell the Property to maximize value for the Companies’ creditors.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about these proceedings;
 - b) summarize the proposed sale process for the Property to be carried out by the Receiver (the “Sale Process”);
 - c) summarize the status of the Companies’ insurance;
 - d) summarize the terms under which the Receiver proposes to borrow up to \$2 million under Receiver Certificates (the “Receiver’s Borrowings”) pursuant to a term sheet from RCM Capital Management or its nominee (“RCM”);
 - e) summarize the Receiver’s rationale for assigning the Companies into bankruptcy pursuant to the Receiver’s powers in the Receivership Order;
 - f) summarize the Receiver’s activities since the date of the First Report to Court dated October 20, 2021 (the “First Report”); and
 - g) request that the Court issue an Order:
 - i. approving the Sale Process;
 - ii. amending the Receivership Order to:
 - increase the Receiver’s borrowing limit in paragraph 21 of the Receivership Order from \$500,000 to \$2 million;
 - explicitly enable the Receiver to pay reasonable fees or charges in respect of borrowings; and
 - elevate the priority of the Receiver’s Charge and Receiver’s Borrowings Charge above the charges of the three secured creditors in respect of which the Receiver’s Charge and Receiver’s Borrowings Charge are currently subordinate;
 - iii. sealing Confidential Appendix “1” to this Report; and
 - iv. approving the First Report, this Report and the Receiver’s activities as set out in this Report and the First Report.

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 relied upon certain of the Companies’ unaudited financial statements, limited books and records obtained from the Companies’ principals, Santokh Mahal (“Santokh”) and Jesse Mahal (“Jesse”, and together with Santokh, the “Mahals”) and discussions with the Mahals and a former advisor to the Companies.

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 financial information should perform its own diligence.

2.0 Background

1. Mahal VC was incorporated in 2014 under the *Canada Business Corporations Act* and is a single purpose corporation that owns the Real Property. The Receiver understands that Jesse is the sole officer, director and shareholder of Mahal VC.
2. Golden Miles was incorporated in 2010 as Golden Miles Bread & Bagel Corporation under the *Business Corporations Act* (Ontario) and changed its name to Golden Miles Food Corporation in 2017. The Receiver understands that Santokh, Jesse’s father, is the sole officer, director and shareholder of Golden Miles.
3. The Mahals have advised the Receiver that Mahal VC owns the Real Property and that Golden Miles owns the machinery, equipment and vehicles used in connection with the Flour Mill. Golden Miles operates from the Real Property and describes itself in its unaudited financial statements as at June 30, 2020 as being “engaged in the sale of cookies, crackers, and dried plant material”.
4. Construction of the Flour Mill appears to be substantially complete; however, it has not been issued the permits, licenses and approvals necessary to operate from the relevant authorities, including the City of Brantford and various health and safety regulators. The City of Brantford has provided the Receiver with a list of deficiencies required to be addressed before an occupancy permit can be issued.
5. The Mahals have advised the Receiver that the Companies had no employees as of the date of the Receivership Order.

2.1 Secured Creditors

1. Skymark Finance Corporation (“Skymark”) is the Companies’ largest creditor. As of the date of the Receivership Order, the Companies were indebted to Skymark in the amount of approximately \$29.2 million¹. The Skymark debt relates to various loans to Mahal VC in connection with mortgages granted by Mahal VC on the Real Property (the “Mahal Loans”) and to Golden Miles in connection with equipment financing (the “GM Loans”, and together with the Mahal Loans, the “Loans”). The Receiver understands that the primary purpose of the Loans was to construct the Flour Mill on the Real Property.

¹ This Skymark facility consists of approximately \$19.7 million owing by Mahal VC and approximately \$9.5 million owing by Golden Miles.

2. Several parties have advised the Receiver that they have interests in the Mahal Loans and the mortgages that secure them, including Andrew Thompson, 2620509 Ontario Inc., 2580165 Ontario Inc., Cameron Renaud, 1061307 Ontario Inc. and KLN Holdings. These parties are collectively represented by Gardiner Roberts LLP and are referred to in this Report as the “Gardiner Parties”. The Receiver has not yet assessed the claims of the Gardiner Parties but it has been provided with supporting documentation from their counsel and notes their security registrations against the Real Property.
3. The Receiver has been provided with a copy of a promissory note allegedly issued by Golden Miles to Santokh in the approximate amount of \$24.1 million, together with a general security agreement dated December 14, 2020. Santokh filed a financing statement in the *Personal Property Security Act* (Ontario) (the “PPSA”) registry against Golden Miles on December 16, 2020.
4. In addition to Skymark and Santokh, the following parties have registered PPSA financing statements against Golden Miles:
 - a) Bodkin, a division of Bennington Financial Corp. (“Bodkin”), in respect of aluminum grain tank trailers;
 - b) The Bank of Nova Scotia (“BNS”), in respect of a 2019 Ford F150 (the “Ford Truck”);
 - c) Caterpillar Financial Services Limited (“Caterpillar”), in respect of a Caterpillar 259D3 compact track loader; and
 - d) Toyota Industries Commercial Finance Canada Inc. (“Toyota”), in respect of certain forklifts (the “Toyota Forklifts”).
5. Several other registrations have been made against the Real Property, including:
 - a) a construction lien in 2019 by Vicano Construction Limited, one of the Companies’ former general contractors, in the approximate amount of \$5.8 million;
 - b) a number of transfers of charges by the Gardiner Parties; and
 - c) a mortgage in 2021 by Golden Miles, in the approximate amount of \$35 million.
6. The Receiver’s counsel, Blake, Cassels & Graydon LLP (“Blakes”), has been reviewing the validity and priority of the security interests claimed or registered against the Property. The Receiver will report on the results of this security review when it is complete.

2.2 Additional Information

1. Additional information regarding the Companies and these proceedings is included in the First Report, a copy of which is provided, without appendices, in Appendix “B”. Materials filed with the Court in this proceeding can be accessed from the Receiver’s website at: <https://www.ksvadvisory.com/insolvency-cases/case/Golden-Miles-Food-Corporation>.

3.0 Recovery of Books and Records

1. As set out in the First Report, the Receiver had located virtually none of the Companies' books and records when it was appointed and received minimal cooperation from the Mahals.
2. As a result of the lack of records and cooperation, the Receiver brought a motion seeking disclosure, compliance with the Receivership Order and the return of certain funds (in each case discussed in further detail in the First Report). This motion was resolved by way of a consent order issued on October 26, 2021, a copy of which is provided as Appendix "C" (the "Consent Order").
3. The Mahals provided information to the Receiver subsequent to the date of the First Report being filed, including information related to the Companies' creditors. Further information was provided following the issuance of the Consent Order. Accordingly, the Receiver issued a revised Notice and Statement of the Receiver pursuant to Subsection 245(1) and 246(1) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of Golden Miles to include information regarding Golden Miles' creditors. As no additional creditors were identified for Mahal VC, a revised statement was not issued.
4. The funds required to be returned to the Receiver in Paragraph 1 of the Consent Order, and the costs required to be paid to the Receiver in Paragraph 2 of the Consent Order, were paid by the Mahals following the issuance of the Consent Order.

4.0 Sale Process

1. As detailed in the First Report, the Receiver met with the Mahals immediately following issuance of the Receivership Order and toured the Flour Mill. As the Companies have not received the required permits, the Flour Mill has not operated other than for testing purposes.
2. Throughout October 2021, the Receiver met with several parties, including engineers and consultants that had worked with the Companies in the design and construction of the building, to understand the status of the project and what remains for it to be completed. The Receiver also learned that the Companies had planned to reconfigure certain equipment that has been delivered to the Flour Mill but not yet installed.
3. The Receiver discussed, at a high level, the Flour Mill's potential production capacity, equipment configuration and market prospects with two major flour milling companies to understand, among other things, their diligence requirements if they were to participate in a sale process. Based on input received from prospective purchasers, the Receiver is recommending a ten-week diligence period for prospective purchasers to submit bids in the Sale Process. Prospective purchasers have advised the Receiver that they will require this extended timeline due to, among other things, the upcoming holiday season, the need to diligence the equipment in the Flour Mill and to understand permitting requirements from the City of Brantford.
4. The Receiver developed the Sale Process based on its discussions with certain of the Companies' stakeholders, including with Skymark who the Receiver understands supports the process.

5. The Sale Process is summarized in the table below.

Sale Process		
Milestone	Description of Activities	Estimated Timeline
<i>Phase 1 – Underwriting</i>		
Marketing materials	<ul style="list-style-type: none"> ➤ The Receiver will prepare: <ul style="list-style-type: none"> ○ an interest solicitation letter (“ISL”); ○ a form of non-disclosure agreement (“NDA”); and ○ a virtual data room. 	In process
Prospect Identification	<ul style="list-style-type: none"> ➤ The Receiver will prepare a list of prospective purchasers who may be interested in the opportunity (the “Prospective Purchasers”). This list will include parties that: <ul style="list-style-type: none"> ○ have expressed interest to the Receiver or requested an ISL; ○ are recommended to the Receiver by the Companies, Skymark or any other stakeholder; and ○ the Receiver identifies through its research. 	
<i>Phase 2 – Marketing</i>		
Interest Solicitation	<ul style="list-style-type: none"> ➤ The Receiver will contact Prospective Purchasers and provide them with the ISL and NDA. An ISL and NDA will also be provided to any party that reasonably requests same. 	Weeks 1 –10
Access to Data Room	<ul style="list-style-type: none"> ➤ Upon execution of the NDA, Prospective Purchasers will be provided: <ul style="list-style-type: none"> ○ access to the data room; and ○ other information that becomes available to the Receiver, including any reports associated with the Property. ➤ The Receiver reserves the right to refuse access to the data room and other information, or to restrict access to the data room and other information from parties previously granted such access, in the event that the Receiver believes, in its sole reasonable discretion, that such party is not a <i>bona fide</i> potential purchaser, including taking into account, without limitation, the financial wherewithal of the party. ➤ The Receiver and its representatives and advisors are not responsible for, and will bear no liability with respect to, any information obtained by any party in the data room or otherwise from the Receiver. 	

Sale Process		
Milestone	Description of Activities	Estimated Timeline
Diligence	<ul style="list-style-type: none"> ➤ Interested parties to conduct diligence, including: <ul style="list-style-type: none"> ○ accessing the information in the data room (including financial information, all critical contracts, designs, drawings, schematics, etc.); ○ attending site tours at the Flour Mill; and ○ attending meetings with former advisors to the Companies, if possible and upon request. 	
Offer Deadline	<ul style="list-style-type: none"> ➤ Binding offers are to be submitted on or before 4:00 pm (Toronto Time) on January 31, 2022. ➤ Offers shall be submitted by way of a form of asset purchase agreement. <ul style="list-style-type: none"> ○ The Receiver will upload to the data room a standard form Asset Purchase Agreement (the “Transaction Documents”). ○ When submitting offers, bidders will be required to blackline any changes to the Transaction Documents. 	January 31, 2022
Post-Bidding Negotiation	<ul style="list-style-type: none"> ➤ The Receiver, in its sole discretion, may invite certain parties to participate in further rounds of bidding. The Receiver may also seek to clarify terms of the offers submitted and to negotiate such terms. 	After Offer Deadline
<i>Phase 3 – Offer Review and Negotiations</i>		
Selection of Successful Offer(s)	<ul style="list-style-type: none"> ➤ The Receiver will select the successful bidder, having regards to, among other things: <ul style="list-style-type: none"> ○ Total consideration (cash and assumed liabilities); ○ Form of consideration being offered; ○ Third party approvals required; ○ Conditions (including any financing conditions); ○ Other factors affecting the speed, certainty and ease of closing. ➤ 	Week 11
Sale Approval Motion	<ul style="list-style-type: none"> ➤ Upon selection of the successful offer(s), the Receiver will seek Court approval of the successful offer(s), on not less than 7 calendar days’ notice to the service list and registered secured creditors. 	ASAP
Closing	<ul style="list-style-type: none"> ➤ As soon as possible following Court approval. 	ASAP

Sale Process		
Milestone	Description of Activities	Estimated Timeline
<i>General Terms and Conditions</i>		
As-is, where-is	<ul style="list-style-type: none"> ➤ The Property will be marketed and sold on an “as-is, where-is” basis, with no representations, warranties or assurances of fitness for use. 	
Free and Clear of Claims	<ul style="list-style-type: none"> ➤ To the extent permitted by law, all of the rights, title and interests of the Companies in the Property will be sold free and clear of all pledges, liens, security interests, encumbrances and claims, pursuant to an approval and vesting order to be sought by the Receiver. 	
Court Approval	<ul style="list-style-type: none"> ➤ Any transaction or transactions by the Receiver for the Property pursuant to the Sale Process shall be subject to approval by the Court. 	
Modification, Termination & Waiver	<ul style="list-style-type: none"> ➤ The Receiver shall have the right, at any time and in its sole discretion, to: <ul style="list-style-type: none"> ○ waive strict compliance with the terms of the Sale Process, including deadlines; ○ modify the procedures set out herein (including altering the deadlines); ○ adopt such other procedures that will, in the Receiver’s sole discretion, better promote the sale of the Property or increase the aggregate recoveries from same; ➤ Any material modifications to, or the termination of, the Sale Process shall require Court approval. 	
Advice and Directions	<ul style="list-style-type: none"> ➤ At any time during the Sale Process, the Receiver shall be at liberty to seek advice and directions from the Court in respect of any aspect of the Sale Process. 	

4.1 Sale Process Recommendation

1. The Receiver recommends that the Court issue an order approving the Sale Process for the following reasons:
 - a) the proposed Sale Process is fair, open and transparent and is intended to canvass the market broadly on an orderly basis;
 - b) given the specialized, industry-specific nature of the Property, the Receiver believes that the pool of potential buyers is limited and that the approach to locate prospective purchasers set out in the Sale Process is sufficient to reach substantially all interested parties;
 - c) there will be no delay commencing the Sale Process which is important given (i) the material carrying costs associated with the Property, and (ii) the approaching holiday season which will likely cause potential purchasers to be less engaged for several weeks;
 - d) the Sale Process provides sufficient time for potential purchasers to assess the opportunity given the complexities associated with the Flour Mill and the steps required for it to become operational;

- e) the Sale Process provides flexibility for the Receiver to amend or extend the process in order to maximize value; and
- f) Skymark and RCM support the terms of the Sale Process.

5.0 Insurance

1. The Companies' property and liability insurance policies expired on October 4, 2021, just after the date of the Receivership Order. Unbeknownst to the Receiver, shortly after its appointment on October 1, 2021, Jesse instructed Platform Insurance ("Platform"), the Companies' insurance agent, to renew the policies.
2. Once the Receiver learned that Platform was the Companies' agent, the Receiver corresponded with Platform to, among other things, inform the insurers about the receivership and confirm that coverage remained in force.
3. Platform advised the Receiver that the policies were being renewed; however, it was not aware of the receivership and understood that the Flour Mill had been operating (as stated above, the Flour Mill has never been operational). The Receiver responded to several inquiries from the Companies' insurers and met with their representatives to provide additional information on the status of the Flour Mill and security measures required by the insurers to maintain coverage. The Receiver also advised Platform that coverage for inventory and business interruption could be deleted as these were no longer applicable².
4. Following their diligence, the insurers advised the Receiver that they would require several amendments to the policies based on their assessment of a material change in the risk profile, including that the Flour Mill would be vacant. The amendments included: (a) an increase in the annualized premium from \$252,582 to \$311,439 (notwithstanding the deletion of coverage for inventory and business interruption); (b) a reduction of coverage from "all perils" to "named perils"; and (c) a change in the expiry date from October 3, 2022 to March 31, 2022.
5. As an alternative to the Platform coverage, the Receiver requested that another insurance agent which manages a national program designed for insolvency proceedings provide a proposal for the Flour Mill. After considering the attributes of the Flour Mill and the limits of insurance for the building and equipment, which exceed \$50 million in value, the agent was unable to offer an alternative. The Receiver therefore advised Platform that it would accept the policies with the proposed revisions.
6. The insurance premium is a material cost of this receivership proceeding and one of the reasons for commencing the Sale Process as soon as possible. Funding of the premium was also one of the main reasons why the Receiver sought financing from RCM (described in further detail below).

² The Receiver advised the Mahals that if they require this coverage for any of the Companies' business unrelated to the Flour Mill, then they would be required to reimburse the Receiver for the applicable cost. The Mahals did not respond.

6.0 Funding of the Receivership

1. The Companies had nominal balances in their bank accounts when the Receivership Order was issued. There were also no known accounts receivable or other current assets associated with the Flour Mill available to the Receiver to be monetized. Accordingly, the Receiver is required to borrow under Receiver Certificates, as contemplated in paragraph 21 of the Receivership Order, to fund the receivership, including for utilities, insurance, security, maintenance and professional costs.
2. The Receiver prepared a budget of the funds it requires until a transaction for the Flour Mill is completed, which the Receiver estimates to be up to \$2 million, subject to unknown or unforeseen costs (the “Budget”)³. A copy of the Budget is provided as Appendix “D”.
3. The Receiver approached Skymark, as the largest creditor, to discuss whether it would provide funding for the receivership. Skymark advised the Receiver that it was not prepared to do so.
4. On October 28, 2021, the Receiver approached four prospective lenders, including the Gardiner Parties and three lenders with experience funding in an insolvency process. While the Gardiner Parties declined the opportunity to fund, each of the three lenders expressed an interest and were provided with access to information in a data room, including a template term sheet, upon signing a confidentiality agreement. Two of the lenders also attended a tour of the Flour Mill with the Receiver. The Receiver set a deadline of November 3, 2021 for the parties to submit offers.
5. The three prospective lenders submitted funding offers, which are summarized in Confidential Appendix “1”. As the offers submitted by two of the lenders were substantially the same, the Receiver provided them with an opportunity to improve their terms; RCM did so and the other lender did not.
6. The Receiver accepted a financing term sheet from RCM (the “Term Sheet”). A copy of the Term Sheet is provided as Appendix “E”.
7. The key terms of the Term Sheet are summarized below.
 - a) Amount: up to \$2,000,000.
 - b) Term: the earlier of: (i) completion of a sale of the Flour Mill by the Receiver; (ii) termination of the receivership proceedings by a Court order; (iii) six months from the date of the Term Sheet (November 3, 2021), which the Receiver may, in its sole discretion, extend by a further six months upon written notice to RCM; or (iv) a default under the Term Sheet.
 - c) Repayment: any time without penalty.

³ The Budget provides for a cash requirement of \$1.3 million. The Receiver has signed a term sheet for \$2 million so it has a cushion for unknown or unexpected costs.

- d) Interest rate: 10.5% per annum, compounded monthly.
 - e) Fees: \$20,000 structuring fee upon the initial advance, plus a \$20,000 extension fee if the Receiver extends the term beyond six months.
 - f) Draws and Security: funds are to be advanced under Receiver's Certificates. Advances are to be secured by a Court-ordered charge on the Property which is only subordinate to the Receiver's Charge (as defined in the Receivership Order).
 - g) Material Conditions:
 - i. the Court increases the borrowing limit in paragraph 21 of the Receivership Order to \$2 million;
 - ii. the Receivership Order and the Amending Order, if applicable, shall not have been stayed, vacated or otherwise amended, restated or modified in respect of any amendment relating to the Term Sheet or any other matter that affects RCM, without the written consent of RCM; and
 - iii. the Receiver will be in compliance with the Budget.
8. The Receiver believes that the Term Sheet is fair and reasonable for the following reasons:
- a) the process carried out by the Receiver to solicit offers was commercially reasonable, particularly given the short amount of time that the Receiver had to obtain funds;
 - b) the Receiver requires liquidity to fund these proceedings;
 - c) the Term Sheet represents the most attractive offer presented to fund this proceeding;
 - d) the terms of the facility are consistent with other recent restructurings in which KSV is involved. In the Receiver's view, the interest rate and commitment fee are both reasonable in the circumstances;
 - e) the cost of capital is lower than provided by Skymark under the Loans; and
 - f) Skymark supports the approval of the Term Sheet.
9. To date, the Receiver has borrowed \$375,000 from RCM pursuant to the Term Sheet, excluding the \$20,000 structuring fee. Any further borrowing requests are subject to the Receivership Order being amended to increase the cap on the Receiver's borrowings.

6.1 Amendments to the Receivership Order

1. The Receiver estimates that it will require up to \$2 million to fund the costs of this proceeding. RCM has committed to provide this amount pursuant to the Term Sheet; however, the Receiver's authority to borrow on a super-priority basis is capped at a maximum of \$500,000 pursuant to Paragraph 21 of the Receivership Order.
2. In order to fund the proceedings through the Sale Process, in accordance with the Budget and pursuant to the Term Sheet, the Receiver recommends that this Court make an order amending the Receivership Order to increase the borrowing limit in Paragraph 21 from \$500,000 to \$2 million.
3. The Term Sheet contemplates that a \$20,000 structuring fee and \$20,000 extension fee are payable. In the Receiver's view, the existing language in Paragraph 21 of the Receivership Order is sufficient to permit the Receiver to pay these fees (to the extent they are costs of borrowing, like interest, which the Receiver is explicitly empowered to pay). However, for the avoidance of doubt, the Receiver is seeking an amendment to the Receivership Order to explicitly provide for the payment of reasonable fees or charges incidental to borrowings.
4. In addition, the Receiver is seeking an order amending the Receivership Order to elevate the priority of the Receiver's Charge (which secures the fees and disbursements of the Receiver and Blakes) and the Receiver's Borrowings Charge (which secures the amounts borrowed by the Receiver pursuant to Receiver's Certificates) over the charges of Bodkin, BNS and Caterpillar.
5. On its initial application, Skymark did not serve Bodkin, BNS and Caterpillar, and accordingly did not seek to prime their security interests with the Court-ordered charges. However, this was explicitly "subject to further order of the Court". The Receiver is now seeking that further order, on notice to Bodkin, BNS and Caterpillar.
6. In the Receiver's view, the proposed elevation of the Receiver's Charge and the Receiver's Borrowings Charge is fair and reasonable. Bodkin, BNS and Caterpillar will benefit from the receivership proceedings to the extent of their valid claims and to the extent of their priority, therefore any Property that is collateral charged by their interests, if any, ought to be subject to the charges that facilitate such proceeds being realized.
7. Moreover, the Ford Truck secured by the BNS security is not located at the Flour Mill, and the Receiver's inquiries to Jesse about the location of the Ford Truck have not been responded to. It is accordingly not clear to the Receiver that the BNS collateral is (a) part of these receivership proceedings, (b) eligible Property to be sold in the Sale Process or (c) still even owned by Golden Miles.⁴

⁴ BNS has filed a secured proof of claim with the Receiver, claiming \$57,772 on account of financing for the Ford Truck.

6.2 Sealing Order

1. The Receiver is proposing to seal the funding offer summary until further Order of the Court. If it is not sealed, future bidders would have access to the terms proposed, which may affect any subsequent funding rounds, if needed. The Receiver believes that no party will be prejudiced if the funding summary is sealed.
2. Accordingly, the Receiver believes the proposed sealing order is reasonable and appropriate in the circumstances.

7.0 Bankruptcies

1. On November 15, 2021, the Receiver filed an assignment in bankruptcy on behalf of both of the Companies pursuant to Paragraph 3(r) of the Receivership Order. KSV was appointed as Licensed Insolvency Trustee (“Trustee”), subject to affirmation by the creditors at the first meeting of creditors.
2. The Receiver’s rationale for assigning the Companies into bankruptcy included, among other things:
 - a) the bankruptcies will allow the Trustee to conduct a review for preferences and transfers at undervalue, including any related party transactions;
 - b) there appear to be assets owned by Golden Miles unrelated to the Flour Mill and therefore outside the scope of the Receivership Order. The bankruptcies will provide a forum for these assets to be administered in a transparent manner for the benefit of Golden Miles’ creditors, which is in their interests particularly if the recoveries associated with the Flour Mill are insufficient to satisfy Golden Miles’ liabilities;
 - c) the bankruptcies will provide the Trustee with expanded investigatory powers which may be required to obtain additional information regarding the Companies and their interests; and
 - d) the Companies are party to numerous actions in Ontario, both as plaintiffs and as defendants. The limitation of the scope of the receivership to “the Companies’ assets owned or used in connection with the Flour Mill located on the Real Property” makes it difficult to determine over which actions the Receiver has control. An assessment of the litigation and its value may be necessary, depending on the outcome of the Sale Process, and managing this litigation will be materially easier, transparent and cost effective if it is done by a Trustee pursuant to the rules and procedures in the BIA.
3. The Receiver is not seeking any relief in respect of the bankruptcies of the Companies, as it filed assignments on behalf of the Companies pursuant to pre-existing authority. The foregoing is provided to update the Court and the Companies’ stakeholders.

8.0 Receiver's Activities

1. The Receiver's activities since the date of the First Report have included, among other things, the following:
 - a) Corresponding with the Mahals and their counsel regarding the Receiver's information requests;
 - b) Corresponding with Skymark and its counsel regarding all aspects of this mandate, including providing periodic status updates;
 - c) Corresponding with counsel to the Gardiner Parties regarding the status of the proceedings and the Receiver's solicitation of interest for interim financing;
 - d) Developing the Sale Process;
 - e) Corresponding with Platform;
 - f) Corresponding with representatives of the City of Brantford regarding the status of the outstanding inspections and permits related to the Flour Mill;
 - g) Attending periodically at the Flour Mill to deal with operating matters, including to arrange for the maintenance and general upkeep of the Property;
 - h) Coordinating extensively with various vendors to arrange key services at the Flour Mill;
 - i) Preparing an operating budget for the Companies;
 - j) Carrying out the process to identify a lender to fund the receivership, including preparing a virtual data room to facilitate due diligence requests from lenders;
 - k) Dealing with the Mahals regarding the inventory of cookies located at the Flour Mill and certain equipment which they claim is unrelated to the Flour Mill;
 - l) Reviewing correspondence with certain judgment creditors or counterparties to litigation against the Companies, including Garage Living Inc. and Vivian Group Inc.;
 - m) Corresponding with Buhler Inc., an equipment vendor, and its counsel regarding its status as a creditor in these proceedings;
 - n) Corresponding with P&H Milling Group and Enviro-Cor Enterprises Ltd., vendors with expertise in the flour milling industry, regarding a proposal to empty the grain silos and flour bins located at the Flour Mill;
 - o) Corresponding with Toyota (and its leasing agent, Liftow Limited ("Liftow")) regarding the Toyota Forklifts, including assessing Liftow's request for the return of the Toyota Forklifts on the basis that no payment for same has been made by Golden Miles;
 - p) Corresponding with Canada Revenue Agency regarding the Companies' payroll and HST accounts;

- q) Corresponding with Imas Inc. (“Imas”), a Turkish company that Jesse advised is in possession of the programmable logic computer (“PLC”) that controls the equipment at the Flour Mill⁵;
- r) Imaging the Mahals’ computers and electronic devices;
- s) Preparing this Report; and
- t) Assigning the Companies into bankruptcy.

9.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(g) of this Report.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
MAHAL VENTURE CAPITAL INC. AND GOLDEN MILES FOOD CORPORATION
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

⁵ Imas has not confirmed to the Receiver that it is holding the PLC. The Receiver has requested that Imas provide a listing of all equipment owned by Golden Miles that it is repairing, storing or holding. Imas has refused to provide such a listing until it is paid US \$451,700, the amount it alleges is owed by Golden Miles.

Appendix “A”

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Skybank Finance Corporation
Plaintiff(s)

AND

Mahel Venture Capital Inc et al
Defendant(s)

Case Management Yes No by Judge: _____

Counsel	Telephone No:	Facsimile No:
(see attached counsel slip)		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- Adjourned to: _____
- Time Table approved (as follows):

This matter returned before me again today. The Respondents have been unable to secure financing as per the Minutes of Settlement.

As per the terms of the Minutes of Settlement the Applicant seeks the appointment of the Receiver.

The Respondents ask that I defer the appointment to allow them an

1 Oct 21

Date

McE...

Judge's Signature

Additional Pages three

Court File Number: _____

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Judges Endorsment Continued

opportunity to obtain financing through
FCC. as per the Sept 30/21 letter
from FCC.

I decline to do so for the
following reasons:

- ① The time to obtain financing as per
the Minutes of Settlement has passed.
- ② The Respondents have been unable to
secure any financing to date (there
have been two failed attempts) and
have not repaid any of the money
owing to the Applicant.
- ③ They entered into a Consent order
with the Applicant that the Applicant
now seeks to enforce.
- ④ The letter from FCC does not constitute
any form of commitment. It expressly
notes that the "information provided [by
FCC] is not an offer of financing
from FCC". Further, there is no interest

Court File Number: _____

**Superior Court of Justice
Commercial List**

FILE/DIRECTION/ORDER

Judges Endorsment Continued

rate in the letter and we agreed upon terms. Last, it proposes financing by Nov 30/21 - which would be over 4 months from the time this matter first appeared before me - assuming FCC provides financing.

In all of these circumstances it is just and reasonable to appoint the Receiver.

I note that this does not preclude the Respondents from attempting to redeem or purchase the business.

The order shall go as per the draft filed and signed as attached.

McE...

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

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

THE HONOURABLE MR.

)

FRIDAY, THE 1ST DAY

JUSTICE MCEWEN

)

OF OCTOBER, 2021

)

SKYMARK FINANCE CORPORATION

Applicant

- and -

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

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant, Skymark Finance Corporation ("**Skymark**"), for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing KSV Restructuring Inc. as receiver and manager (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and properties of Mahal Venture Capital Inc. and Golden Miles Food Corporation (collectively, the "**Debtors**") owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the "**Real Property**"), was heard this day by video-conference due to the COVID-19 crisis.

ON READING the affidavits of Paul Millar sworn June 24, 2021, June 29, 2021, July 9, 2021, July 13, 2021, the affidavits of Santokh Mahal sworn July 5, 2021 and July 26, 2021, and the exhibits thereto and on hearing the submissions of counsel for Skymark and such other counsel as are listed on the counsel slip, no one else appearing although duly served as appears

from the affidavit of service of Sanea Tanvir sworn June 25, 2021 and on reading the consent of KSV Restructuring Inc. to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for and manner of service of the Notice of Application and the Application is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors owned or used in connection with the flour mill located on the Real Property and all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the 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 Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of 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 the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary

- 3 -

course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

- (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 the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, 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 the Debtors, the 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 Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and

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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 Property or any part or parts thereof out of the ordinary course of business as follows:
 - (i) without the approval of this Court in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; 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.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such 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 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 Property against title to any of the 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 the Debtors;

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- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (r) to file an assignment in bankruptcy on behalf of the Debtors appointing KSV as trustee in bankruptcy; 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 the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

5. **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 the Debtors, 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 5 or in paragraph 6 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 the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. **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.

7. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords 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

8. **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 THE DEBTORS OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Receiver, or affecting the 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 BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors 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

11. **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 the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtors 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 the Debtors 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 the Debtors' 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 the Debtors 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

13. **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 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

14. **THIS COURT ORDERS** that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' 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

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **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 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 Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **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

18. **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 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 Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (not including Bodkin, a Division of Bennington Financial Corp., the Bank of Nova Scotia and Caterpillar Financial Services Limited, subject to further order of the Court), but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its 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.

20. **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.

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a 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 \$500,000 (or such greater amount as this Court may by further Order authorize) 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 "**Receiver's Borrowings 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 (not including Bodkin, a Division of Bennington Financial Corp., the Bank of Nova Scotia and Caterpillar Financial Services Limited, subject to further order of the Court), but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings 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.

23. **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.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. **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 of the Rules of Civil Procedure (the “**Rules**”) this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules 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/mahal-venture-capital-inc>>’.

26. **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 the Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the Debtors 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.

GENERAL

27. **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.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

29. **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

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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.

30. **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.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

32. **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.



A handwritten signature in black ink, appearing to be 'McL...', is written above a horizontal line.

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 Mahal Venture Capital Inc. and Golden Miles Food Corporation (collectively, the "**Debtors**") owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the ___ day of _____, 20__ (the "**Order**") made in an action having Court file number __-CL-_____, 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.

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. 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

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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:

SKYMARK FINANCE CORPORATION

-and-

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD CORPORATION

Applicant

Respondents

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

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

PROCEEDING COMMENCED AT
TORONTO

ORDER

CHAITONS LLP

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

Harvey Chaiton (LSO # 21592F)

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

Sanea Tanvir (LSO # 77838T)

Tel: (416) 218-1128
Fax: (416) 218-1853
E-mail: stanvir@chaitons.com

Lawyers for the Applicant

COUNSEL SLIP

Court File Number: CV-21-00664778-00CL	Date: October 1, 2021
Title of Proceeding: Skymark Finance Corporation v. Mahal Venture Capital Inc. and Golden Miles Food Corporation	
Counsel:	Representing:
CHAITONS LLP Harvey Chaiton Tel: (416) 218-1129 E-mail: harvey@chaitons.com Saneea Tanvir Tel: (416) 218-1128 Email: stanvir@chaitons.com	Skymark Finance Corporation
KIRWIN PARTNERS LLP Rodney M. Godard Tel: (519) 255-9840 ext. 112 Email: rgodard@kirwinpartners.com	Mahal Venture Capital Inc. and Golden Miles Food Corporation
BLAKE, CASSELS & GRAYDON LLP Chris Burr Tel: (416) 863-2400 Email: chris.burr@blakes.com Maia Jorgensen Tel: (416) 863-2498 Email: maia.jorgensen@blakes.com	Counsel for KSV Restructuring Inc., Proposed Receiver
WATEROUS HOLDEN AMEY HITCHON LLP Dennis Touesnard Tel: (519) 759-6220 Email: dtouesnard@waterousholden.com	Vicano Construction Limited

GARDINER ROBERTS LLP Rob Winterstein Tel: (416) 865-6790 Email: rwinterstein@grllp.com	Andrew Thomson, 2620509 Ontario Inc., 2580165 Ontario Inc., Cameron Renaud, 1061307 Ontario Inc. and KLN Holdings Inc.
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Other Attendees

Mitch Vininsky Tel: (416) 932-6013 Email: mvininsky@ksvadvisory.com	KSV Restructuring Inc., Proposed Receiver
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Appendix “B”



**First Report to Court of
KSV Restructuring Inc.
as Receiver and Manager of
Mahal Venture Capital Inc. and
Golden Miles Food Corporation**

October 20, 2021

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COURT FILE NO. CV-21-00664778-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

SKYMARK FINANCE CORPORATION

APPLICANT

- AND -

MAHAL VENTURE CAPITAL INC. AND
GOLDEN MILES FOOD CORPORATION

RESPONDENTS

FIRST REPORT OF
KSV RESTRUCTURING INC.
AS RECEIVER AND MANAGER

OCTOBER 20, 2021

1.0 Introduction

1. This report ("Report") is filed by KSV Restructuring Inc. ("KSV") in its capacity as receiver and manager ("Receiver") of the assets, undertakings and properties of Mahal Venture Capital Inc. ("Mahal VC") and Golden Miles Food Corporation ("Golden Miles", and together with Mahal VC, the "Companies") owned or used in connection with the flour mill (the "Flour Mill") located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the "Real Property" and together with the Flour Mill, the "Property").
2. KSV was appointed Receiver of the Companies pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "Court") made on October 1, 2021 (the "Receivership Order"). A copy of the Receivership Order is provided as Appendix "A".
3. The principal purpose of the receivership proceedings is to allow the Receiver to take possession, preserve, market and sell the Property to maximize value for the Companies' creditors and other stakeholders.

1.1 Purposes of this Report

1. The purposes of this Report are to:
 - a) provide background information about these proceedings;
 - b) summarize the Receiver's activities since the date of its appointment;
 - c) outline the Receiver's attempts to obtain information and Property from the Companies' principals, Santokh Mahal ("Santokh") and Jesse Mahal ("Jesse", and together with Santokh, the "Mahals"); and
 - d) request that the Court issue an Order:
 - i. directing each of Santokh and Jesse to comply with their obligations under the Receivership Order, including to, among other things, immediately provide to the Receiver all Property and records (physical and electronic) in their possession, power and control;
 - ii. directing each of Santokh and Jesse to return to the Receiver, no later than 5 p.m. (Toronto Time) on October 22, 2021, the PLC (as defined below), or, if not in their possession, to provide to the Receiver the complete contact information of the party in possession of the PLC, including all correspondence regarding the chain of custody of the PLC from the Companies to such party;
 - iii. directing Santokh to return, no later than 5 p.m. (Toronto Time) on October 22, 2021, \$21,500 that was transferred from the bank account of Golden Miles to his personal account on October 4, 2021, after the date of the Receivership Order;
 - iv. directing the Companies' accountants, Gill & Co. ("Gill"), to provide no later than 5 p.m. (Toronto Time) on October 28, 2021 certain Records (as defined in the Receivership Order) and supporting documentation for the payment it received from Golden Miles on October 4, 2021;
 - v. making certain declarations and orders commensurate with the foregoing, as further set out in the draft order attached to the Receiver's motion record; and
 - vi. directing the Mahals, on a joint and severally basis, to pay the costs of the Receiver and its counsel incurred in preparing this Report and seeking the relief herein .

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 relied upon certain of the Companies' unaudited financial statements, limited books and records obtained from Jesse (as discussed below) and discussions with the Mahals and a former advisor to the Companies.

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 financial information should perform its own diligence.

2.0 Background

1. Mahal VC was incorporated in 2014 under the *Business Corporation Act* (Canada) and is a single purpose corporation that owns the Real Property. The Receiver understands that Jesse is the sole officer, director and shareholder of Mahal VC.
2. Golden Miles was incorporated in 2010 as Golden Miles Bread & Bagel Corporation under the *Business Corporations Act* (Ontario) and changed its name to Golden Miles Food Corporation in 2017. The Receiver understands that Santokh, Jesse’s father, is the sole officer, director and shareholder of Golden Miles.
3. The Mahals have advised the Receiver that Mahal VC owns the Real Property and that Golden Miles owns the machinery, equipment and vehicles used in connection with the Flour Mill. Golden Miles operates from the Real Property and describes itself in its unaudited financial statements as at June 30, 2020 as being “engaged in the sale of cookies, crackers, and dried plant material”.
4. Construction of the Flour Mill appears to be substantially complete; however, it has not been issued the permits, licenses and approvals necessary to operate from the relevant authorities, including the City of Brantford and various health and safety regulators.
5. The Receiver understands that the Companies had no employees as of the date of the Receivership Order. As discussed further below, the Mahals have not provided the Receiver with any information regarding the Companies’ obligations, including any amounts owing to its former employees.
6. Skymark Financial Corporation (“Skymark”) is the Companies’ largest creditor. As of the date of the Receivership Order, and for the reasons described below, KSV determined that the Companies were indebted to Skymark in the amount of approximately \$29.2 million¹. The Skymark debt relates to various loans to Mahal VC in connection with mortgages granted by Mahal VC on the Real Property (the “Mahal Loans”) and to Golden Miles in connection with equipment financing (the “GM Loans”, and together with the Mahal Loans, the “Loans”). The Receiver understands that the primary purpose of the Loans was to construct a Flour Mill on the Real Property.
7. The Skymark receivership application materials and related documentation provide details concerning the defaults under the Loans and subsequent events resulting in these proceedings. These materials include the Minutes of Settlement dated July 26, 2021 between Skymark and the Companies (the “Minutes”) pursuant to which, among other things, KSV was engaged to determine the amount owing under the Loans.

¹ This Skymark facility consists of approximately \$19.7 million owing by Mahal VC and approximately \$9.5 million owing by Golden Miles.

8. The Receiver has been provided with a copy of a promissory note allegedly issued by Golden Miles to Santokh in the approximate amount of \$24.1 million, together with a general security agreement dated December 14, 2020. Santokh filed a financing statement in the *Personal Property Security Act* (Ontario) (the “PPSA”) registry against Golden Miles on December 16, 2020.
9. Several other parties have also made registrations against Golden Miles under the PPSA and/or filed charges or liens against the Real Property, including (i) a construction lien in 2019 by Vicano Construction Limited (“Vicano”), one of the Companies’ former general contractors, in the approximate amount of \$5.8 million; (ii) a number of transfers of charges by parties that funded Skymark so that Skymark could make the Loans; and (iii) a mortgage in 2021 by Santokh, in the approximate amount of \$35 million.
10. As set out in Section 3 below, the Receiver has located virtually no books and records of the Companies and therefore has been unable to compile creditor lists, which were required for the Receiver’s statutory report to the Office of Superintendent of Bankruptcy which was due ten days after the granting of the Receivership Order. Accordingly, all indebtedness referred to in this Report should be considered preliminary.
11. The Receiver’s counsel, Blake, Cassels & Graydon LLP (“Blakes”), is currently reviewing the validity and priority of the security interests claimed or registered against the Property. The limited records provided by the Companies have forced the Receiver and Blakes to rely on records provided by the respective secured creditors, which has delayed the process. The Receiver will report on the results of this security review when it is complete.

3.0 Receiver’s Activities

1. The Mahals have provided minimal cooperation and information to the Receiver since its appointment. The Receiver’s dealings with the Mahals are set out in Section 3.1 and 3.2 below.
2. Notwithstanding the minimal cooperation, the Receiver has taken steps to secure the Property and gather information relating to the Companies as expeditiously and cost-effectively as possible. Among other things, the Receiver has:
 - a) secured the Flour Mill by changing the locks, installing exterior security cameras, disabling the exterior gates (the “Gates”) and arranging periodic security patrols at the Real Property;
 - b) reviewed records provided by Skymark and its counsel;
 - c) met with certain of the Companies’ vendors, including:
 - i. Buhler Canada Inc., an international milling equipment supplier;
 - ii. Fluid Construction Inc., the most recent general contractor of the Flour Mill;
 - iii. Vicano, the former general contractor and current construction lien claimant, as described above;

- iv. Pelican Woodcliff Inc., a cost consultant engaged by Golden Miles to review its construction budget; and
- v. several vendors that maintained the Flour Mill's alarms, sprinklers and equipment;
- d) met with Richard Rossetti, an engineer involved in the design and construction of the Flour Mill. Mr. Rossetti accompanied the Receiver on a tour of the Flour Mill, identified deficiencies that, in his view, need to be addressed, and provided the Receiver with extensive electronic data regarding the Property;
- e) met with the Companies' insurance agent and representatives of one of the Companies' insurers in order to maintain insurance for the Property;
- f) corresponded with financial institutions where the Companies hold accounts²;
- g) held discussions and corresponded with certain judgment creditors or counterparties to litigation, such as Garage Living Inc. (which has a \$61,000 judgment against the Companies) and Vivian Group Inc. (which has advanced a \$750,000 trust claim, among other claims, against the Companies); and
- h) corresponded with Gill, the Companies' accountants.

3.1 Attendances at the Flour Mill and Missing Records and Property

First Attendance – July 30, 2021

1. Pursuant to the Minutes, the Companies agreed that KSV would be entitled to “attend at the [Flour Mill] to make an inventory of and inspect the condition of the collateral secured under the [Loans] and report its findings to Skymark.” The Companies agreed in the Minutes to “provide all reasonable assistance to KSV or its representatives to enable the inspection provided for in [the Minutes] to take place, including without limitation, providing physical access to the [Flour Mill] and promptly responding to any questions or requests from KSV or its representatives”.
2. On July 30, 2021, KSV engaged an agent to visit the Flour Mill (the “July Inspection”). KSV's agent was initially refused access by Santokh, and ultimately only permitted by Santokh to enter the Flour Mill on the basis that no photographs, notes or other recordings be taken. KSV's records of the July Inspection are accordingly based on a recount by its agent immediately following the July Inspection.

Second Attendance – October 1, 2021

3. On October 1, 2021, representatives of the Receiver attended outside the Flour Mill, awaiting the granting of the Receivership Order which was being taken out on consent that day pursuant to the terms of the Minutes.

² Based on banking information the Receiver obtained from Skymark related to the Companies. The Mahals have not provided the Receiver with any of the Companies' bank account details.

4. Pending the granting of the Receivership Order, the Receiver observed both Jesse and Santokh removing bags and boxes from the office entrance of the Flour Mill into their respective vehicles. The Receiver did not review the contents of these bags and boxes as the removal was completed prior to the Receiver's appointment. The Receiver has requested that the contents of these bags and boxes be provided to the Receiver; however, this request has been ignored.
5. Immediately upon issuance of the Receivership Order, the Receiver entered the Flour Mill, accompanied by the Mahals, to undertake its duties and exercise the powers granted by the Receivership Order. The Receiver's observations on October 1, 2021 included:
 - a) numerous empty racks with loose/disconnected wiring inside the server room – only one server remained;
 - b) office furniture, including desks, chairs, monitors, keyboards and wires, but no CPUs or laptop computers;
 - c) no physical records, financial or otherwise, stored on the site;
 - d) no security camera monitoring equipment, despite numerous security cameras installed both inside and outside the Flour Mill; and
 - e) large bags and boxes of raw tobacco located inside and outside the premises (the "Tobacco").
6. The Receiver questioned the Mahals regarding the above, including the absence of records inside the office area. The Mahals advised the Receiver that no Property or records had been removed, yet neither of them identified where any records were located.
7. At the July Inspection, KSV's agent observed equipment, including servers, security monitoring equipment and CPUs, in the Flour Mill that were no longer there on October 1, 2021. The Receiver inquired about the location of these specific assets, and the Mahals again advised, without explanation, that no Property had been removed.
8. As part of securing of the Flour Mill, the Receiver attempted to change the passcode on the Gates which secure the premises from vehicle access. The Receiver was unable to reprogram the Gates and therefore disabled them by disconnecting the Gate-opening mechanism from the power source. This would ensure that no vehicles could access the Flour Mill over the weekend of October 2 and 3, 2021.
9. On Monday, October 4, 2021, the Receiver re-attended at the Property and observed that the Gates were open and the power supply physically reconnected. The Receiver requested an explanation from the Mahals. The Mahals' counsel at the time, Kirwin Partners LLP ("Kirwin"), advised that "the gate to the plant has a malfunction which causes it to open spontaneously in damp weather." An explanation was not provided as to how the weather could cause cables to be physically reconnected. Kirwin advised that the Mahals did not attend at the Property on October 2 or 3, 2021.

3.2 Written Requests for Information From the Companies and Mahals

1. Due to the issues described above, the Receiver and Blakes made numerous written requests to the Mahals and their counsel.
2. On October 1, 2021, Blakes advised Kirwin, the Companies' counsel at the time, (the "October 1st Correspondence") that the Receiver's representatives did not locate any digital or physical records and required that Jesse and Santokh "advise of the existence of all physical and digital records, and to provide access to and copies of same." In a follow up email on the same date, Blakes requested details regarding the Companies' insurance as soon as possible. Neither Kirwin nor the Companies responded to these requests. A copy of the October 1st Correspondence is attached as Appendix "B".
3. Blakes sent a letter dated October 4, 2021 (the "October 4th Letter") to Kirwin and requested, among other things, that:
 - a) Jesse and Santokh return the Property that was found to be missing from the Flour Mill and disclose the location of any and all other Property of the Companies that is subject to the Receivership Order;
 - b) Jesse and Santokh disclose the location of the Companies' books and records and permit the Receiver to make, retain and take copies of these records; and
 - c) all information and records specifically identified in Schedule "A" to the October 4th Letter be provided to the Receiver by noon on October 5, 2021. The Receiver also requested that the computers and other electronic devices of the Mahals (the "Devices") be provided to the Receiver so that they could be imaged.

A copy of the October 4th Letter is provided as Appendix "C".

4. Kirwin responded by email on October 5, 2021 to the October 4th Letter (the "October 5th Email") and indicated that "Santosh takes his obligations under the order seriously. I will assist in coordinating a meaningful response to the information requested in schedule A to your letter without further delay." The response from Kirwin, among other things, requested that the Receiver provide further specifics regarding the missing Property and the books and records. The October 5th Email is provided, without attachments, as Appendix "D".
5. Along with the October 5th Email, the Receiver was provided with a one-page document that listed six vendor accounts and court file links to ongoing litigation between the Companies and Vicano. In addition to the response from Kirwin, Santokh emailed to Blakes a copy of a recent electricity bill. The electricity bill was addressed to Santokh's personal residence.
6. Following the October 5th Email, Blakes sent a follow-up letter dated October 5, 2021 (the "October 5th Letter") to Kirwin which responded to questions from Kirwin. A copy of the October 5th Letter is attached as Appendix "E".
7. The Receiver was advised by Jesse on October 6, 2021 that the Mahals had retained Dickinson Wright LLP ("Dickinson"). A notice of change of lawyer was filed by Dickinson in these proceedings on October 6, 2021, which advised that Kirwin had been replaced by Dickinson as lawyers of record for the Companies.

8. On October 6, 2021, Blakes prepared an email (the “October 6th Email”) to Dickinson regarding the complete lack of cooperation from the Mahals and their breaches of and disregard for the Receivership Order. The October 6th Email, which included the October 4th Letter and the October 5th Letter, is provided, without attachments, as Appendix “F”.
9. On October 7, 2021, on a call with the Receiver, Blakes, Dickinson and Jesse (the “October 7th Phone Call”), Jesse advised that he would upload the information requested by the Receiver to a data room. While Jesse provided numerous documents, he did not do so in a manner that was responsive to the Receiver’s information requests. He provided a “data dump” of what appear to be selective and outdated engineering files, site-drawings, floor plans, old invoices, budgets, old statements of account from Vicano and Fluid and certain property assessment documents. The documents uploaded in the data room did not include any of the financial books and records, bank or Canada Revenue agency (“CRA”) account numbers, permit related documents, and certain other documents which the Receiver had requested on a priority basis. The Mahals also ignored the Receiver’s requirement that they provide the Devices.
10. Following its review of the data upload, the Receiver advised Jesse on October 12, 2021 that the information it received was deficient and summarized, yet again, its requirements, including the Devices. No response was provided.
11. Later on October 12, 2021, the Receiver requested that Jesse provide the Receiver with the key to the mailbox at the Real Property and the “PCL (*sic*) Controller unit which has all the software programs to run the mill” as Jesse had previously advised the Receiver that the programmable logic controller (the “PLC”), an industrial computer adapted for the control of manufacturing processes which contains the essential software and source code required to operate the Flour Mill, was moved to the basement of the Flour Mill.
12. It is the Receiver’s understanding, based on its consultations with third party experts, that without the PLC, the Flour Mill is inoperable.
13. On October 13, 2021, Jesse advised the Receiver:
 - a) “Still acquiring remaining information requested”; and
 - b) “PLC control is with supplier in Europe for further coding. They require payment and need to come over to install and commission all machines.”
14. Copies of the October 12 and 13, 2021 emails (the “October 12th and 13th Emails”) are attached as Appendix “G”.
15. On the morning of October 20, 2021, Jesse attended at the Flour Mill with a representative of the Receiver in order to recover certain property that is not subject to the Receivership Order. Jesse produced a laptop and agreed to let the Receiver copy it; however, he advised that he was not willing to leave the laptop with the Receiver and requested to be present when the device is being imaged. This is acceptable to the Receiver, and the Receiver is prepared to coordinate a technician to undertake such imaging forthwith with Jesse present.

3.3 Gill & Co.

1. During the October 7th Phone Call, Jesse advised the Receiver that hard copies of the Companies' books and records had recently been sent to Gill.
2. Based on the Receiver's review of bank account information obtained directly from the Companies' banks (described below in section 3.4), the Receiver identified a \$15,750 cheque from Golden Miles to Gill that cleared on October 4, 2021, three days after the Receiver was appointed.
3. On October 14, 2021, representatives of the Receiver contacted Pardeep Gill of Gill ("Ms. Gill") by telephone to request access to the accounting and tax records of the Companies. On this call, the Receiver specifically requested the Companies' financial statements and tax returns. On October 14, 2021, the Receiver followed up with an email, attaching the Receivership Order and requesting a call the next day (October 15, 2021).
4. Ms. Gill responded by email on October 18, 2021 proposing a call on Wednesday, October 20, 2021. The Receiver responded by requesting a call that day (October 18, 2021) due to urgency. Receiving no response, the Receiver followed up by email again on October 18, 2021 reiterating its request for the Companies' financial statements and tax returns. No response was received.
5. On October 19, 2021, the Receiver emailed Ms. Gill again, asking for a response and specifically requesting (a) all trial balances and financial statements of the Companies, in draft or final form, (b) all draft and filed tax returns of the Companies, (c) details of any and all funds that Gill currently holds on behalf of the Companies or the Mahals, and (d) a copy of the invoice related to the \$15,750 cheque that cleared on October 4, 2021. This email requested a response by noon the next day (October 20, 2021).
6. At 12:56 p.m. on October 20, 2021, the Receiver was contacted by Navjot Mahant of Gill who advised "I see a meeting scheduled with you today in Pardeep's calendar for 1 o'clock. However, Pardeep is out of the office and has been sick for the last two days. I will find a new time for you and schedule a meeting". Copies of the emails between the Receiver and Gill are provided in Appendix "H".
7. The Receiver has not been provided with any of the Records it has requested from Gill. Gill is in receipt of funds that may be Property (as defined in the Receivership Order) and the Receiver has been advised by Jesse that material Records (as defined in the Receivership Order) have been transferred to Gill. Accordingly, the Receiver is seeking an order specifically directing Gill to make the disclosure required by the Receivership Order.

3.4 Bank Accounts

1. As referenced above, the Mahals have not provided the Receiver with any of the Companies' banking information.

2. Based on information provided by Skymark (including cheque copies), the Receiver has been able to identify a bank account held by Mahal VC at Royal Bank of Canada (“RBC”) and accounts held by Golden Miles at Toronto-Dominion Bank (“TD”). Based on this information, the Receiver advised RBC and TD of the Receivership Order and requested account details. Their responses are summarized below:
 - a) RBC advised that Mahal VC’s account has been set to deposits only per the Receiver’s request. The Receiver has requested account balance details and an account history for the last 12 months; and
 - b) TD advised that Golden Miles maintained three accounts and provided to the Receiver account histories for the last 12 months. The Receiver notes that:
 - i. two of these accounts were closed on July 26, 2021 and the remaining active account had a balance of \$41,074 on the date of the Receivership Order;
 - ii. the address of the bank statements is Jesse’s personal residence; and
 - iii. a transfer was made on October 4, 2021 from account 5325309 in the amount of \$21,500. Following an inquiry with TD, the Receiver was advised that this transfer was made to Santokh. An extract of the TD statement for account 5325309 and confirmation from TD regarding the transfer is provided as Appendix “I”.

3.5 The Tobacco

1. Blakes and the Receiver requested documentation from the Mahals related to the Tobacco that was discovered at the Property, described above.
2. The response to this request in the October 5th Email was that “the Tobacco leaf product at the mill is not Property as defined in the receivership order. In any event, it is damaged and is at the mill waiting to be discarded.” In a subsequent phone call on October 5, 2021 between Blakes and Kirwin, Blakes was advised that the Tobacco was imported from India and sold to local indigenous communities.
3. During the October 7th Phone Call, Jesse advised that certain unknown parties dumped tobacco near the Companies’ garbage bin for disposal, without the Companies’ knowledge or consent. The Receiver asked Jesse to explain how several large unopened boxes of tobacco were also located inside the warehouse of the Flour Mill. Jesse responded that they were “moving stuff around” and so some of the Tobacco was moved into the warehouse.
4. Having been provided with no permits, licences, stamps or other documentation with respect to the Tobacco, and having received inconsistent explanations for the existence of a material volume of a controlled substance at the Flour Mill, the Receiver contacted Health Canada and the City of Brantford for guidance and direction on the disposal of the Tobacco. The Receiver anticipates that the Tobacco will be disposed of in the short term, in accordance with directions from Health Canada and the City of Brantford.

4.0 Summary of Deficiencies

1. As of the date of this Report, the Receiver has not been provided with most of the items requested in its original information request list or in the October 12th and 13th Emails, including without limitation:
 - a) the financial accounting records of the Companies, digital or physical;
 - b) information regarding the Companies' bank accounts;
 - c) copies of all permits, certifications, licenses, patents, and approvals obtained or pending in connection with the Property;
 - d) the Devices for Jesse and Santokh;
 - e) the location of the Property that was identified as missing from the Flour Mill;
 - f) accounts payable listings with addresses and contact information for the Companies;
 - g) access to all email accounts associated with Mahal VC and Golden Miles;
 - h) any permits, stamps or registrations connected to the Tobacco identified at the Property; and
 - i) notices and account statements from CRA.
2. The Receiver has also not been provided with any information regarding the location of the PLC, despite it being one of the most important components of the Flour Mill.
3. Santokh furthermore appears to have transferred \$21,500 from Golden Miles to himself after the Receiver was appointed, without the Receiver's authorization or knowledge. The absence of books and records has prevented the Receiver from reviewing this transfer. Unless and until those funds have been determined by the Receiver to be outside of the scope of the Receivership Order, they should be returned.
4. The virtual absence of cooperation and disclosure by the Mahals and their apparent attempts to frustrate the process is preventing the Receiver from undertaking its duties under the Receivership Order. The realizable value of the Property may be materially impaired if the Mahals do not provide the Receiver with the information and Property it has requested.

5.0 Conclusion and Recommendation

1. Overall, the Receiver is of the view that the Mahals have demonstrated an intent to delay, hinder and defeat the Receiver in its ability to perform its duties as set out in the Receivership Order. The majority of the Receiver's requests have been ignored, and in the limited circumstances where information has been provided, the Mahals' responses have been implausible (for example that rain re-connected the disconnected power source for the Gates) or inconsistent (for example with respect to the Tobacco).

2. The Receiver and its counsel have made numerous and repeated requests and demands for Records and Property since being appointed, each in accordance with the Receiver's powers and entitlements under the Receivership Order. As outlined above, these requests and demands have had very little effect and have largely been ignored by the Mahals. This has left the Receiver with no choice but to bring the within motion, incur the costs of preparing this Report and attend at Court. These costs could have been avoided had the Mahals cooperated and fulfilled their obligations under the Receivership Order. In the Receiver's view, it is unfair and inappropriate for the creditors of the Companies to bear these costs. The Mahals ought to be personally liable for the costs that their behaviour has caused.
3. The Receiver respectfully requests the Court's assistance to fulfil its mandate. The Receiver is not, at this time, seeking an expansion of the powers granted to it in the Receivership Order, but rather directions to the Mahals and Gill to comply with the Receiver's existing powers. It is apparent to the Receiver that without such directions, the Receiver will continue to be ignored.
4. Accordingly, the Receiver respectfully requests that the Court make an Order:
 - a) directing each of Santokh and Jesse to comply with their obligations under the Receivership Order, including to, among other things, immediately provide to the Receiver all Property and records (physical and electronic) in their possession, power and control;
 - b) directing each of Santokh and Jesse to return to the Receiver, no later than 5 p.m. (Toronto Time) on October 22, 2021, the PLC, or, if not in their possession, to provide to the Receiver the complete contact information of the party in possession of the PLC, including all correspondence regarding the chain of custody of the PLC to such party;
 - c) directing Santokh to return, no later than 5 p.m. (Toronto Time) on October 22, 2021, \$21,500 that was transferred from the bank account of Golden Miles to his personal account on October 4, 2021, after the date of the Receivership Order;
 - d) directing Gill to provide, no later than 5 p.m. (Toronto Time) on October 28, 2021, certain Records (as defined in the Receivership Order) and supporting documentation for the payment it received from Golden Miles on October 4, 2021;
 - e) declaring that the Mahals are personally liable, on a joint and several basis, for the reasonable costs of the Receiver and its counsel incurred in connection with the preparation of this Report and their attendance at the motion seeking the within relief; and
 - f) making certain declarations and orders commensurate with the foregoing, as further set out in the draft order attached to the Receiver's motion record.
5. The Receiver is also seeking that the Mahals pay personally and forthwith the Receiver's costs of preparing this Report, costs thrown away due to Mahals' refusal to comply with the terms of the Receivership Order which was granted three weeks ago.

* * *

All of which is respectfully submitted,

KSV Restructuring Inc.

**KSV RESTRUCTURING INC.,
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF
MAHAL VENTURE CAPITAL INC. AND GOLDEN MILES FOOD CORPORATION
AND NOT IN ITS PERSONAL OR IN ANY OTHER CAPACITY**

Appendix “C”

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	TUESDAY, THE 26th
)	
JUSTICE MCEWEN)	DAY OF OCTOBER, 2021

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicants

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

**ORDER
(Payment of Funds and Costs)**

THIS MOTION, made by KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Mahal Venture Capital Inc. and Golden Miles Food Corporation (collectively, the “**Companies**”) owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the “**Property**”), was heard virtually this day via the Zoom videoconferencing platform by judicial videoconference at Toronto, Ontario due to the COVID-19 crisis.

ON READING the Notice of Motion and the First Report of the Receiver dated October 20, 2021, the Affidavit of Jesse Mahal, sworn October 25, 2021 and the Affidavit of Santokh Mahal (together with Jesse Mahal, the “**Mahals**”), sworn October 25, 2021, and on hearing the submissions of the lawyers for the Receiver, the Mahals and such other counsel as listed on the Participant Information Form, no one else appearing:

RETURN OF PROPERTY

1. **THIS COURT ORDERS AND DIRECTS** Santokh Mahal to pay \$21,500 by wire transfer or certified cheque to the Receiver, or as the Receiver may direct in writing, no later than 5:00 p.m. (Toronto Time) on October 29, 2021, which payment to the Receiver shall be without prejudice to Santokh Mahal claiming a priority entitlement to such funds, on any basis whatsoever, at a future date.

COSTS

2. **THIS COURT ORDERS AND DECLARES** that the Mahals are personally liable, on a joint and several basis, for the costs of the Receiver and its counsel of this motion, in the aggregate amount of \$7,500 (the “Costs”), which Costs shall be part of the Property. The Mahals shall pay the Costs to the Receiver forthwith, and in any event before November 12, 2021.



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

SKYMARK FINANCE CORPORATION - and -
Applicants

MAHAL VENTURE CAPITAL INC., *et al.*
Respondents

26 Oct 21

Order to go, on consent, as per the draft filed and signed.
I remain seized.



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding Commenced at Toronto

ORDER
(Payment of Funds and Costs)

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

Maia Jorgensen, LSO #80008B
Tel: 416-863-2498
Fax: 416-863-2653
Email: maia.jorgensen@blakes.com

Lawyers for the Receiver

Appendix “D”

Golden Miles Food Corporation
Estimated Cost Requirement
 For the period ending January 31, 2022

	Notes	2021-11-30	2021-12-31	2022-01-31	Total
Disbursements					
Accrued costs	1	498,945	-	-	498,945
Ongoing monthly operating costs	2	15,000	15,000	15,000	45,000
Insurance	3	200,000	-	-	200,000
Professional fees	4	150,000	150,000	150,000	450,000
Sundry / miscellaneous		35,000	35,000	35,000	105,000
Amount Required		898,945	200,000	200,000	1,298,945

Represents a high level cost estimate for the period ending January 31, 2022. The actual costs may be materially higher than the budgeted costs due to unforeseen matters and the extent of diligence required by prospective purchasers. The Receiver is currently developing a sale process and expects to set an offer deadline in early 2022.

Notes

1. Represents costs incurred to date as set out in Appendix "A".
2. Known monthly operating costs, including in respect of utilities, internet, pest control, security and other expenses as set out in Appendix "A".
3. Represents an estimate for insurance.
4. Represents an estimate for go-forward professional fees of the Receiver and its counsel, Blake Cassels & Graydon LLP. Actual costs will vary based on the activity in the mandate and unforeseen issues.

Golden Miles Food Corporation
Appendix "A"
As at October 25, 2021

Known one-time costs

Vendor	Amount	Description
Marciano	2,848	Sprinkler and fire system testing
Tert & Ross - accrued to date	16,950	Agent of the Receiver
Tert & Ross - tobacco disposal	1,469	
Millennium Security	1,131	Security patrols
Spring Showers Irrigation	136	Sprinkler winterization
HAV filters and commissioning	2,000	Estimate re filter replacement and commissioning of HVAC
GTA Compressor Solutions	4,412	Estimate re compressor warranty servicing
Buhler Canada	50,000	Estimate re machinery and mill cleaning
P&H and Envirocore Silo cleaning	20,000	Estimate re costs to remove grain/flour from silos
		As of October 26 2021, the Receiver and Blakes are owed approximately \$400,000, excluding HST (approximately \$180,000 of the amount is owed in respect of pre-filing work performed).
Professional fees outstanding	400,000	
Known costs to date	498,945	

Ongoing monthly operating costs

Vendor	Amount	Description
Convergint	60	Burglar and fire alarm monitoring
Bell	117	Telephone and internet
Millennium Security	1,130	Security patrols [estimate for 40 monthly patrols]
Tert & Ross	7,500	Receiver's agent [estimate]
Enbridge Gas	2,000	Utilities
Brantford Power	2,100	Utilities
Abell Pest Control	1,243	Pest control services
Known monthly expenditures (before insurance)	14,150	

Appendix “E”

FINANCING TERM SHEET

Mahal Venture Capital Inc. & Golden Miles Food Corporation

Dated as of November 3, 2021

WHEREAS on October 1, 2021 KSV Restructuring Inc. (the “**Receiver**”) was appointed as receiver and manager of all of the assets, undertakings and properties of Mahal Venture Capital Inc. (“**Mahal**”) and Golden Miles Food Corporation (“**GM**”, together with Mahal, the “**Debtors**”) owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the “**Mill**”) pursuant to an Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) dated October 1, 2021 (the “**Appointment Order**”);

AND WHEREAS, pursuant to Paragraph 21 of the Appointment Order, the Receiver is authorized to borrow by way of a revolving line of credit or otherwise, such monies from time to time as the Receiver may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as the Receiver deems advisable for such period or periods of time as the Receiver may arrange, for the purposes of funding the exercise of the powers and duties conferred upon the Receiver by the Appointment Order;

AND WHEREAS the Lender has agreed to provide financing in order to fund certain obligations of the Receiver in the receivership proceedings of the Debtors (the “**Receivership Proceedings**”);

NOW THEREFORE, the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

1. **BORROWER:** The Receiver, in its capacity as receiver of the Debtors, and not in its personal or corporate capacity.
2. **LENDER** RCM Capital Management or its nominee (the “**Lender**”).
3. **CREDIT FACILITY; DRAWDOWNS:** A senior secured credit facility (the “**Credit Facility**”) up to a maximum principal amount of \$2,000,000.00 (as such amount may be reduced from time to time pursuant to the terms hereof, the “**Facility Amount**”), subject to the terms and conditions contained herein.

Advances under the Credit Facility shall be evidenced by, and made available to the Borrower by way of the issuance by the Receiver of a Receiver’s Certificates (as defined in the Appointment Order), amended to provide that the Advance constitutes an Advance under this Term Sheet and that the Advance is subject to the terms and conditions of this Term Sheet, in such amount as the Receiver may reasonably request from time to time (each an, “**Advance**”) which, in the aggregate, shall not exceed the Facility Amount.

Each Advance shall be deposited by the Lender into the Operating Account within two (2) Business Days of the date on which the Receiver delivers to the Lender an Advance Request in the form of **Schedule “A”** (an “**Advance Request**”), provided that, in the determination of the Lender, the Advance

Conditions (as defined in Section 5) are satisfied as of the date on which such Advance Request is delivered and remain satisfied on the date of such Advance.

For the purposes of this Term Sheet, “**Business Day**” shall mean any day other than a Saturday, Sunday or any other day on which banks in Toronto, Ontario are not open for business.

4. **PURPOSE AND PERMITTED PAYMENTS:**

The Receiver shall use proceeds of the Credit Facility solely for the following purposes:

- (a) to fund, in accordance with the Budget (as defined in Section 8), the Debtors’ operating expenditures during the Receivership Proceedings, including without limitation (i) insurance premiums, (ii) surveillance and security for the Mill, and (iii) the working capital and other general corporate funding requirements of the Debtors during such period;
- (b) to pay the interest, Fees (as defined in Section 11) and other amounts owing to the Lender under this Term Sheet;
- (c) to pay the reasonable and documented legal and financial advisory fees and expenses of the Receiver and its counsel, in each case pursuant to the terms hereof.

5. **ADVANCE CONDITIONS**

The Lender’s agreement to make the Credit Facility available to the Receiver and to make any Advance to the Receiver is subject to the satisfaction, as determined by the Lender, of each of the following conditions precedent (collectively, the “**Advance Conditions**”), each of which is for the benefit of the Lender and may be waived by the Lender in its sole and absolute discretion:

- (a) The Receiver shall have executed and delivered this Term Sheet, a Receiver’s Certificate in the amount of the Advance and such other documents as the Lender may reasonably request.
- (b) In respect of any Advance that would cause the aggregate outstanding amount under the Credit Facility to exceed \$500,000.00 the Court shall have issued an order (the “**Amending Order**”) in a form acceptable to the Lender, acting reasonably, capturing the spirit of this Term Sheet, and, in particular, amending Paragraph 21 of the Appointment Order to:
 - (1) increase the permitted amount of borrowings secured by the Receiver’s Borrowings Charge (as defined in the Appointment Order) to an amount equal to or greater than (i) the total outstanding amount of the Credit Facility at the time, plus (ii) the amount requested in the applicable Advance Request; and
 - (2) reflect the payment of interest and fees.

- (c) The Appointment Order and the Amending Order, if applicable, shall not have been stayed, vacated or otherwise amended, restated or modified in respect of any amendment, relating to the Credit Facility or any other matter that affects the Lender, without the written consent of the Lender in its sole and absolute discretion.
- (d) The Receiver shall have delivered an Advance Request in respect of such Advance.
- (e) The Borrower shall be in compliance with the Budget and the Advance will be in keeping with the Budget.

6. **CREDIT FACILITY SECURITY:**

All Advances shall be evidenced by Receiver's Certificates and secured by the Receiver's Borrowings Charge (each as defined in the Appointment Order).

7. **REPAYMENT:**

The Credit Facility (including, for the avoidance of doubt, all interest and fees accumulated thereon) shall be due and repayable in full on the earlier of: (i) the completion of a sale of the Mill by the Receiver; (ii) the termination of the Receivership Proceedings by order of the Court; (iii) 6 months from the date of this Term Sheet, provided, however, the Receiver may, in its sole discretion, upon written notice to the Lender prior to the date that is 6 months from the date of this Term Sheet, extend this date for an additional 6 months (i.e. 12 months from the date of this Term Sheet); and (iv) a default hereunder (the earliest of such dates being the "**Maturity Date**").

8. **BUDGET:**

Attached hereto as **Schedule "B"** is a copy of the budget (excluding the supporting documentation provided to the Lender in connection therewith) as in effect on the date hereof for a three-month period (the "**Initial Budget**"), which the Lender acknowledges and agrees is in form and substance satisfactory to the Lender. The Initial Budget shall be the "**Budget**" referenced in this Term Sheet until such time as a revised budget has been approved by the Lender in accordance with this Section 8.

(A) At the written request of the Lender (including by email), (B) at the election of the Receiver, (C) within two (2) weeks of the end of the applicable Budget period, or (D) upon a material change, or a material change reasonably anticipated by the Receiver, to any item set forth in the Budget, the Receiver shall update and propose a revised budget to the Lender (the "**Updated Budget**"). With respect to (A) above, the Lender may make such request up to once every month, and if such request is made, the Borrower shall submit the Updated Budget no later than five (5) Business Days following receipt of the request. If the Lender, in its sole and absolute discretion, determines that the Updated Budget is not acceptable, it shall, within three (3) Business Days of receipt thereof, provide written notice to the Receiver stating that the Updated Budget is not acceptable and setting out the reasons why such Updated Budget is not acceptable, and until the Receiver has delivered a revised Updated Budget acceptable to the Lender in its sole and absolute discretion, the prior Budget shall remain in

effect.

When the Updated Budget is accepted by the Lender, such Updated Budget shall be the Budget for the purpose of this Term Sheet.

9. **PREPAYMENTS:** The Receiver may prepay any amounts outstanding under the Credit Facility at any time prior to the Maturity Date. Any amount repaid may not be reborrowed and the maximum amount of the Credit Facility shall be reduced by the amount of such prepayment.
10. **INTEREST RATE:** Interest shall be charged on the aggregate outstanding amount of the Credit Facility that has been advanced to the Borrower from the date of the funding thereof at a rate equal to 10.5% *per annum*, compounded monthly, which interest shall accrue and be payable on the Maturity Date.

All interest shall be computed on the basis of a 360-day year of twelve 30-day months, provided that, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis for such determination.

11. **FEES:** The Receiver shall pay shall to the Lender: (i) a structuring fee in the amount of \$20,000.00 (the “**Initial Fee**”); and (ii) an extension fee of \$20,000.00 if the Maturity Date is extended in accordance with Paragraph 7(iii) above (the “**Extension Fee**” and together with the Initial Fee, the “**Fees**”).

The Initial Fee shall be deemed to be earned upon the initial Advance hereunder, and be deducted from the initial Advance and paid to the Lender.

The Extension Fee shall be due and payable at the time the Receiver provides written notice to the Lender electing to extend the Maturity Date.

The Receiver and the Lender agree and acknowledge that the Fees shall be treated and calculated as interest, including for the purposes of Paragraph 21 of the Appointment Order, amortized over the period beginning on the date of the first Advance and ending on the date that the Credit Facility is repaid, and expressed as a percentage, per annum, of the principal amount of the Credit Facility.

12. **DISCLOSURE:** The Receiver may, in its sole discretion, disclose an unredacted copy of this Term Sheet by attaching same to a report to the Court.
13. **CURRENCY:** All monetary denominations shall be in lawful currency of Canada and all payments made by the Credit Parties under this Term Sheet shall be in Canadian dollars.

14. **ENTIRE AGREEMENT;
CONFLICT:** This Term Sheet, including the schedules hereto and any Receiver's Certificates (as defined in the Appointment Order) issued hereunder, constitute the entire agreement between the parties relating to the subject matter hereof.
15. **ASSIGNMENT:** The Lender may assign this Term Sheet and its rights and obligations hereunder, in whole or in part, to any affiliate of the Lender in its discretion (subject in all cases to (i) providing the Receiver with reasonable evidence that such assignee has the financial capacity to fulfill the obligations of the Lender hereunder, and (ii) the assignee providing notice to the Receiver to confirm such assignment). Neither this Term Sheet nor any right or obligation hereunder may be assigned by the Receiver.
16. **CREDIT BIDDING:** In any sale of any Debtor property by the Receiver, the Lender shall be permitted, in its sole and absolute discretion, to credit bid up to the full amount of the Credit Facility then outstanding.
17. **SEVERABILITY:** Any provision in this Term Sheet which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.
18. **NO THIRD PARTY BENEFICIARY:** No person, other than the Receiver and the Lender is entitled to rely upon this Term Sheet and the parties expressly agree that this Term Sheet does not confer rights upon any other party.
19. **COUNTERPARTS AND SIGNATURES:** This Term Sheet may be executed in any number of counterparts and by electronic transmission including "pdf email", each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument.
20. **NOTICES:** Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by email to such party at its address set out on its signature page hereof, with a copy to counsel.
- Any such notice shall be deemed to be given and received when received, unless received after 5:00 p.m. Eastern Time or on a day other than a Business Day, in which case the notice shall be deemed to be received the next Business Day.
21. **ENGLISH LANGUAGE:** The parties hereto confirm that this Term Sheet and all related documents have been drawn up in the English language at their request. *Les parties aux présentes confirment que le présent acte et tous les documents y relatifs furent rédigés en anglais à leur demande.*
22. **GOVERNING LAW AND** This Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada

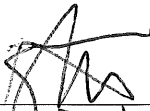
JURISDICTION: applicable therein. The Lender irrevocably submits and attorns to the exclusive jurisdiction of the Court.

IN WITNESS HEREOF, the parties hereby execute this Term Sheet as at the date first above mentioned.

Address:
Attention:
Email:

RCM CAPITAL MANAGEMENT [or its nominee]

Per:


Name: Bradley Meadows
Title: Partner
I have authority to bind the corporation.

Address:
Attention:
Email:

KSV RESTRUCTURING INC., solely in its capacity as Court-appointed receiver of Mahal Venture Capital Inc. and Golden Miles Food Corporation, and not in its personal or corporate capacity

Per:

noah goldstein
Name: Noah Goldstein
Title: Managing Director
I have authority to bind the corporation.

SCHEDULE "A"
ADVANCE REQUEST

TO: [LENDER] (the "Lender")

FROM: **KSV RESTRUCTURING INC.**, solely in its capacity as Court-appointed receiver of Mahal Venture Capital Inc. and Golden Miles Food Corporation, and not in its personal or corporate capacity (the "**Receiver**")

DATE: ●, 2021

1. This advance request is delivered to you, as Lender, in connection with a request for an Advance pursuant to the Term Sheet made as of ●, 2021 between the Receiver and the Lender, as amended, supplemented, restated or replaced from time to time (the "**Term Sheet**"). All defined terms used, but not otherwise defined in this certificate shall have the respective meanings set forth in the Term Sheet, unless the context requires otherwise.

2. The Receiver hereby requests an Advance as follows in respect of the week commencing on ●, 2021:

Aggregate amount of Advance: CDN\$●

KSV RESTRUCTURING INC., solely in its capacity as Court-appointed receiver of Mahal Venture Capital Inc. and Golden Miles Food Corporation, and not in its personal or corporate capacity

Per: _____
Name:
Title:

I have authority to bind the corporation.

SCHEDULE "B"
BUDGET

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

SKYMARK FINANCE CORPORATION

Applicant

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

CONFIDENTIAL APPENDIX

**CONFIDENTIAL APPENDIX “1” TO THE
SECOND REPORT OF THE RECEIVER
DATED NOVEMBER 15, 2021**

TO BE FILED SEPARATELY WITH THE COURT

TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	MONDAY, THE 22 nd
)	
JUSTICE MCEWEN)	DAY OF NOVEMBER, 2021

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

**ORDER
(Approval of Sale Process and Ancillary Matters)**

THIS MOTION, made by KSV Restructuring Inc. (“**KSV**”), in its capacity as the Court-appointed receiver and manager (in such capacity, the “**Receiver**”), without security, of the assets, undertakings and properties of Mahal Venture Capital Inc. and Golden Miles Food Corporation (collectively, the “**Companies**”) owned or used in connection with the flour mill located on the property municipally known as 155 Adams Blvd., Brantford, Ontario (the “**Property**”), for an Order, among other things:

- (i) approving the proposed sale process as described in Paragraph 4.0(5) of the Second Report of the Receiver, dated November 15, 2021 (the “**Sale Process**”);
- (ii) amending the Order of the Honourable Mr. Justice McEwen of the Ontario Superior Court of Justice (Commercial List) on October 1, 2021 (the “**Appointment Order**”) to (a) increase the Receiver’s borrowing limit from \$500,000 to \$2,000,000, (b) permit the Receiver to incur fees or charges for borrowing, and (c)

elevate the priority of the Receiver's Charge and Receiver's Borrowings Charge (both as defined in the Appointment Order) above the charges of the Companies' three secured creditors in respect of which the Receiver's Charge and Receiver's Borrowings Charge are currently subordinate;

- (iii) sealing Confidential Appendix "1" (the "**Confidential Appendix**") to the Second Report of the Receiver dated November 15, 2021 (the "**Second Report**");
- (iv) approving the activities of the Receiver as described in the First Report of the Receiver dated October 20, 2021 (the "**First Report**") and the Second Report,

was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Notice of Motion, the First Report and the Second Report and on hearing the submissions of the lawyers for the Receiver and such other counsel as listed on the Participant Information Form, no one else appearing, although properly served as appears from the Affidavit of Service of Nancy Thompson sworn November [●], 2021:

SERVICE

1. **THIS COURT ORDERS AND DECLARES** that the time for service of notice of the motion and the Motion Record is hereby abridged such that the motion is properly returnable today and hereby dispenses with further service thereof.

SALE PROCESS

2. **THIS COURT ORDERS** that the Sale Process be and is hereby approved.
3. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to perform its obligations under the Sale Process and to do all such things as are necessary or desirable to implement and carry out the Sale Process.
4. **THIS COURT ORDERS** that the Receiver and its respective representatives and advisors shall have no corporate or personal liability in connection with conducting the Sale Process, save

and except for any gross negligence or wilful misconduct on their part, as determined by this Court. Nothing in this Order shall derogate from the protections afforded to the Receiver by section 14.06 of the *Bankruptcy and Insolvency Act* (Canada) or the Appointment Order.

5. **THIS COURT ORDERS** that, in connection with the Sale Process and pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers or bidders and to their advisors, but only to the extent desirable or required (in the sole discretion of the Receiver) to negotiate and attempt to complete one or more sale transactions (each, a “**Transaction**”). Each prospective purchaser or bidder to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Transaction, and if it does not complete a Transaction, shall: (i) return all such information to the Receiver (as applicable); or (ii) destroy all such information that is not electronically stored and, in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The purchaser in any Transaction shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors or the Receiver and shall return all other personal information to the Receiver (as applicable) or ensure that all other personal information is destroyed.

AMENDMENT OF APPOINTMENT ORDER

6. **THIS COURT ORDERS** that the Appointment Order is amended, *nunc pro tunc*, as follows:

- (a) The following clause is deleted from Paragraph 18 of the Appointment Order: “(not including Bodkin, a Division of Bennington Financial Corp., the Bank of Nova Scotia and Caterpillar Financial Services Limited, subject to further order of the Court)”
- (b) Paragraph 21 of the Appointment Order is deleted in its entirety and replaced with:

THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a 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 ~~\$500,000~~ \$2,000,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest and for such fees or charges 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 "**Receiver's Borrowings 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 (~~not including Bodkin, a Division of Bennington Financial Corp., the Bank of Nova Scotia and Caterpillar Financial Services Limited, subject to further order of the Court~~), but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

SEALING ORDER

7. **THIS COURT ORDERS** that the Confidential Appendix is hereby sealed and shall not form part of the public record, subject to further order of this Court brought on not fewer than seven (7) calendar days notice to the Service List.

APPROVAL OF ACTIVITIES

8. **THIS COURT ORDERS** that the activities of the Receiver occurring prior to the date hereof in relation to these proceedings, as are further particularized in the First Report and the Second Report, are hereby ratified and 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.

GENERAL

9. **THIS COURT ORDERS** that the Receiver is at liberty to apply to the Court for advice and directions with respect to this Order and/or the Sale Process.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside of Canada to give effect to this Order and to assist the Receiver 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 may be necessary or desirable to give effect to this Order and to assist the Receiver in carrying out the terms of this Order.

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

SKYMARK FINANCE CORPORATION
Applicant

- and -

MAHAL VENTURE CAPITAL INC., *et al.*
Respondents

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

Proceeding Commenced at Toronto

**ORDER
(Approval of Sale Process and Ancillary Matters)**

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

Maia Jorgensen, LSO #80008B

Tel: 416-863-2498

Fax: 416-863-2653

Email: maia.jorgensen@blakes.com

Lawyers for the Receiver

SKYMARK FINANCE CORPORATION
Applicant

- and -

MAHAL VENTURE CAPITAL INC., et al.
Respondents

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

Proceeding Commenced at Toronto

**MOTION RECORD
(Approval of Sale Process and Ancillary Matters)
Returnable November 22, 2021**

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

Maia Jorgensen, LSO #80008B

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Lawyers for the Receiver