

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

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

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

Respondents

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

**RESPONDING PARTY'S SUPPLEMENTARY
APPLICATION RECORD**

(Returnable Wednesday, July 27, 2021)

July 26, 2021

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INDEX

Tab		Page No.
1	Affidavit of Santokh Mahal, sworn July 26, 2021	1 – 5

TAB 1

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

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

AFFIDAVIT

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

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

2. This affidavit shall supplement my initial Affidavit sworn on July 5, 2021 in response to the application by Skymark for the appointment of KSV as receiver over all of the property, assets and undertakings of the Respondents. In addition to any terms newly defined herein, I adopt the defined terms set out in my previous Affidavit.
 3. As I indicated in paragraph 10 of my initial Affidavit, Golden Miles is a solvent company with sufficient resources to satisfy the full amounts claimed due under the Loans.
 4. As also set out in my initial Affidavit, there are material issues in dispute regarding the actual amounts due under the Loans.
 5. In an effort to expediently resolve this dispute over the proper amounts due under the Loans, I agree to engage KSV for the purpose of conducting an accounting to determine the outstanding balances owing under the Loans, having regard to the following:
 - (a) The dates and amounts of advances under the Loans, with production of cheques or other contemporaneous documentary evidence of the advances;
 - (b) The amount of interest due under the Loans pursuant to the terms of the Loans;
 - (c) The amount of fees and other charges due under the terms of the Loans (collectively, the "**KSV Accounting**").
 6. I agree that the engagement of KSV to conduct the KSV Accounting, subject to its acceptance of the engagement, shall not prevent KSV from being appointed as receiver of Mahal and GM if they default in payment of the amounts determined due.
-

7. I also agree that KSV is entitled to retain independent legal counsel to provide any advice it may require in conducting the KSV Accounting.
 8. The KSV Accounting shall include a report which KSV shall deliver to the Parties and this Court setting out its conclusion on the amounts owing under the Loans and shall include copies of the contemporaneous documents evidencing the advances and KSV's calculations of interest and fees due under the Loans.
 9. GM will pay KSV for the KSV Accounting in the first instance with the ultimate disposition of costs to be determined by a Judge of the Commercial List on motion in the Receivership Application.
 10. I commit GM to undertake, by no later than 4:00 p.m. on the 10th business day following delivery of the KSV report, to pay the amount KSV concludes is owing under the Loans by way of a bank draft or wire transfer to Skymark's lawyer, Chaitons LLP, in trust.
 11. Contemporaneously, and as a condition of the aforesaid payment by GM, Skymark must discharge the Mahal Mortgages and Notices of Security Interest registered against the Real Property as well as the *PPSA* registration against Golden Miles' equipment.
 12. This affidavit is made in further response to Skymark's application for the appointment of a receiver and for no other or improper purpose.
-

SWORN by Santokh Mahal at the City of Brantford, in the County of Brant, before me at the City of Windsor, in the Province of Ontario, on July 26th, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

M. Vacaru

Commissioner for Taking Affidavits
(or as may be)

S. Mahal

SANTOKH MAHAL

~~MAJA BAKALIC~~
IOANA VACARU

RCP-E 4D (February 1, 2021)

SKYMARK FINANCE CORPORATION
Applicant

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

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

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SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

AFFIDAVIT

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File Number: 101937

RCP-E 4C (September 1, 2020)

SKYMARK FINANCE CORPORATION
Applicant

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

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

**ONTARIO
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Proceeding commenced at Toronto

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File Number: 101937