



Superior Court of Justice – East Region  
29 Second Street West  
Cornwall, Ontario K6J 1G3

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## ENDORSEMENT SHEET FOR CIVIL MOTION/APPLICATION

**SHORT TITLE OF PROCEEDINGS:** CARE LENDING GROUP INC. v. 1000209217 ONTARIO LTD.

**COURT FILE NO.:** CV24-103

**BEFORE:** The Honourable Justice N. Champagne

**COUNSEL:**  
Plaintiff – ~~P. Corney~~ and M. Cressatti

**Dr. Hannah**

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**ORDER SIGNED**

**ON CONSENT**

**UNOPPOSED**

**NO ONE APPEARED**

**ADJOURNED TO**

### **ENDORSEMENT:**

The applicant, Care Lending Group Inc (Lender). Brings an application for the appointment of msi Spergel Inc. as receiver and manager of the assets of 1000209217 Ontario Ltd. which operated the Cotton Mill Pharmacy (debtor).

On October 3, 2022 the lender advanced a five-year term loan of \$600,450.00 to the debtor. Interest on the loan was compounded monthly at a rate of 7.75% per annum. The interest on any overdue amounts accrued at a rate of 18% per annum. The loan was registered under the *Personal Property Security Act* R.S.O. 1990 c. P 10 (*PPSA*)

The debtor defaulted on the loan in the spring of 2024 and effectively closed the pharmacy's doors, abandoning the business. As of June 12, 2024 the amount owing to the lender was \$669,214.79.

The lender issued a notice of intention to enforce security on May 29, 2024.

The lender attended at the pharmacy June 5, 2024 and learned that the pharmacy had not had any employees including pharmacists in the store since early May 2024. The lender noted non-prescription drugs were left on the pharmacy's shelves creating a risk of theft. While narcotics are in a locked room, some prescription drugs have been left behind the counter. Prescriptions that had been filled remained behind the counter, ready for pick-up by patients who are obviously unable to access them or make payment.



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The debtor's CEO has advised the lender that the debtor lacks the ability or willingness to reinvest the working capital necessary to reopen the pharmacy and it has no intention of doing so.

The lender's evidence is that msi Spergel would reopen and operate the pharmacy, using the necessarily qualified personnel in accordance with the applicable regulations, while the pharmacy is marketed for sale. This would mitigate concerns about theft and loss of goodwill and preserve the value of the property.

The debtor consents to the appointment of a receiver.

### *Analysis*

Ordinarily where a notice of intention to enforce security is sent pursuant to section 244(1) of the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3A, the court cannot appoint a receiver until 10 days after the notice is sent unless the insolvent person consents to earlier enforcement. Such is the case here. In any event the lender issued notice of intention to enforce security on May 29, 2024. As a result, more than 10 days have passed since the issuing of that notice.

Pursuant to section 243(1) of the *BIA* a court may appoint a receiver on an application of a secured creditor if it is "just or convenient to do". The appointment of a receiver would allow it to take possession of all or substantially all of the inventory, accounts receivable or other property and exercise any control the court considers advisable over that property.

In considering whether the appointment of a receiver is just inconvenient, the court is required to have regard to all of the circumstances in the situation. Factors to be considered by the court are the nature of the property, the likelihood of preserving and maximizing the return on the subject property, the relationship between the debtor and its creditors, the conduct of the parties, the risk of the lender's security deteriorating, loss of confidence in the debtor's management, the potential costs of the receiver and whether a court appointment is required to enable the receiver to carry out its duties efficiently.

On the facts before me, taking the above factors into consideration, I conclude that the appointment of a receiver is appropriate and is just and convenient. At present the pharmacy is closed and is not operating. The debtor's CEO expresses absolutely no intention of reopening the business. Apart from the risk of theft, it is losing money each and every day its doors are closed. Clients will no doubt go to other pharmacies and inventory will expire over time. In my view a receivership would provide the stability, structure and supervision required to preserve the value of the pharmacy.

In all of the circumstances there shall be in order to go appointing msi Spergel as receiver of the debtor's property, in the form provided to the court by the applicant.

  
Justice Nathalie Champagne



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**Date:** June 21, 2024

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**The Honourable Justice N. Champagne**