

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.**

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**

**MOTION RECORD
(returnable December 7, 2011)**

VOLUME 1 OF 2

November 11, 2011

AIRD & BERLIS LLP
Barristers & Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Toronto, Ontario M5J 2T9

D. Robb English (LSUC # 19862F1B)
Tel: (416) 865-4748
Fax: (416) 863-1515
E-mail: renglish@airdberlis.com

Ian E. Aversa (LSUC # 55449N)
Tel: (416) 865-3082
Fax: (416) 863-1515
E-mail: iaversa@airdberlis.com

Lawyers for Deloitte & Touche Inc.

SERVICE LIST

<p>AIRD & BERLIS LLP Barristers and Solicitors 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p><i>Solicitors for the Court-Appointed Receiver, Deloitte & Touche Inc.</i></p>	<p>Robb English Tel: 416.865.4748 Fax: 416.863.1515 Email: renglish@airdberlis.com</p>
<p>CHAITONS LLP Barristers and Solicitors 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9</p> <p><i>Solicitors for Bank of Montreal</i></p>	<p>Christopher J. Staples Tel: 416.218.1147 Fax: 416.218.1847 Email: chris@chaitons.com</p>
<p>TAYAR & ASSOCIATES Barristers and Solicitors 20 Queen Street West, Suite 900 Toronto, ON M5H 3R3</p> <p><i>Solicitors for Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc.</i></p>	<p>Fred Tayar Tel: 416.363.1800 Fax: 416.363.3356 Email: fred@fredtayar.com</p>
<p>FOGLER, RUBINOFF LLP 1200-95 Wellington St. W. Toronto, ON M5J 2Z9</p> <p><i>Solicitors for Business Development Bank of Canada</i></p>	<p>Vern W. DaRe Tel: 416.941.8842 Fax: 416.941.8852 Email: vdare@foglers.com</p>
<p>AYLESWORTH LLP 222 Bay St., Ernst & Young Twr., 18th Flr. P.O. Box 124, Stn. Toronto Dom. Toronto, ON M5K 1H1</p> <p><i>Solicitors for Cleveland Freightliner, Inc., d.b.a. Valley Freightliner, Sterling and Western Star Trucks of Cleveland</i></p>	<p>Michael Miller Tel: 416.777.4007 Fax: 416.865.1398 Email: mmiller@aylaw.com</p> <p>Michael Arbutina Tel: 416.777.4008 Fax: 416.865.1398 Email: marbutina@aylaw.com</p>

SERVICE LIST	
<p>MILLER THOMSON LLP Scotia Plaza 40 King St. W., Suite 5800 P.O. Box 1011 Toronto, ON M5H 3S1</p> <p><i>Solicitors for Corporation Alter Moneta / Alter Moneta Corporation</i></p>	<p>E. Peter Auvinen Tel: 416.595.8162 Fax: 416.595.8695 Email: pauvinen@millerthomson.com</p>
<p>MILLER THOMSON LLP Scotia Plaza 40 King St. W., Suite 5800 P.O. Box 1011 Toronto, ON M5H 3S1</p> <p><i>Solicitors for CIT Financial Ltd.</i></p>	<p>Craig A. Mills Tel: 416.595.8596 Fax: 416.595.8695 Email: cmills@millerthomson.com</p>
<p>MILLER CANFIELD PADDOCK & STONE LLP 300-443 Ouellette Ave. P.O. Box 1390, Stn. A Windsor, ON N9A 6R4</p> <p><i>Solicitors for Comerica Bank</i></p>	<p>John D. Leslie Tel: 519.977.1555 Fax: 519.977-1565 Email: leslie@millercanfield.com</p>
<p>KEEL COTTRELLE LLP 36 Toronto St., Suite 920 Toronto, ON M5C 2C5</p> <p><i>Solicitors for Registered Insurance Brokers of Ontario</i></p>	<p>John Goldsmith Tel: 416.367.7706 Fax: 416.367.2791 Email: JGoldsmith@KeelCottrelle.on.ca</p>
<p>REGISTERED INSURANCE BROKERS OF ONTARIO 401 Bay Street P.O. Box 45, Suite 1200 Toronto, ON M5H 2Y4</p>	<p>Mr. Timothy J. Goff Manager, Complaints and Investigations Tel: 1.800.265.3097 / 416.365.1900 Fax: 416.365.7664 Email: tim@RIBO.com</p>
<p>MACLEOD DIXON LLP Suite 2300, P.O. Box 128 79 Wellington Street West TD Waterhouse Tower, T-D Centre Toronto, ON M5K 1H1</p> <p><i>Solicitors for ADP Canada Company</i></p>	<p>Mr. Erik Penz Tel: 416.203.4469 Fax: 416.360.8277 Email: Erik.Penz@macleoddixon.com</p>

SERVICE LIST	
<p>KAGAN SHASTRI LLP 188 Avenue Road Toronto, ON M5R 2J1 <i>Solicitors for Landmark Vehicle Leasing Corporation</i></p>	<p>Mr. Rahul Shastri Tel: 416.368.2100 x223 Fax: 416.324.4200 Email: rshastri@ksllp.ca</p>
<p>BIRENBAUM, STEINBERG, LANDAU, SAVIN & COLRAINE Suite 1000 – 33 Bloor Street East Toronto, ON M4W 3H1 <i>Solicitors for Freightliner Ltd., Daimler Chrysler Financial and Daimler Trucks North America LLC</i></p>	<p>Craig Colraine Tel: 416.961.4100 Fax: 416.961.2531 Email: colraine@bslsc.com</p>
<p>BEARD WINTER LLP 130 Adelaide Street West, Suite 701 Toronto, ON M5H 2K4 <i>Solicitors for Little Bros. Leasing Limited</i></p>	<p>Frederick Chenoweth Tel: 416.306.1750 Fax: 416.593.7760 Email: cheno@beardwinter.com</p>
<p>MARC KOPLOWITZ ASSOCIATES 390 Bay Street, Suite 2900 Toronto, ON M5H 2Y2 <i>Solicitors for Chanderkant Jain, TruckDepot Expedite Inc.</i></p>	<p>Marc Koplowitz Tel: 416.368.1100 Fax: 416.368.1998 Email: marc@koplaw.com</p>
<p>WILSON VUKELICH LLP 60 Columbia Way, Suite 710 Markham, ON L3R 0C9 <i>Solicitors for Wells Fargo Equipment Finance</i></p>	<p>Douglas Langley Tel: 905.940.8711 Fax: 905.940.8785 Email: dlangley@wilsonvukelich.com</p>
<p>STIKEMAN ELLIOTT LLP 5300 Commerce Court West 199 Bay Street Toronto, ON M5L 1B9 <i>Solicitors for Coast Capital Equipment Finance Ltd.</i></p>	<p>Jennifer Imrie Tel: 416.869.6853 Fax: 416.947.0866 Email: jimrie@stikeman.com</p>
<p>MARKEL INSURANCE COMPANY OF CANADA 55 University Avenue, 15th Floor Toronto, ON M5J 2H7</p>	<p>Ed Knoblauch, Senior Vice President, Corporate Litigation Tel: 416.364.7800 Email: edk@markel.ca</p>

SERVICE LIST	
SAUVAGEAU & ASSOCIATES 136 Sultana Avenue Toronto, Ontario M6A 1T5 <i>Solicitors for Add Capital Corporation</i>	Francois Sauvageau Tel: 416.781.3635 Fax: 416.781.8631 Email: francois@sauvageauassociates.com
JOHN ROBERTS LAW CORPORATION 20689-56 th Avenue Langley, BC V3A 3Y9 <i>Solicitors for Pacific Heavy Truck Group</i>	John Roberts Email: jroberts@stargate.ca
WEIR AND NAKON 1290 Central Parkway, Unit 701 Mississauga, ON L5C 4R3 <i>Solicitor for the Purchaser</i> <i>2270886 Ontario Inc.</i>	Michael Weir Tel: 905.279.7930 Fax: 905.279.3421
MILLS & MILLS LLP 2 St. Clair Avenue West, Suite 700 Toronto, ON M4V 1L5 <i>Solicitors for Quantum Sales and Leasing</i>	David Lees Tel: 416.863.0125 Fax: 416.863.3997 Email: david.lees@millsandmills.ca
NORDIC INSURANCE CO. OF CANADA 700 University Avenue, 16th floor Toronto, ON M5G 0A1	Ram Jaisaree Email: Ram.Jaisaree@nordicfacility.com
ADCO LOGISTICS 1190 Meyerside Dr. Mississauga, ON L5T 1R7	Bala Balasingam Tel: 905.564.65164 Fax: 905.564.0843
TRANSWAY LOGISTICS INC. 16 Stoney Lake Brampton, ON L6V 4R1	
LUIZOS LAW OFFICE 913 Danforth Ave. Toronto, ON M4J 1L8 <i>Solicitor for Hightech Diesel Repair Centre Inc.</i>	Paul Luizos Tel: 416.778.5778 Fax: 416.778.4611

SECURITY INTERESTS (DEBTOR)	
<p>1283673 Ontario Inc. o/a Markham Auto Leasing 8280 Woodbine Ave. Markham, ON L3R 2N8</p>	<p>Harper Ontario Truck Centres Inc. 800 Gana Court Mississauga, ON L5S 1P1</p>
<p>All Make Car & Truck Repair Inc. 74 Yuile Court Brampton, ON L6Y 5J4</p>	<p>Harper Truck Centres Inc. 7035 Pacific Circle Mississauga, ON L5T 2A8</p>
<p>Big Dog Solutions Limited 162 Guelph St., Unit #106 Georgetown, ON L7G 5X7</p> <p>Attention: Ken Foster Fax: 905.873.8114 Email: ken.bdsl@sympatico.ca</p>	<p>HT Tire Services Ltd. 171-173 Advance Blvd. Unit 52 Brampton, ON L6T 4H9</p>
<p>Bodkin Capital Corporation 2150 Dunwin Dr., Unit 1 Mississauga, ON L5L 5M8</p>	<p>Kal Tire A Corporate Partnership 2633 No. 5 Road Richmond, BC V6X 2S8</p>
<p>Canadian Western Bank 285-2880 Glenmore Trail SE Calgary, AB T2C 2E7</p>	<p>Mercado Capital Corporation, Div. of Westminster Savings Credit Union 180, 4411-6th Street SE Calgary, AB T2G 4E8</p>
<p>Cheetah TT&T 35 McCleary Court, Unit #14A Concord, ON L4K 3Y9</p>	<p>National Leasing Group Inc. 1558 Willson Pl (2480447) Winnipeg, MB R3T 0Y4</p>

SECURITY INTERESTS (DEBTOR)	
<p>DaimlerChrysler Financial/Truck Financial 6701 Financial Drive, Ste. 200 Mississauga, ON L5N 7J7</p>	<p>New Millenium Tire Centre 25 Clark Blvd. Brampton, ON L6W 1X4</p> <p>Attention: Bhumika Chandrani Fax: 905.452.9595 Email: milleniumtire@bellnet.ca</p>
<p>DCFS Canada Corp. 2680 Matheson Blvd. E., Ste. 500 Mississauga, ON L4W 0A5</p>	<p>Popular Tire Sales & Service Inc. 1746 Alstep Drive Mississauga, ON L5S 1W1</p>
<p>Diesel Truck Centre Incorporated 2677 Drew Road Mississauga, ON L4T 3X1</p>	<p>Prince Tyre Ltd. 6975 Tranmere Drive, Units 4-6 Mississauga, ON L5S 1L6</p>
<p>Finloc 2000 Inc. 11505 1st Avenue, Suite 500 Saint-Georges, PQ G5Y 7X3</p> <p>Attention: Sebastien Blouin Email: sebastien.blouin@finloc.ws</p>	<p>Refrigeration Thermoking 180 Rue Royal Les Coteaux, PQ J7X 1A6</p>
<p>Freightliner Custom Chassis Corporation - AND - Freightliner Ltd. 4747 N. Channel Avenue Portland, OR 97217 U.S.A</p>	<p>Riordan Car and Truck Rentals Inc. - AND - Riordan Leasing Inc. 1158 King St. E. Kitchener, ON N2G 2N4</p> <p>Attention: Linda Leaning Email: linda@riordanleasing.com</p>
<p>Gill Truck & Trailer Repair & Mobile Service 3 Alfred Kuehne Blvd. Unit #3 Brampton, ON L6T 4K3</p>	<p>Rush Lube Inc. 32 Rutherford Rd. S. Brampton, ON L6W 3J1</p>

SECURITY INTERESTS (DEBTOR)	
<p>Global Leasing Group Inc. 5250 Satellite Drive, Unit 24 Mississauga, ON L4W 5G5</p> <p>Attention: Jeff Horler, VP Operations Email: jhorler@globalleasinggroup.com</p>	<p>Toronto Dominion Bank 94 Princess Street Kingston, ON K7L 4X1</p>
<p>Element Financial Corporation 203-75 The Donway West Toronto, ON M3C 2E9</p> <p>Attention: Steve Sands, President Email: ssands@elementfinancial.ca</p>	<p>Travelers Financial Corp/Canadian Western Bank - AND - Travelers Financial Corporation 210-2880 Glenmore Trail SE Calgary, AB T2C 2E7</p>
<p>Peter Landy c/o 7280 Dixie Road Mississauga, ON L5S 1E1</p>	<p>Modern Transport Refrigeration Services Inc. c/o TCRC Freight Legal Services 5-18 Ringwood Dr., Ste. 321 Stouffville, ON L4A 0N2</p> <p>Attention: William Tackaberry Email: tcrclegal@hotmail.com</p>
<p>Soniya Jain 34 Taylorwood Drive Toronto, ON M9A 4R7</p>	<p>Ritu Jain 34 Taylorwood Drive Toronto, ON M9A 4R7</p> <p>Email: r.jain@rogers.blackberry.net</p>
<p>Rani Jain c/o 7280 Dixie Road Mississauga, ON L5S 1E1</p>	<p>Usha Jain c/o 1354198 Ontario Inc. 7280 Dixie Road Mississauga, ON L5S 1E1</p>
<p>Alumi-Bunk Corporation 7280 Dixie Road Mississauga, ON L5S 1E1</p> <p>Attention: Sulekh Jain Email: sejain.abc@gmail.com</p>	<p>Tire King Limited 1305 Shawson Drive Mississauga ON L4W 1C4</p> <p>Fax 905-672-5222</p>

SECURITY INTERESTS – VINS (NON-DEBTORS)	
<p>Spartan Services Inc. 1100 Burloak Drive – 75th Floor Burlington, ON L7L 6B2</p> <p>Attention: Neil Woods, Operation Manager Email: neil.woods@securcor.com As Agent for Shamrock Corporation</p>	<p>Gold Card Leasing/Cardel Leasing #103 – 1120 Finch Ave. W. Toronto, ON M3J 3H7</p> <p>Attention: Thomas Bates, Sales Manager Tel: 416.322.3911 Fax: 416.322.3910 Email: thomas@goldcardleasing.com</p>
<p>National City Commercial Capital PNC Equipment Finance 995 Dalton Ave. Cincinnati, OH 45203</p> <p>Attention: Nikki Tierney Email: nicole.tierney@pnc.com</p>	<p>Manprit Singh Basi 19 Gallucci Crescent Brampton, ON L6P 1R3</p> <p>- and -</p> <p>1750 Britannia Rd., Bldg B, Unit 4 Mississauga, ON L4W 1J3</p>
<p>Mander Trucklines Inc. 237 Queen Mary Drive Brampton, ON L7A 3L3</p>	<p>Hightech Diesel Repair Centre Inc. 1750 Britannia Rd., Bldg B, Unit 4 Mississauga, ON L4W 1J3</p>
<p>Crew Chief Conversions 2380 Drew Road Mississauga, ON L5S 1B8</p> <p>Attention: Tina Sharma Fax: 905.671.3500</p>	

6382549.22

INDEX

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.**

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**

TABLE OF CONTENTS

	<u>TAB NO.</u>
<u>VOLUME 1</u>	
Notice of Motion	1
Draft Order	2
Draft Order blacklined to Model Order	3
Sixth Report of A. Farber & Partners Inc. dated November 3, 2011	4
Appendix "A" - Receivership Order	A
Appendix "B" - First Report of the Receiver dated February 23, 2010 (w/o exhibits)	B
Appendix "C" - Order dated February 26, 2010	C
Appendix "D" - Second Report of the Receiver dated March 15, 2010 (w/o exhibits)	D
Appendix "E" - Order dated March 23, 2010	E

Appendix "F" - Order dated April 29, 2010	F
Appendix "G" - Third Report of the Receiver dated July 9, 2010 (w/o exhibits)	G
Appendix "H" - Order dated July 27, 2010	H
Appendix "I" - Fourth Report of the Receiver dated December 1, 2010 (w/o exhibits)	I
Appendix "J" - Order dated December 14, 2010	J
Appendix "K" - Fifth Report of the Receiver dated February 15, 2011 (w/o exhibits)	K
Appendix "L" - Order dated March 7, 2011	L
Appendix "M" - Vesting Order dated March 7, 2011	M
Appendix "N" - Order dated March 7, 2011 concerning Hightech	N
Appendix "O" - Receiver's Interim Statement of Receipts & Disbursements	O
Appendix "P" - Legal Opinion on Bank's Security	P
Appendix "Q" - Proposed Distribution to creditors with security over specific vehicles	Q
Appendix "R" - New Millenium documents	R
<u>VOLUME 2</u>	
Appendix "S" - Affidavit of Robert J. Bougie (exhibits contained in supplemental book of accounts)	S
Appendix "T" - Affidavit of D. Robb English (exhibits contained in supplemental book of accounts)	T

Tab 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.**

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**

**NOTICE OF MOTION
(returnable December 7, 2011)**

Deloitte & Touche Inc. (“**Deloitte**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc. (collectively, the “**Debtors**”), will make a motion to a judge presiding over the Commercial List on Wednesday, December 7, 2011 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR an Order, including, among other things:

- (a) approving the Sixth Report of the Receiver dated November 3, 2011 (the “**Sixth Report**”) and approving the actions of the Receiver since the Fifth Report of the Receiver dated February 15, 2011 (the “**Fifth Report**”);
- (b) approving the Receiver’s Statement of Receipts and Disbursements for the period from February 4, 2010 to October 31, 2011;
- (c) authorizing and directing the Receiver to distribute, without further Order of this Court, funds in accordance with the scheme of distribution set out in paragraph 55 of the Sixth Report on account of the Debtors’ outstanding indebtedness for principal, interest and costs;
- (d) authorizing and directing that cash receipts from future lease payments with respect to the **Leased Vehicles** (as defined in the Sixth Report) be applied first to the Receiver’s reasonable costs of administration and the surplus, if any, be paid as a distribution to the Bank of Montreal (“**BMO**”);
- (e) approving the fees and disbursements of the Receiver and its counsel;
- (f) effective upon the filing of a certificate by the Receiver certifying that the **Remaining Duties** (as defined in the Sixth Report) have been completed (the “**Discharge Certificate**”), discharging Deloitte as Receiver and releasing Deloitte from any and all liability that Deloitte has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Deloitte while acting in its capacity as Receiver;
- (g) declaring that the duties and obligations of the Receiver are hereby limited to the Remaining Duties until the Discharge Certificate is filed; and
- (h) such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

- (a) pursuant to an order of this Honourable Court dated February 4, 2010 (the “**Receivership Order**”), Deloitte was appointed as receiver, without security, of all of the assets, undertakings and properties of the Debtors (the “**Property**”);
- (b) pursuant to the Receivership Order, the Receiver was empowered and authorized to market any or all of Debtors’ Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver, in its sole discretion, deemed appropriate;
- (c) the Receiver completed a robust and thorough marketing and sale process in accordance with the terms of the Receivership Order, the details of which are outlined in the Sixth Report;
- (d) the Receiver has filed with the Court its Sixth Report outlining, among others things: (i) the actions of the Receiver since the Fifth Report; (ii) the disposition and sale process; (iii) the status of the secured claims against the estates of the Debtors; (iv) the professional fees and disbursements of the Receiver and its counsel; (v) the Receiver’s proposed scheme of distribution; and (vi) the Remaining Duties;
- (e) the Receiver has obtained an independent legal opinion from Aird & Berlis LLP confirming the validity and enforceability of the security of BMO as against the Debtors’ other creditors;
- (f) the Receiver and its counsel have accrued fees and expenses, which fees and expenses require the approval of this Honourable Court pursuant to the Receivership Order;
- (g) the Receivership Order authorizes the Receiver to pass its accounts from time to time, and to include any necessary solicitor fees and disbursements in the passing of the accounts;

- (h) subject to the completion of the Remaining Duties, the administration of the receivership of the Debtors has come to an end;
- (i) the other grounds set out in the Sixth Report;
- (j) section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;
- (k) section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (l) rules 1.04, 2.03, 3.02, 37, 39 and 41.06 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (m) 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:

- (a) the Sixth Report;
- (b) the affidavit of D. Robb English sworn November 2, 2011;
- (c) the affidavit of Robert J. Bougie sworn November 3, 2011; and
- (d) such further and other material as counsel may submit and this Honourable Court may permit.

Date: November 11, 2011

AIRD & BERLIS LLP

Barristers & Solicitors

Brookfield Place

181 Bay Street, Suite 1800

Toronto, Ontario M5J 2T9

D. Robb English (LSUC # 19862F1B)

Tel: (416) 865-4748

Fax: (416) 863-1515

E-mail: renglish@airdberlis.com

Ian E. Aversa (LSUC # 55449N)

Tel: (416) 865-3082

Fax: (416) 863-1515

E-mail: iaversa@airdberlis.com

Lawyers for Deloitte & Touche Inc.

TO: ATTACHED SERVICE LIST

BANK OF MONTREAL

- and -

FINANCIAL TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-10-8556-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

NOTICE OF MOTION

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

D. Robb English (LSUC # 19862F1B)
Tel: (416) 865-4748
Fax: (416) 863-1515
E-mail: renglish@airdberlis.com

Ian E. Aversa (LSUC # 55449N)
Tel: (416) 865-3082
Fax: (416) 863-1515
E-mail: iaversa@airdberlis.com

Lawyers for Deloitte & Touche Inc.

Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 7TH DAY
)
JUSTICE) OF DECEMBER, 2011

B E T W E E N :

BANK OF MONTREAL

Applicant

- and -

**FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.**

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**

DISCHARGE ORDER

THIS MOTION, made by Deloitte & Touche Inc. (“**Deloitte**”), in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc. (collectively, the “**Debtors**”), for an order, among other things:

1. approving the Sixth Report of the Receiver dated November 3, 2011 (the “**Sixth Report**”), and the actions of the Receiver since the Fifth Report of the Receiver dated February 15, 2011 (the “**Fifth Report**”);
 2. approving the Receiver’s Statement of Receipts and Disbursements for the period from February 4, 2010 to October 31, 2011;
 3. authorizing and directing the Receiver to distribute, without further Order of this Court, funds in accordance with the scheme of distribution set out in paragraph 55 of the Sixth Report on account of the Debtors’ outstanding indebtedness for principal, interest and costs;
 4. authorizing and directing that cash receipts from future lease payments with respect to the **Leased Vehicles** (as defined in the Sixth Report) be applied first to the Receiver’s reasonable costs of administration and the surplus, if any, be paid as a distribution to the Bank of Montreal (“**BMO**”);
 5. approving the fees and disbursements of the Receiver and its counsel;
 6. discharging Deloitte as Receiver of the assets, undertakings and properties of the Debtors effective upon the filing of a certificate by the Receiver certifying that the **Remaining Duties** (as defined in the Sixth Report) have been completed to the satisfaction of the Receiver in substantially the form attached hereto as Schedule “A” (the “**Discharge Certificate**”);
 7. releasing Deloitte from any and all liability, as set out in paragraph 8 of this Order; and
 8. declaring that the duties and obligations of the Receiver are hereby limited to the Remaining Duties until the Discharge Certificate is filed,
- was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Sixth Report, the affidavit of D. Robb English sworn November 2, 2011 and the affidavit of Robert J. Bougie sworn November 3, 2011, and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although duly served as appears from the affidavit of Eunice Baltkois sworn November 11, 2011, filed,

1. **THIS COURT ORDERS** that the Sixth Report be and is hereby approved and the actions of the Receiver since the Fifth Report be and are hereby approved.
2. **THIS COURT ORDERS** that the Receiver's Statement of Receipts and Disbursements for the period from February 4, 2010 to October 31, 2011 be and is hereby approved.
3. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to distribute funds, without further Order of this Court, in accordance with the scheme of distribution set out in paragraph 55 of the Sixth Report on account of the Debtors' outstanding indebtedness for principal, interest and costs.
4. **THIS COURT ORDERS AND DIRECTS** that cash receipts from future lease payments with respect to the Leased Vehicles be applied first to the Receiver's reasonable costs of administration and the surplus, if any, be paid as a distribution to BMO.
5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver with respect to the Debtors in the amount of \$872,381, inclusive of applicable GST/HST and an amount of \$50,000 (including HST) for fees and disbursements to be incurred to the date of the Receiver's discharge (excluding the cost of administering the two remaining leases), be and are hereby approved.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, Aird & Berlis LLP, in the amount of \$294,162, inclusive of applicable GST/HST and an amount of \$50,000 (including HST) for fees and disbursements to be incurred to the date of the Receiver's discharge, be and are hereby approved.

7. **THIS COURT ORDERS** that, upon the Receiver filing the Discharge Certificate, the Receiver shall be discharged as Receiver of the assets, undertakings and properties of the Debtors, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, however, the Receiver shall hold no signing authority with respect to discharging registrations on the Personal Property Security Registration System or authorizing the transfer of Ministry of Transportation ownership registrations for any vehicles; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including, all approvals, protections and stays of proceedings in favour of Deloitte & Touche Inc., in its capacity as Receiver.

8. **THIS COURT ORDERS AND DECLARES** that, upon the Receiver filing the Discharge Certificate, Deloitte is hereby released and discharged from any and all liability that Deloitte now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Deloitte while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Deloitte is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

9. **THIS COURT ORDERS AND DECLARES** that the duties and obligations of the Receiver be and are hereby limited to the Remaining Duties until the Discharge Certificate is filed.

SCHEDULE "A"

Court File No. CV-10-8556-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

**FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.**

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**

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Honourable Mr. Justice Cameron of the Ontario Superior Court of Justice (the "**Court**") dated February 4, 2010, Deloitte & Touche Inc. ("**Deloitte**") was appointed as receiver (in such capacity, the "**Receiver**"), without security, of all of the assets, undertakings and properties of Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc. (collectively, the "**Debtors**").

(B) Pursuant to an Order of the Court dated December 7, 2011 (the “**Discharge Order**”), Deloitte was discharged as Receiver of all of the assets, undertakings and properties of the Debtors to be effective upon the filing by the Receiver with the Court of a certificate certifying that the **Remaining Duties** (as defined in the Sixth Report) have been completed to the satisfaction of the Receiver, provided however that notwithstanding its discharge: (a) the Receiver will remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership, however, the Receiver shall hold no signing authority with respect to discharging registrations on the Personal Property Security Registration System or authorizing the transfer of Ministry of Transportation ownership registrations for any vehicles; and (b) the Receiver will continue to have the benefit of the provisions of all Orders made in this proceeding, including, all approvals, protections and stays of proceedings in favour of Deloitte & Touche Inc., in its capacity as Receiver.

(C) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE RECEIVER CERTIFIES the following:

1. The Remaining Duties have been completed to the satisfaction of the Receiver; and
2. This Certificate was filed by the Receiver with the Court on the ____ day of _____, 2011.

DELOITTE & TOUCHE INC., in its capacity as the Court-appointed receiver of Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc., and not in its personal capacity

Per: _____

Name: Robert J. Bougie

Title: Senior Vice President

BANK OF MONTREAL

- and -

FINANCIAL TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-10-8556-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

DISCHARGE ORDER

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
181 Bay Street, Suite 1800
Box 754
Toronto, ON M5J 2T9

D. Robb English (LSUC # 19862F1B)

Tel: (416) 865-4748

Fax: (416) 863-1515

E-mail: renglish@airdberlis.com

Ian E. Aversa (LSUC # 55449N)

Tel: (416) 865-3082

Fax: (416) 863-1515

E-mail: iaversa@airdberlis.com

Lawyers for Deloitte & Touche Inc.

Tab 3

Court File No. CV-10-8556-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE _____)
)
JUSTICE _____) OF _____, 20__

THE HONOURABLE) WEDNESDAY, THE 7TH DAY
)
JUSTICE) OF DECEMBER, 2011

BETWEEN:

PLAINTIFF

Plaintiff

BANK OF MONTREAL

Applicant

- and -

DEFENDANT

Defendant

FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.

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

DISCHARGE ORDER

THIS MOTION, made by [RECEIVER'S NAME] Deloitte & Touche Inc. ("Deloitte"),
in its capacity as the Court-appointed receiver (in such capacity, the "Receiver"), without
security, of all of the undertaking, property and assets of [DEBTOR] (the "Debtor") assets,
undertakings and properties of Financial Transport Inc., Freightliner of Kingston Inc., 6181732
Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810
Ontario Inc. (collectively, the "Debtors"), for an order, among other things:

1. approving the activities of the Receiver as set out in the report Sixth Report of the
Receiver dated [DATE] (the "Report" November 3, 2011 (the "Sixth Report"), and the actions of
the Receiver since the Fifth Report of the Receiver dated February 15, 2011 (the "Fifth
Report");
2. approving the Receiver's Statement of Receipts and Disbursements for the period from
February 4, 2010 to October 31, 2011;
3. authorizing and directing the Receiver to distribute, without further Order of this Court,
funds in accordance with the scheme of distribution set out in paragraph 55 of the Sixth Report
on account of the Debtors' outstanding indebtedness for principal, interest and costs;

4. authorizing and directing that cash receipts from future lease payments with respect to the **Leased Vehicles** (as defined in the Sixth Report) be applied first to the Receiver's reasonable costs of administration and the surplus, if any, be paid as a distribution to the Bank of Montreal ("BMO");

5. ~~2-~~approving the fees and disbursements of the Receiver and its counsel;

3. approving the distribution of the remaining proceeds available in the estate of the Debtor; ~~and~~

6. ~~4-~~discharging [RECEIVER'S NAME] as Receiver of the undertaking, property and assets of the Debtor; ~~and~~ Deloitte as Receiver of the assets, undertakings and properties of the Debtors effective upon the filing of a certificate by the Receiver certifying that the **Remaining Duties** (as defined in the Sixth Report) have been completed to the satisfaction of the Receiver in substantially the form attached hereto as Schedule "A" (the "**Discharge Certificate**");

7. ~~5-~~releasing [RECEIVER'S NAME] Deloitte from any and all liability, as set out in paragraph ~~58~~ of this Order⁺; ~~and~~

8. ~~declaring that the duties and obligations of the Receiver are hereby limited to the Remaining Duties until the Discharge Certificate is filed.~~

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Sixth Report, the affidavits of the Receiver and its counsel as to fees (the "Fee Affidavits"), affidavit of D. Robb English sworn November 2, 2011 and the affidavit of

⁺ If this relief is being sought, stakeholders should be specifically advised, and given ample notice. See also Note 4, below.

Robert J. Bougie sworn November 3, 2011, and on hearing the submissions of counsel for the Receiver, no one else appearing for any other person on the service list, although duly served as evidenced by appears from the Affidavit² of [NAME] Eunice Baltkois sworn [DATE] November 11, 2011, filed²;

1. **THIS COURT ORDERS** that the activities Sixth Report be and is hereby approved and the actions of the Receiver, as set out in since the Fifth Report, be and are hereby approved.

2. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel, as set out in the Report and the Fee Affidavits, are Receiver's Statement of Receipts and Disbursements for the period from February 4, 2010 to October 31, 2011 be and is hereby approved.

3. **THIS COURT ORDERS** that, after payment of the fees and disbursements herein approved, the Receiver shall pay the monies remaining in its hands to [NAME OF PARTY]³; the Receiver be and is hereby authorized and directed to distribute funds, without further Order of this Court, in accordance with the scheme of distribution set out in paragraph 55 of the Sixth Report on account of the Debtors' outstanding indebtedness for principal, interest and costs.

4. **THIS COURT ORDERS AND DIRECTS** that cash receipts from future lease payments with respect to the Leased Vehicles be applied first to the Receiver's reasonable costs of administration and the surplus, if any, be paid as a distribution to BMO.

5. **THIS COURT ORDERS** that the fees and disbursements of the Receiver with respect to the Debtors in the amount of \$872,381, inclusive of applicable GST/HST and an amount of

² This model order assumes that the time for service does not need to be abridged.

³ This model order assumes that the material filed supports a distribution to a specific secured creditor or other party.

\$50,000 (including HST) for fees and disbursements to be incurred to the date of the Receiver's discharge (excluding the cost of administering the two remaining leases), be and are hereby approved.

6. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, Aird & Berlis LLP, in the amount of \$294,162, inclusive of applicable GST/HST and an amount of \$50,000 (including HST) for fees and disbursements to be incurred to the date of the Receiver's discharge, be and are hereby approved.

~~7.~~ 4. **THIS COURT ORDERS** that upon payment of the amounts set out in paragraph 3 hereof [and, upon the Receiver filing a certificate certifying that it has completed the other activities described in the Report] the Discharge Certificate, the Receiver shall be discharged as Receiver of the ~~undertaking, property and assets,~~ undertakings and properties of the ~~Debtor~~ Debtors, provided however that notwithstanding its discharge herein: (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, however, the Receiver shall hold no signing authority with respect to discharging registrations on the Personal Property Security Registration System or authorizing the transfer of Ministry of Transportation ownership registrations for any vehicles; and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including, all approvals, protections and stays of proceedings in favour of ~~{RECEIVER'S NAME}~~ Deloitte & Touche Inc., in its capacity as Receiver.

8. 5. **THIS COURT ORDERS AND DECLARES** that ~~{RECEIVER'S NAME}~~, upon the Receiver filing the Discharge Certificate, Deloitte is hereby released and discharged from any and all liability that ~~{RECEIVER'S NAME}~~ Deloitte now has or may hereafter have by reason

of, or in any way arising out of, the acts or omissions of ~~{RECEIVER'S NAME}~~Deloitte while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, ~~{RECEIVER'S NAME}~~Deloitte is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.⁴

9. THIS COURT ORDERS AND DECLARES that the duties and obligations of the Receiver be and are hereby limited to the Remaining Duties until the Discharge Certificate is filed.

⁴The model order subcommittee was divided as to whether a general release might be appropriate. On the one hand, the Receiver has presumably reported its activities to the Court, and presumably the reported activities have been approved in prior Orders. Moreover, the Order that appointed the Receiver likely has protections in favour of the Receiver. These factors tend to indicate that a general release of the Receiver is not necessary. On the other hand, the Receiver has acted only in a representative capacity, as the Court's officer, so the Court may find that it is appropriate to insulate the Receiver from all liability, by way of a general release. Some members of the subcommittee felt that, absent a general release, Receivers might hold back funds and/or wish to conduct a claims bar process, which would unnecessarily add time and cost to the receivership. The general release language has been added to this form of model order as an option only, to be considered by the presiding Judge in each specific case. See also Note 1, above.

44342252-4 SCHEDULE "A"

Court File No. CV-10-8556-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.

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

RECEIVER'S DISCHARGE CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Honourable Mr. Justice Cameron of the Ontario Superior
Court of Justice (the "Court") dated February 4, 2010, Deloitte & Touche Inc. ("Deloitte") was

appointed as receiver (in such capacity, the “Receiver”), without security, of all of the assets, undertakings and properties of Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc. (collectively, the “Debtors”).

(B) Pursuant to an Order of the Court dated December 7, 2011 (the “Discharge Order”), Deloitte was discharged as Receiver of all of the assets, undertakings and properties of the Debtors to be effective upon the filing by the Receiver with the Court of a certificate certifying that the **Remaining Duties** (as defined in the Sixth Report) have been completed to the satisfaction of the Receiver, provided however that notwithstanding its discharge: (a) the Receiver will remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership, however, the Receiver shall hold no signing authority with respect to discharging registrations on the Personal Property Security Registration System or authorizing the transfer of Ministry of Transportation ownership registrations for any vehicles; and (b) the Receiver will continue to have the benefit of the provisions of all Orders made in this proceeding, including, all approvals, protections and stays of proceedings in favour of Deloitte & Touche Inc., in its capacity as Receiver.

(C) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.

THE RECEIVER CERTIFIES the following:

1. The Remaining Duties have been completed to the satisfaction of the Receiver; and

2. This Certificate was filed by the Receiver with the Court on the _____ day of _____, 2011.

DELOITTE & TOUCHE INC., in its capacity as the Court-appointed receiver of Financial Transport Inc., Freightliner of Kingston Inc., 6181732 Canada Inc., Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd. and 2105810 Ontario Inc., and not in its personal capacity

Per: _____

Name: Robert J. Bougie

Title: Senior Vice President

BANK OF MONTREAL

- and -

FINANCIAL TRANSPORT INC., et al.

Applicant

Respondents

Court File No. CV-10-8556-00CL

<p><u>ONTARIO</u> <u>SUPERIOR COURT OF JUSTICE</u> <u>COMMERCIAL LIST</u> <u>Proceedings commenced at Toronto</u></p>	
<p><u>DISCHARGE ORDER</u></p>	
<p><u>AIRD & BERLIS LLP</u> <u>Barristers and Solicitors</u> <u>Brookfield Place</u> <u>181 Bay Street, Suite 1800</u> <u>Box 754</u> <u>Toronto, ON M5J 2T9</u></p>	
<p><u>D. Robb English (LSUC # 19862F1B)</u> <u>Tel: (416) 865-4748</u> <u>Fax: (416) 863-1515</u> <u>E-mail: renglish@airdbertlis.com</u></p>	
<p><u>Ian E. Aversa (LSUC # 55449N)</u> <u>Tel: (416) 865-3082</u> <u>Fax: (416) 863-1515</u> <u>E-mail: iaversa@airdbertlis.com</u></p>	
<p><u>Lawyers for Deloitte & Touche Inc.</u></p>	

Document comparison by Workshare Professional on November 10, 2011
10:42:27 AM

Input:	
Document 1 ID	interwovenSite://AB-WS1/cm/11342252/1
Description	#11342252v1<cm> - Model Discharge Order - May 11/10 (FTI)
Document 2 ID	interwovenSite://AB-WS1/cm/11342253/3
Description	#11342253v3<cm> - Discharge Order (FTI)
Rendering set	standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	118
Deletions	60
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	178

Tab 4

No. CV-10-8556-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
IN BANKRUPTCY AND INSOLVENCY**

BANK OF MONTREAL

Applicant

- and -

**FINANCIAL TRANSPORT INC., FREIGHTLINER OF KINGSTON INC.,
6181732 CANADA INC., GLOBAL TRANSPORT INSURANCE BROKERS INC.,
JAIN TRUCK LEASE LTD. and 2105810 ONTARIO INC.**

Respondents

SIXTH REPORT OF THE RECEIVER

November 3, 2011

Table of Contents

I. Introduction 1

II. Background 3

III. Activities of the Receiver 5

 Vehicle in the possession of Hightech..... 5

 Trade Accounts Receivable..... 5

 Review of Intercompany Cash Activity 6

IV. Sales Process 6

 FTI and FKI Truck and Trailer Inventory 6

 618 – Tomken Property 6

V. Receiver’s Discharge..... 7

VI. Receiver’s Statement of Cash Receipts & Disbursements 7

VII. Proposed Scheme of Distribution..... 7

 Funds Available for Distribution..... 7

 Secured Debt of Bank of Montreal..... 8

 Other Debt Secured by FTI/FKI Vehicles..... 9

 Receiver’s Proposed Scheme of Distribution..... 11

VIII. Remaining Duties of the Receiver..... 13

IX. Professional Fees..... 14

X. Conclusion..... 15

Exhibits

Receivership Order A

First Report of the Receiver dated February 23, 2010 (without exhibits) B

Order dated February 26, 2010 C

Second Report of the Receiver dated March 15, 2010 (without exhibits) D

Order dated March 23, 2010	E
Order dated April 29, 2010	F
Third Report of the Receiver dated July 9, 2010 (without exhibits)	G
Order dated July 27, 2010	H
Fourth Report of the Receiver dated December 1, 2010 (without exhibits)	I
Order dated December 14, 2010	J
Fifth Report of the Receiver dated February 15, 2011 (without exhibits)	K
Order dated March 7, 2011	L
Vesting Order dated March 7, 2011	M
Order dated March 7, 2011 concerning Hightech	N
Receiver's Interim Statement of Receipts & Disbursements	O
Legal Opinion on Bank's Security	P
Proposed Distribution to creditors with security over specific vehicles	Q
New Millenium documents	R
Affidavit of Robert J. Bougie (exhibits contained in supplemental book of accounts)	S
Affidavit of D. Robb English (exhibits contained in supplemental book of accounts)	T

I. Introduction

1. By Order of the Honourable Justice Cameron dated February 4, 2010 (the “**Receivership Order**”), Deloitte & Touche Inc. was appointed receiver (the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Respondents (the “**Companies**”) pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act* (“**BIA**”) and Section 101 of the *Courts of Justice Act*. A copy of the Receivership Order is attached hereto as Exhibit “**A**”.
2. There are six related respondents in this matter, namely:
 - Financial Transport Inc. (“**FTI**”)
 - Freightliner of Kingston Inc. (“**FKI**”)
 - 6181732 Canada Inc. (“**618**”)
 - Global Transport Insurance Brokers Inc. (“**GTIB**”)
 - Jain Truck Lease Ltd. (“**JTL**”)
 - 2105810 Ontario Inc. (“**210**”)
3. By Order of the Honourable Justice Wilton-Siegel dated February 26, 2010 (the “**February 26 Order**”), the Receiver was authorized to implement the disposition strategy with respect to the assets of the Companies as outlined in the Receiver’s First Report to Court dated February 23, 2010 (the “**First Report**”) provided that the Receiver return to the Court for approval of the sale of the truck inventory. Attached hereto as Exhibits “**B**” and “**C**” are copies of the First Report (without exhibits) and the February 26 Order, respectively.
4. On March 5, 2010, the Receiver filed assignments in bankruptcy on behalf of FTI and FKI and Deloitte & Touche Inc. was appointed trustee in bankruptcy of both companies (the “**Trustee**”).
5. By Order of the Honourable Justice Hoy dated March 23, 2010 (the “**March 23 Order**”), this Honourable Court approved the sale by the Receiver of the truck and trailer inventory of FTI and FKI to Ritchie Bros. Auctioneers (Canada) Ltd. (“**Ritchie**” and the “**Ritchie Sale**”). The March 23 Order approved the process proposed by the Receiver to deal with both undisputed vehicles and vehicles with conflicting security interests as set out in the Receiver’s Second Report to Court dated March 15, 2010 (the “**Second Report**”). The March 23 Order also approved a listing price of not less than \$3.5 million for the property owned by 618 located at 4598 Tomken Road,

Mississauga, Ontario (the “**Tomken Property**”). Attached hereto as Exhibits “**D**” and “**E**” are copies of the Second Report (without exhibits) and the March 23 Order, respectively.

6. As a result of the conflicting and undetermined security interests over a number of FTI and FKI vehicles that were included in the Ritchie Sale, Landmark Vehicle Leasing Corporation (“**Landmark**”) filed a Notice of Motion which was heard by this Honourable Court on April 29, 2010 requesting *inter alia* that eleven vehicles registered as being owned by FTI or FKI not be included in the Ritchie Sale and that Landmark be declared as the owner of the vehicles in question.
7. By Order of the Honourable Justice Morawetz dated April 29, 2010 (the “**April 29 Order**”), two vehicles that were to be included in the Ritchie Sale and in which Landmark claimed a security interest were excluded from the sale pending further Order of the Court. In addition, the April 29 Order provided that nine other vehicles in which Landmark claimed a security interest but which were not in the possession of the Receiver were not to be sold, transferred, leased, rented or encumbered without a further Court Order. Attached hereto as Exhibit “**F**” is a copy of the April 29 Order.
8. By Order of the Honourable Justice Morawetz dated July 27, 2010 (the “**July 27 Order**”), this Honourable Court, among other things, granted relief to the Receiver against various parties in possession of vehicles registered to FTI, approved the Receiver’s disposition proposal with respect to the treatment of funds in GTIB’s trust account, and approved the Receiver’s activities with respect to the Tomken Property. Details of the relief sought and granted are set out in the Receiver’s Third Report to Court dated July 9, 2010 (the “**Third Report**”). Attached hereto as Exhibits “**G**” and “**H**” are copies of the Third Report (without exhibits) and the July 27 Order, respectively.
9. By Order of the Honourable Justice Pepall dated December 14, 2010 (the “**December 14 Order**”), this Honourable Court disallowed the claims of Quantum Sales & Leasing, Crew Chief Conversions Ltd. (“**Crew Chief**”) and Cheetah TT&T under the Repair & Storage Liens Act (“**RSLA**”). The Court also approved the agreements that the Receiver had entered into with Pacific Heavy Truck Group, Landmark and parties related to FTI with respect to the disposition of certain vehicles subject to competing claims. Details of the relief sought are described in the Receiver’s Fourth Report to the Court dated December 1, 2010 (the “**Fourth Report**”). Attached hereto as Exhibits “**I**” and “**J**” are copies of the Fourth Report (without exhibits) and the December 14 Order.

-
10. By Order of the Honourable Justice Brown dated March 7, 2011 (the “**March 7 Order**”), this Honourable Court, *inter alia*, barred the RSLA claim of Crew Chief against the vehicle with VIN number 1FUJBBCK35LN64859. At that time, the Court also approved the sale of the Tomken Property and granted a vesting order to the purchaser (the “**Vesting Order**”). Details of the relief sought and granted are set out in the Receiver’s Fifth Report to Court dated February 15, 2011 (the “**Fifth Report**”). Attached hereto as Exhibits “**K**”, “**L**” and “**M**” are copies of the Fifth Report (without exhibits), the March 7 Order, and the Vesting Order, respectively.
 11. By separate Order of the Honourable Justice Brown dated March 7, 2011 (the “**Hightech Order**”), this Honourable Court ordered Hightech Diesel Repair Centre Inc. (“**Hightech**”) to deliver the vehicle bearing VIN number 1JJV532W45L922360 to Ritchie by March 8, 2011 and to pay the Receiver costs of \$3,000 within 30 days of the date of the order. Details of the relief sought and granted are set out in the Fifth Report. Attached hereto as Exhibit “**N**” is a copy of the Hightech Order.
 12. The Receiver considers it advisable at this time to:
 - a) Inform this Honourable Court of the status of matters since the Fifth Report;
 - b) Seek this Honourable Court’s approval of the Receiver’s activities since the Fifth Report;
 - c) Provide this Honourable Court with a summary of the Receiver’s cash receipts and disbursements for the period February 4, 2010 to October 31, 2011;
 - d) Seek this Honourable Court’s approval with respect to the Receiver’s proposed scheme of distribution;
 - e) Seek an order approving the fees and disbursements of the Receiver and of the Receiver’s legal counsel, Aird & Berlis LLP (“**AB LLP**”); and
 - f) Seek an order discharging Deloitte & Touche Inc. from the powers, duties and obligations attendant to its appointment as Receiver. (Subject to the completion of certain minor administrative duties as set out herein.)

II. Background

13. FTI is an Ontario corporation incorporated in 1995 that provided lease financing and sold new and used transport vehicles to operators in Canada and the United States. FTI operated from premises located at 7280 Dixie Road, Mississauga, Ontario (the “**Dixie Location**”) that it leased

from a related company and shared with other related companies. FTI is wholly owned by 6145086 Canada Inc., which itself is owned in equal shares by Eric Jain (“**Eric**”) and Chanderkant Jain (“**Chanderkant**”), who are brothers.

14. FKI is an Ontario corporation and operated Jain Truck Centres from leased premises located at 21 Enterprise Drive, Belleville, Ontario (the “**Belleville Location**”). The Belleville Location is owned by a related company. FKI was a retail dealer of Freightliner brand trucks and trailers as well as a service centre offering service and parts sales. FKI’s franchise agreement with Freightliner was terminated by Freightliner at the beginning of January 2010. FKI is owned by Eric (20%) and Chanderkant (80%).
15. 618 is a federally incorporated company incorporated in 2004, originally for the purpose of holding title to the Tomken Property. 618’s office was located at the Dixie Location. 618 is owned in equal shares by Eric and Chanderkant. The Tomken Property was developed for use as a parking facility for tractor trailers. 618 was unable to obtain the required rezoning to allow the property to be rented for parking lot purposes.
16. GTIB is an Ontario corporation incorporated in 2004 as an independent insurance brokerage for companies in the trucking industry who operate within Ontario. GTIB operated from premises leased from a third party located at 1215 Meyerside Drive, Mississauga, Ontario. Robert Hilbert, GTIB’s Managing Partner, started GTIB in 2005 with the assistance of a loan from Chanderkant. GTIB’s shares are owned by Soniya Jain, the spouse of Chanderkant.
17. JTL is an Ontario corporation that was incorporated in 2007. JTL was in the business of maintaining vehicles. JTL also rented trailers which it did through related and third party leasing companies. JTL was formerly located in Belleville, Ontario with one person managing the operations. The business was transferred to the Dixie Location some time in 2008.
18. 210 is an Ontario corporation and is the owner of a rental property located at 29 Dalton Road, Kingston, Ontario which was previously occupied by FKI. 210’s office was located at the Dixie Location.
19. The Bank of Montreal (the “**Bank**”) is a secured creditor and lender to the Companies except JTL and 210 who have business chequing accounts but no loan accounts or credit facilities with the Bank.

III. Activities of the Receiver

Vehicle in the possession of Hightech

20. In the Fourth Report, the Receiver reported on a trailer with VIN number 1JJV532W45L922360 which was in the possession of Hightech (the “**Hightech Vehicle**”). Hightech had refused to deliver the Hightech Vehicle to the Receiver, as it claimed a possessory RSLA lien in the amount of \$10,022 on its own account and \$3,777 on account of work that it had undertaken to pay to another garage, Popular Tire Sales & Service Inc., for services rendered.
21. On December 14, 2010, the Receiver sought and obtained from this Honourable Court, an order which directed Hightech to forthwith, and at its own expense, deliver to the Receiver possession of the Hightech Vehicle; and within 7 days of the December 14 Order, file with the Court any evidence which it may choose to explain its conduct in refusing to turn over the Hightech Vehicle to the Receiver. Hightech refused to comply with the December 14 Order.
22. On March 7, 2011, the Receiver obtained from this Honourable Court, an order which directed Hightech to deliver the Hightech Vehicle to Ritchie by March 8, 2011 and to pay the Receiver \$3,000 for the costs of the March 7 motion, within 30 days of the March 7 Order. The Hightech Vehicle was delivered to Ritchie. To date, Hightech has not paid the cost award to the Receiver.
23. The Hightech Vehicle was sold at auction by Ritchie on May 10, 2011. The net proceeds of sale were \$3,555.

Trade Accounts Receivable

24. As of October 31, 2011, the Receiver has collected \$459,406 in trade accounts receivable owed to the Companies. The Receiver continues to collect monthly lease payments for two vehicles leased by FTI (the “**Leased Vehicles**”). The two lessees have been making regular monthly payments (which total \$3,062 per month) and are not currently in a position to buy out the leases. The Receiver anticipates that the two leases may have to be administered until the lease terms expire in April 2013 and January 2014.
25. The details of the two leases in question are set out in the table below.

VIN Number	Remaining Payments	Lease Expiry Date
1FVACWCT65HV45010	\$43,012	April 15, 2013
1FVACWCT15HU51570	\$45,844	January 1, 2014

-
26. Other than the Bank, no other secured creditors have filed a claim against the Leased Vehicles. The Receiver recommends that the Receiver continue to administer the two leases until the leases expire or are terminated for other reason, and that cash receipts from future lease payments or the sale of the Leased Vehicles be applied first to the Receiver's reasonable costs of administration and the surplus, if any, be paid as a distribution to the Bank.

Review of Intercompany Cash Activity

27. As noted in the Fifth Report, the Receiver has not received the additional documentation requested to allow it to complete its review of the net cash outflows from the Companies to various related parties, and is not pursuing further inquiries. On July 14, 2011, the Bank was granted orders pursuant to Section 38 of the BIA to commence and prosecute proceedings in its own name in connection with any claims FTI, FKI or the trustee may have against the related parties.

IV. Sales Process

FTI and FKI Truck and Trailer Inventory

28. As set out in the Third Report, the Receiver sold the bulk of the FTI and FKI truck and trailer inventory to Ritchie as part of the Ritchie Sale.
29. In addition to the sale of the Hightech Vehicle mentioned earlier in this report, one other vehicle was surrendered by a lessee to Ritchie and was sold at auction on September 27, 2011 for \$7,500.
30. The Receiver is currently taking steps to enforce its security against three vehicles, where the leases are in default. The vehicles will be repossessed and delivered to Ritchie for sale at auction. The net proceeds are estimated to be between \$3,000 and \$9,000. One of the vehicles, registered under VIN # 1XKADR9X5YR960598, is subject to a RSLA claim in the amount of \$1,401 filed by HT Tire Service Ltd. ("**HT Tire**"). The Receiver has requested and is waiting for documentation from HT Tire to support its claim for a lien under the RSLA.

618 – Tomken Property

31. Pursuant to the Vesting Order, the sale of the Tomken Property closed on September 8, 2011 for a sale price of \$2,700,000.

V. Receiver's Discharge

32. As the Receiver's administration of this estate is substantially complete, the Receiver is seeking an order discharging Deloitte & Touche Inc. from the powers, duties and obligations attendant to its appointment as Receiver. In particular the Receiver requests that upon its discharge, Deloitte & Touche Inc. shall hold no signing authority with respect to discharging registrations on the Personal Property Security Registration System or authorizing the transfer of Ministry of Transportation ownership registrations for any vehicles.

VI. Receiver's Statement of Cash Receipts & Disbursements

33. Attached hereto as Exhibit "O" is a statement of the Receiver's cash receipts and disbursements for the period February 4, 2010 to October 31, 2011 which indicates a surplus of receipts over disbursements of \$2,595,095. Since its appointment, the Receiver has collected total cash receipts of \$4,511,253, paid \$68,076 in deemed trusts or super-priority claims, and has made \$1,848,081 of other disbursements. Receipts include \$965,083 from the sale of vehicles, \$459,406 from the collection of accounts receivable, and \$2,700,000 from the sale of the Tomken Property.
34. A Receiver's certificate in the amount of \$250,000 was issued to the Bank on February 12, 2010 and was repaid with interest on October 21, 2011.
35. To date, no distribution has been made to any of the Companies' secured creditors. The amount payable with respect to known secured claims, other than the Bank's, is approximately \$81,000. All of the other secured claims are against FTI and FKI.

VII. Proposed Scheme of Distribution

Funds Available for Distribution

36. As set out in the Receiver's Statement of Receipts and Disbursements, the Receiver currently has \$2,595,095 in its trust accounts. After deduction of a holdback of approximately \$135,000 for costs to complete the administration of the estate, there will be approximately \$2,460,045 available for distribution (the "**Distributable Funds**"). Of the \$135,000, \$35,000 is allocated to be paid to the Trustee to fund the costs of the bankruptcy administrations.

37. No funds are available for distribution from the estates of FKI, GTIB, 210 and JTL as the costs of the receivership administration exceeded the proceeds of realization from the assets of these companies after allocation of professional fees.
38. The Receiver's fees were allocated to each company based on the company on whose behalf the services were rendered. The allocation of the Receiver's fees was based on a review of the Receiver's detailed time dockets which are summarized in the Receiver's statements of account (discussed further in Section VIII of this report).
39. The fees of legal counsel for the Receiver were allocated based on the same proportionate allocation of the Receiver's fees.
40. Pursuant to Paragraph 17 of the Receivership Order, the fees of the Receiver and its counsel were granted a charge over the property of the Companies and, accordingly, the Receiver recommends that the deficits in FKI, GTIB, 210 and JTL be covered by excess recoveries from FTI and 618.
41. Set out below is the Receiver's proposed allocation of professional fees. For the purpose of simplicity, the transfer required to cover allocated fees was funded first from FTI and then from 618.

	<i>FTI</i>	<i>FKI</i>	<i>GTIB</i>	<i>618</i>	<i>210</i>	<i>JTL</i>	<i>Total</i>
Estimated recovery before allocated fees	\$ 1,015,782	\$ 32,247	\$ 48,427	\$ 2,457,158	\$ 0	\$ 4,486	\$ 3,558,101
<i>Allocation of professional fees including estimated fees to complete</i>							
Percentage allocation	<i>60.0%</i>	<i>18.0%</i>	<i>13.0%</i>	<i>4.5%</i>	<i>1.0%</i>	<i>3.5%</i>	
Receiver's fees	493,091	147,927	106,836	36,982	8,218	28,764	821,818
Legal fees	165,743	49,723	35,911	12,431	2,762	9,668	276,238
	658,833	197,650	142,747	49,413	10,980	38,432	1,098,056
Estimated net recovery after allocated fees	356,949	(165,403)	(94,320)	2,407,746	(10,980)	(33,946)	2,460,045
Transfer required to cover allocated fees	(189,163)	165,403	94,320	(115,486)	10,980	33,946	-
Funds available for distribution	\$ 167,785	\$ -	\$ -	\$ 2,292,260	\$ -	\$ -	\$ 2,460,045

Secured Debt of Bank of Montreal

42. The Companies are indebted to the Bank in the following amounts:

FTI	FKI	GTIB	618	210	JTL	Total
\$6,788,628	\$2,022,897	\$204,376	\$2,313,928	\$144,746	\$101,017	\$11,575,593

- The indebtedness of FTI to the Bank is secured, among other things, by a general security agreement dated November 15, 2006.
 - The indebtedness of FKI to the Bank is secured, among other things, by: (a) a general security agreement dated November 20, 2008; and (b) guarantees from 618 limited to the aggregate amount of \$1,450,000 secured by the Mortgage (described below).
 - The indebtedness of 618 to the Bank is secured, among other things, by: (a) a mortgage over the Tomken Property in the amount of \$3,675,000 (the “**Mortgage**”); and (b) a guarantee from FTI limited to the amount of \$1,825,000.
 - The indebtedness of GTIB to the Bank is secured, among other things, by a general security agreement dated September 4, 2009.
 - The indebtedness of 210 and JTL to the Bank is not secured.
43. The Receiver has obtained an independent legal opinion from AB LLP on the validity and enforceability of the Bank’s security which indicates, subject to the usual qualifications, that the Bank’s security is valid and enforceable. Attached hereto as Exhibit “P” is a copy of the AB LLP legal opinion. As noted above, the outstanding secured debt owed by the Companies to the Bank is approximately \$11.3 million.

Other Debt Secured by FTI/FKI Vehicles

44. Set out below is a summary of the other secured creditors who have charges against specific FTI or FKI vehicles sold by the Receiver:

<i>Creditor</i>	<i>Refer to paragraph(s):</i>
CIT Financial Ltd.	47
Cleveland Freightliner, Inc.	48
Shamrock Trust	48
RSLA claims	49-50
New Millenium RSLA claim	51-53
Hightech RSLA claim	54

45. A review of the PPSA registrations against vehicles in the FTI lease portfolio showed numerous registrations by lease financing companies and repair/service companies against vehicles registered in the names of FTI or FKI. Where the Receiver did not appear to have an interest in the vehicle and did not have possession, the Receiver consented to the secured creditor’s lawful exercise of remedies to which it might be entitled as against the vehicle. Where the Receiver had

possession and determined that the estate had no interest in the vehicle, the Receiver released the vehicle to the secured creditor.

46. There were seventeen vehicles subject to competing security interests which were sold by the Receiver, which proceeds form part of the Distributable Funds. Legal counsel for the Bank negotiated with these secured creditors (other than the RSLA claimants) to reach an agreement as to the distribution of the sales proceeds. The Receiver reviewed and verified the RSLA claims. Attached hereto as Exhibit “Q” is a list showing the proposed distribution of sales proceeds to creditors with security over specific vehicles sold by the Receiver. The claims are discussed in greater detail below.
47. The Bank and CIT Financial Ltd. (“CIT”) hold competing security interests in eleven vehicles. The Bank and CIT have reached an agreement as to the allocation of the sales proceeds for those eleven vehicles, as set out in Exhibit “Q” attached hereto.
48. The Bank, Cleveland Freightliner, Inc. (“Cleveland”) and Shamrock Trust (“Shamrock”) hold competing security interests in one vehicle with VIN # 1FVACXCS27HY05094 (“5094”). Counsel for the Bank contacted Cleveland and Shamrock to propose that the proceeds be equally split between the three competing parties. Counsel for Cleveland has agreed; however, Shamrock has not responded. As Shamrock has not maintained its PPSA registration, the Receiver proposes not to recognize Shamrock’s secured claim.
49. There are six creditors who have registered nine RSLA claims against sales proceeds in the hands of the Receiver. The RSLA claims were registered either prior to or within the 90 day period after the date of these proceedings. Of these registrations, two are current, five have expired because they reached the end of a registration period and were not renewed, and two expired after the third anniversary of the claim.
50. It is the Receiver’s position that only the RSLA claims which are current in their registration are secured. However, the Receiver recommends recognizing the two claims that expired after the third anniversary of the claim as secured claims for the purpose of the proposed distribution, because the claims were valid and enforceable as at the date of this receivership. Since a registration under the RSLA cannot be renewed after its third anniversary, and these claims were stayed by the Receivership Order, the Receiver is of the opinion that these two claims should be recognized.
51. With respect to the RSLA claim of New Millenium for \$2,352 against the vehicle with VIN # 1JJV532W44L882960 (“Vehicle 960”), the Receiver is claiming a set-off of \$2,260. New

Millenium had in its possession a vehicle with VIN # N64860 (the “NM Vehicle”) which belonged to FTI and against which New Millenium was claiming a possessory RSLA lien. The Receiver requested that New Millenium release the NM Vehicle to the Receiver but New Millenium refused to release it. As the realization on the NM Vehicle was estimated at between \$3,000 and \$10,000, and New Millenium’s RSLA lien was for \$6,142, it was unlikely that there would be any net benefit to the estate if the Receiver were to incur the cost of a court application in order to compel New Millenium to release the NM Vehicle. Accordingly, the Receiver consented to New Millenium’s lawful exercise of remedies against the NM Vehicle without releasing its interest in the vehicle and requested a full accounting of the proceeds of disposition.

52. New Millenium sold the NM Vehicle for \$9,040.00 and applied the proceeds as set out below. Copies of the Notice of Intention to Sell, Bill of Sale, and New Millenium invoice for storage are attached hereto as Exhibit “R”.

Gross proceeds from sale of the NM Vehicle	\$ 9,040
Less: New Millenium RSLA	<u>(6,142)</u>
Surplus from sale	2,897
Less: Administrative fees	(250)
Less: PPSA & MTO Searches, Notice to Sell, HST	(478)
Less: Storage costs	<u>(2,260)</u>
Surplus (Deficit)	<u>\$ (90)</u>

53. The Receiver disputes New Millenium’s right to charge storage fees of \$2,260 when it refused to release the vehicle to the Receiver in violation of the Receivership Order. Moreover, the NM Vehicle was stored on New Millenium’s property and New Millenium incurred no out-of-pocket storage costs. The amount otherwise distributable to New Millenium from the sale of Vehicle 960 described in paragraph 51 is \$2,352. After set-off of the storage fees of \$2,260 described in paragraph 52, the proposed net amount payable to New Millenium in respect of Vehicle 960 is \$92.
54. With respect to the RSLA claim of Hightech for \$10,022 against the Hightech Vehicle, Hightech’s lien was discharged when the registration was not renewed in April 2011. As a result, the Receiver does not intend to make a payment to Hightech on account of its RSLA claim.

Receiver’s Proposed Scheme of Distribution

55. The Receiver proposes the scheme of distribution detailed below (the “Proposed Scheme of Distribution”) such that upon its approval by this Honourable Court, the Distributable Funds will be paid as set out below:

-
- (i) First, pursuant to Paragraph 17 of the Receivership Order, a reserve for any unpaid liabilities incurred by the Receiver in connection with these proceedings, including the fees and disbursements of the Receiver and its legal counsel, which is currently estimated at approximately \$135,000 (net of estimated future receipts);
 - (ii) Second, \$2,292,260 or up to the amount of \$2,313,928, the balance outstanding on its mortgage on the Tomken Property, to be paid to the Bank from 618;
 - (iii) Third, \$60,575 to be paid to CIT from FTI in satisfaction of its secured claim against six FTI/FKI vehicles as detailed in Exhibit "Q";
 - (iv) Fourth, \$12,509 to be paid to Cleveland from FTI in satisfaction of its secured claim against the vehicle with VIN # Y05094;
 - (v) Fifth, \$2,937 to be paid to Cheetah from FTI in satisfaction of its secured claim against the vehicle with VIN # W53703;
 - (vi) Sixth, \$92 to be paid to New Millenium from FTI in satisfaction of its secured claim against the vehicle with VIN # 882960;
 - (vii) Seventh, \$1,050 to be paid to Rush Lube Inc. from FTI in satisfaction of its RSLA claim against the vehicle with VIN # J65074;
 - (viii) Eighth, \$3,777 to be paid to Tire King Limited from FTI in satisfaction of its RSLA claim against the vehicle with VIN # 882960;
 - (ix) Ninth, \$86,846 or up to \$6,788,628 to be paid to the Bank from FTI in satisfaction of its outstanding secured debt;
 - (x) Tenth, up to \$1,401 to be paid to HT Tire from the net proceeds of sale of the vehicle with VIN # 960598 (if any) in satisfaction of its secured claim, subject to HT Tire providing satisfactory documentation to the Receiver to support its RSLA claim within 30 days of the Receiver's request for the same;
 - (xi) Tenth, should funds become available for distribution, up to \$2,022,897 to be paid to the Bank from FKI and/or 618 on account of its outstanding secured debt;
 - (xii) Eleventh, should funds become available for distribution, up to \$204,376 to be paid to the Bank from GTIB in satisfaction of its outstanding secured debt; and
 - (xiii) The Receiver makes no payment to any other party in respect of claims on any other vehicle which has been realized on by the Receiver to date.

56. Set out below is a chart that summarizes the Receiver's proposed Scheme of Distribution:

	FTI	618	Total
Funds available for distribution	\$ 167,785	\$ 2,292,260	\$ 2,460,045
<u>Allocation of 618 proceeds</u>			
Bank of Montreal - mortgage	-	2,292,260	2,292,260
<u>Creditors with security over vehicles</u>			
Bank of Montreal	86,846	-	86,846
CIT Financial	60,575	-	60,575
Cleveland	12,509	-	12,509
Cheetah TT&T	2,937	-	2,937
New Millenium	92	-	92
Rush Lube Inc.	1,050	-	1,050
Tire King Limited	3,777	-	3,777
Total funds to be distributed	\$ 167,785	\$ 2,292,260	\$ 2,460,045

57. As the Bank has suffered a shortfall of almost \$9 million on its secured debt, there will not be any funds available for distribution to the Companies' unsecured creditors.

VIII. Remaining Duties of the Receiver

58. The Receiver's remaining duties (the "**Remaining Duties**") include the following:

- Distributing funds available for distribution in accordance with the Proposed Scheme of Distribution;
- Administering the two remaining performing FTI leases;
- Enforcing its security against the three vehicles where the lease is in default;
- Discharging registrations on the Personal Property Security Registration System or authorizing the transfer of Ministry of Transportation ownership registrations (upon written request) for the five vehicles still on lease as of the date of this report or vehicles sold by Ritchie on the Receiver's behalf;
- Filing HST returns until the completion of its administration of this estate; and

-
- Making disbursements in accordance with the amounts accrued on the Receiver's Interim Statement of Receipts & Disbursements or incidental to the completion of its duties as listed above.

59. The Receiver proposes that its duties and obligations be restricted to the Remaining Duties. Once the Receiver has completed its Remaining Duties, the Receiver intends to file a Receiver's Certificate indicating that the Receiver has completed the Remaining Duties and that the Receiver's discharge be final.

IX. Professional Fees

60. The total fees and disbursements of the Receiver amount to \$872,381 (including GST and HST) which includes an accrual of \$50,000 for fees and disbursements (including HST) to be incurred to complete its administration of the receivership (excluding the cost of administering the two remaining leases). Full particulars of the Receiver's fees and disbursements are set out in Exhibits "A" to "C" to the Affidavit of Robert J. Bougie sworn on November 3, 2011 which is attached hereto as Exhibit "S" (the "**Bougie Affidavit**"); the Bougie Affidavit also contains particulars of hours spent, hourly rates, total fees and disbursements of the Receiver.
61. The total fees and disbursements incurred by the Receiver for services provided by AB LLP as the Receiver's legal counsel for the period February 4, 2010 to date amount to \$294,162 (including GST and HST) which includes an accrual of \$50,000 for fees and disbursements (including HST) to be incurred to complete the administration of the receivership. Full particulars of AB LLP's fees and disbursements are set out in Exhibits "A" to "R" to the affidavit of D. Robb English sworn on November 2, 2011 which is attached hereto as Exhibit "T" (the "**English Affidavit**"). The English Affidavit also contains particulars of hours spent, hourly rates, total fees and disbursements by AB LLP.

X. Conclusion

62. The Receiver respectfully requests that this Honourable Court grant an Order which provides for the following:
- a) Approval of the activities of the Receiver since the Fifth Report;
 - b) Cash receipts from future lease payments with respect to the Leased Vehicles be applied first to the Receiver's reasonable costs of administration and the surplus, if any, be paid as a distribution to the Bank;
 - c) Approval of the Receiver's Statement of Receipts and Disbursements attached hereto including the accruals and provision made therein;
 - d) Approval of the Receiver's proposed Scheme of Distribution as set out herein;
 - e) Approval of the Receiver's accounts and those of its legal counsel as set out herein including the accruals for completion of all administration relating to this matter;
 - f) Restriction of the duties and obligations of the Receiver to the Remaining Duties until such time as the Receiver is discharged; and
 - g) Termination of these proceedings and discharge of Deloitte & Touche Inc. from the powers, duties and obligations attendant to its appointment as Receiver effective upon the filing of a Receiver's Certificate indicating that the Receiver has completed the Remaining Duties.
63. All of the foregoing is respectfully submitted to this Honourable Court as of this 3rd day of November, 2011.

Deloitte & Touche Inc.

In its capacity as Court-appointed Receiver of Financial Transport Inc.,
Freightliner of Kingston Inc., 6181732 Canada Inc.,
Global Transport Insurance Brokers Inc., Jain Truck Lease Ltd.
and 2105810 Ontario Inc. and not in its personal capacity



Robert J. Bougie, CA • CIRP
Senior Vice-President