



This is the 2<sup>nd</sup> affidavit  
of Amanda Bezner in this case  
and was made on 4/JUNE/2025

NO. S-253695  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF THE RECEIVERSHIP OF  
TITANIUM AUTOGROUP LTD.

BETWEEN:

THE TORONTO-DOMINION BANK

APPLICANT

AND:

TITANIUM AUTOGROUP LTD.

RESPONDENT

**AFFIDAVIT**

I, AMANDA BEZNER, Senior Manager, Special Account Management, of 100 Wellington Street West, 26th Floor, Toronto, Ontario M5K 1A2, AFFIRM THAT:

1. I am a Senior Manager in the Special Account Management group with The Toronto-Dominion Bank ("TD" or the "Bank"), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where stated to be based on information and belief and where so stated, I verily believe the same to be true.
2. I am authorized to make this affidavit on behalf of TD.
3. I make this second affidavit in support of TD's application for an order providing the following relief:
  - (a) if necessary, abridging the time for service and filing of the notice of application and application record and validating service thereof; and

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- (b) the appointment of Deloitte Restructuring Inc. ("**Deloitte**") as receiver (in such capacity, the "**Receiver**") without security, of all of the assets, undertakings and property of Titanium Autogroup Ltd. (the "**Titanium**" or "**Debtor**"), including all proceeds thereof, but excluding the BNS Priority Collateral (as defined in the first affidavit of Amanda Bezner, affirmed May 14, 2025) (the "**Property**").

4. In connection with this proceeding, I affirmed an affidavit dated May 14, 2025 (the "**First Bezner Affidavit**"). Greater details including, but not limited to, the parties, background, loan and security documents, and Titanium's financial difficulties can be found in the First Bezner Affidavit. Where relevant, I have repeated certain portions of the First Bezner Affidavit herein.

### **The Parties & Background**

5. TD is a Canadian chartered bank with offices throughout Canada, including in Vancouver, British Columbia.

6. To the best of my knowledge:

- (a) Titanium is a privately-held company incorporated pursuant to the laws of the Province of British Columbia, with a registered and records office address at 1750-1055 Georgia Street, Vancouver, BC, V6E 3P3;
- (b) the director of Titanium is Derek Thomas Scherk ("**D. Scherk**") residing in British Columbia; and
- (c) the officers of Titanium are D. Scherk, acting as president, and Jessica Phan ("**J. Phan**"), acting as secretary, each residing in British Columbia.

7. Titanium was in the business of maintaining, storing and selling used motor vehicles in Canada.

8. I further understand that Titanium also maintains, stores and sells select used vehicles in the United States at TD-approved auction houses.

9. In Canada, Titanium operates out of various locations in Langley, British Columbia.

### **Loan and Security Documents**

10. In order to enable Titanium to operate its business, pursuant to an automotive lending agreement, dated August 24, 2023, between TD and Titanium, as amended by an amendment, dated January 29, 2024 (collectively, the "**Loan Agreement**"), TD agreed to extend various credit facilities to Titanium including demand floor plan finance facilities.

11. As security for Titanium's obligations under the Loan Agreement, Titanium granted, among other items, in favour of TD: (i) a general security agreement, dated December 12, 2022, in all of Titanium's present and after-acquired personal property; and (ii) a US general security agreement, dated November 20, 2023, in all of Titanium's present and after-acquired personal property.

12. Pursuant to limited guarantees in the amount of up to \$500,000.00 plus costs, expenses, and interest, D. Scherk and J. Phan (collectively, the "**Guarantors**") guaranteed payment to TD of all present and future debts and liabilities due or owing to TD by Titanium.

13. Search results conducted on or about May 1 and 2, 2025, in respect of Titanium, J. Phan, and D. Scherk under the applicable personal property lien registries (each, a "**PPR**") in British Columbia, Alberta, and the state of Washington indicate that TD has registered a security interest against all of Titanium's present and after-acquired personal property in both the British Columbia PPR and with the Secretary of State pursuant to the Uniform Commercial Code in the state of Washington. Those search results are attached as Exhibit "A" to the first affidavit of Avic Arenas, sworn May 14, 2025, and Exhibit "H" to the First Bezner Affidavit.

#### **Financial Difficulties, Indebtedness and Demand**

14. Since the end of 2024, Titanium has been experiencing financial issues and challenges.

15. As noted in the First Bezner Affidavit, the Bank made numerous unsuccessful attempts to contact Titanium to discuss operations and to visit and access the physical locations where Titanium conducts its business to examine its collateral.

16. Following a review of the Titanium website, Titanium had completely shut down its business and stopped operating without any notification to the Bank. The following message is displayed on the Titanium website: *"Thank you for all the years of support! Due to the increasingly difficult economy & trade tariffs, Titanium was forced to close our doors. Thank you for letting us be your #1 location for premium pre-owned vehicles in Western Canada for the past 7 years!"*

17. On May 12, 2025, TD issued demand for payment on Titanium and the Guarantors. The Titanium demand was accompanied by a notice of intention to enforce security pursuant to section 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**").

18. On May 13, 2025, counsel to Titanium returned a signed Consent and Waiver dated May 13, 2025, consenting to the immediate enforcement by TD of TD's security.

#### **The Interim Receivership**

19. Due to the apparent risks faced by TD and its collateral, TD urgently sought the appointment of an interim receiver in order to: (i) assess the current state of Titanium's business;

(ii) examine its collateral, primarily the motor vehicles (collectively, the “**Motor Vehicles**”); (iii) secure the Motor Vehicles and prevent the potential dissipation of assets; and (iv) assess next steps in terms of marketing the assets of Titanium or otherwise monetize the Motor Vehicles.

20. On May 14, 2025, the Supreme Court of British Columbia (the “**Court**”) issued an order (the “**Interim Receivership Order**”) appointing Deloitte as interim receiver (in that capacity, the “**Interim Receiver**”) of the Property, for the purposes of and to the extent authorized by the Interim Receivership Order, until the earliest of:

- (a) the taking possession of the Property by a receiver, within the meaning of subsection 243(2) of the BIA;
- (b) the taking of possession of the Property by a trustee in bankruptcy; or
- (c) the expiry of 30 days after the day on which the Interim Receiver was appointed or any other period which may be specified by this Court.

21. Since the Interim Receiver's appointment, I understand that the Interim Receiver has, among other things, investigated Titanium's operating locations, changed the locks and secured all of the keys for Titanium's operating locations, taken inventory of the existing Motor Vehicles, reduced expenses, engaged in regular communications with D. Scherk and J. Phan regarding the Motor Vehicles and Titanium's books and records, reviewed the available books and records and various transactions, and has communicated with various stakeholders of Titanium including suppliers, landlords, creditors, and customers.

22. I understand that the activities of the Interim Receiver will be further set out in a first report of the Interim Receiver.

### **Appointment of a Receiver**

23. Deloitte's appointment as Interim Receiver pursuant to the Interim Receivership Order was intended to be temporary and was required in order to stabilize and secure the Property.

24. In contrast to the Interim Receivership Order, the proposed receivership order being sought does not include a time limitation regarding the duration of the proposed receivership order. It also includes, among other things, authorizations for the Receiver to (i) market and sell the Property, (ii) manage, operate and carry on the business of Titanium, and (iii) cease to perform any contracts of Titanium, all of which were not included in the Interim Receivership Order.

25. I believe that the appointment of the Receiver is necessary and the appointment is just and convenient for the continued protection of the Titanium business, and in particular, the Motor Vehicles, for the following reasons:

- (a) the Court previously found that the appointment of an interim receiver was appropriate in the circumstances and the circumstances have not materially changed;
- (b) Titanium continues to be in default of its obligations under the Loan Agreement;
- (c) the general security agreement, December 12, 2022, granted by Titanium, in favour of TD, contains a contractual right to the appointment of a receiver at section 12(a)(xxii);
- (d) Titanium has consented to TD's early enforcement upon its security in accordance with section 244(2) of the BIA;
- (e) given that TD's collateral consists of motor vehicles that are readily moveable, TD is highly concerned that the collateral may dissipate, be moved away from known locations or transferred out of the ordinary course. Additionally, given the depreciating nature of the collateral, it is imperative that a receiver take immediate steps to sell the Motor Vehicles;
- (f) the receivership will provide for the continued management and supervision by the proposed receiver over Titanium, the Property and its operations, for the benefit of all stakeholders;
- (g) the Receiver will continue to work with management, to the extent it requires, to further familiarize itself with Titanium's operations all pursuant to the powers, duties and obligations of the Receiver set out in the proposed receivership order;
- (h) TD has consulted with Deloitte, concerning the proposed receivership order, and Deloitte is supportive of the expansion of its appointment from the Interim Receiver to the Receiver; and
- (i) Deloitte is qualified and prepared to act as receiver, if so appointed, and is supportive of the terms of the proposed receivership order.

26. Further, given Titanium has ceased operations, I believe that the Receiver, with the power to market and sell the Property, is necessary to realize on TD's security in an orderly and efficient manner.

#### **Consent to Act**

27. Deloitte has consented to and is qualified and prepared to continue its appointment in acting as Interim Receiver to Receiver.

28. I understand that Deloitte has extensive experience as a court officer in insolvency proceedings. Attached hereto and marked as **Exhibit "A"** is a copy of Deloitte's consent to act as Receiver.

**Conclusion**

29. I affirm this affidavit in support of the appointment of Deloitte as Receiver and for no other or improper purpose.

AFFIRMED BEFORE ME at the City of Toronto, in the Province of Ontario on 4/JUNE/2025.



A Commissioner for taking Affidavits for British Columbia

*Maree Bullivant*

Barrister & Solicitor  
Dentons Canada LLP  
20<sup>th</sup> Floor, 250 Howe Street  
Vancouver BC V6C 3R8  
Tel: (604) 687-4460



AMANDA BEZNER

THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF AMANDA BEZNER  
SWORN BEFORE ME THIS 4<sup>TH</sup> DAY OF JUNE, 2025.



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A Commissioner for Taking Affidavits, etc.

*Maree Bullivant*

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Dentons Canada LLP  
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Vancouver BC V6C 3R8  
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BETWEEN:

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APPLICANT

AND:

TITANIUM AUTOGROUP LTD.

RESPONDENT

**RECEIVER'S CONSENT TO ACT**

**THE UNDERSIGNED**, if appointed by this Honourable Court, consents to act as receiver, without security, of the assets, undertakings, and property of the Respondent, including all proceeds thereof, but excluding the BNS Priority Collateral, as defined in the First Affidavit of Amanda Bezner affirmed May 14, 2025, in accordance with an order substantially in the form of the proposed Receivership Order sought and included in the Motion Record of the Applicant.

**DATED** AT VANCOUVER, BRITISH COLUMBIA this 3<sup>rd</sup> day of June, 2025.

**DELOITTE RESTRUCTURING INC.**, in its capacity as proposed court-appointed receiver of the Respondent and not in its personal or corporate capacity

By: 

\_\_\_\_\_  
Name: Jeff Keeble  
Title: Senior Vice President