

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

THE HONOURABLE

JUSTICE

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WEDNESDAY, THE 31ST

DAY OF OCTOBER, 2018

BETWEEN:

THE TORONTO-DOMINION BANK

Applicant

- and -

BOSS LOGO PRINT & GRAPHICS INC.

Respondent



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

**ORDER
EX-PARTE
(re expansion of receiver's powers)**

THIS MOTION, made *ex parte* by MNP Ltd. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertaking, property and assets of Boss Logo Print & Graphics (the "**Debtor**"), for an order expanding the Receiver's powers, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Receiver dated October 30, 2018, including the Second Report dated October 30, 2018 to the First Report of the Receiver to the Court, and the attachments thereto (the "**Second Report**"), and on hearing the submissions of counsel for the Receiver:

A. SERVICE

1. THIS COURT ORDERS that service of this Motion Record is dispensed with and this motion is properly brought as an *ex parte* motion pursuant to Rule 37.07(2) of the *Rules of Civil Procedure*, RRO 1990 Reg 194.

B. EXPANSION OF RECEIVER'S POWERS

2. THIS COURT ORDERS AND DECLARES that the Receiver's powers are hereby expanded, in order to fully investigate the disposition of the Debtor's assets, including, but not limited to the nature and uses of the Secreted Funds (as defined herein).

3. THIS COURT GRANTS AN ORDER authorizing the Receiver to register a lien on title to the Kapil Property in the principal amount of \$352,544.83 (the "**Secreted Funds**") and an Order requiring Kapil to either: (i) provide the Receiver with the Secreted Funds; or (ii) serve a responding affidavit with respect to the Secreted Funds within ten (10) days of said Order.

4. THIS COURT ORDERS that Canadian Imperial Bank of Commerce ("**CIBC**") is hereby authorized and directed, pursuant to section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, RSC 2000, c 5 ("**PIPEDA**"), to provide the Receiver the banking and related information listed in the Receiver's letter dated October 2, 2018, including, but not limited to, bank statements and cancelled cheques for the Kapil Account (as defined in the Second Report).

5. THIS COURT ORDERS that CIBC is hereby authorized and directed to answer any questions and provide additional information requested with respect to matters listed in paragraph 4, above, or other accounts held by Kapil at CIBC.

6. THIS COURT ORDERS that Fibernetics Corp. is hereby authorized and directed, pursuant to section 7(3)(c) of *PIPEDA*, to provide the Receiver with the customer name and contact information associated with the Telephone Numbers (as defined in the Second Report).

7. THIS COURT ORDERS AND DIRECTS Kapil and the PB Operators (as defined below), are hereby authorized and directed, pursuant to section 7(3)(c) of *PIPEDA*, to

disclose all customer information, revenues, orders, invoices, bank statements and related information to the Receiver by no later than 10 days from the date of the Order.

8. THIS COURT ORDERS that the Receiver shall not publicly disclose or disseminate any of the information received in paragraphs 4 to 7 above, absent a further Court Order.

9. THIS COURT AUTHORIZES the Receiver and its counsel to issue and serve upon Kapil Notice of Examination requiring Kapil attend an examination at a court reporter's office on three (3) business days' notice to answer all questions relating to the business and operations of the Debtor.

C. PB WEBSITE

10. THIS COURT ORDERS that Kapil and/or the owners, controllers, operators or other individuals or entities (the "**PB Operators**") with care and control of the PB Website and/or the Backup PB Website (as those terms are defined in the Second Report and collectively referred to as the "**PB Websites**") immediately cease and desist from using the Debtor's source codes, board schematics, or other website related information relating to the Debtor's website, including but not limited to web page design elements, colour schemes, type styles and interactive elements.

11. THIS COURT ORDERS that Kapil and/or the PB Operators cease and desist from using the Debtor's name, logo or other marks on the PB Websites.

12. THIS COURT ORDERS that Kapil and/or the PB Operators cease and desist from using any of the Debtor's data that was copied, from back-up copies or otherwise, including but not limited to customer names, addresses, phone numbers, email addresses, usernames, passwords, account details job history and invoices.

13. THIS COURT ORDERS that Kapil and/or the PB Operators shall deliver to the Receiver a list of customers that have purchased products from the PB Websites and the invoices and amounts from these purchases;

14. THIS COURT ORDERS that Kapil and/or the PB Operators shall comply with paragraphs 10 to 13, above, within 7 days of receiving a copy of such Order;

15. THIS COURT ORDERS that the Receiver shall not publicly disclose or disseminate the customer lists provided at paragraphs 13, above, absent a further Court Order.

16. THIS COURT ORDERS that the Receiver is authorized to commence contempt proceedings against Kapil if he fails to comply with paragraphs 7, and 9 to 14, above.

E. SEALING

17. THIS COURT ORDERS AND DECLARES that Confidential Appendices "1" to "3" to the Second Report are hereby sealed until further order of this court.

D. APPROVAL OF SECOND REPORT AND ACTIVITIES

18. THIS COURT ORDERS AND DECLARES that the Second Report and the Receiver's activities as set out in the Second Report are hereby approved, provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approvals.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 31 2018

PER / PAR: *RW*

THE TORONTO-DOMINION
BANK and
Applicant

BOSS LOGO PRINT &
GRAPHICS INC.
Respondent

Court File No.: CV-18-00605297-00CL

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

Proceeding commenced at Toronto

**ORDER
EX PARTE
(re expansion of receiver's powers)**

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privately-appointed Receiver of Boss Logo Print
& Graphics Inc.