

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

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL TO CREDITORS OF IGLOO
INDUSTRIES GROUP LTD.**

**RESPONDING MOTION RECORD OF
ROYAL BANK OF CANADA
(Returnable March 20, 2024)**

March 19, 2024

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TO: **THE SERVICE LIST**

**ONTARIO
SUPERIOR COURT OF JUSTICE
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TAB 1

Court File No. BK-24-03046358-0031

**ONTARIO
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**IN THE MATTER OF THE NOTICE OF INTENTION TO
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AFFIDAVIT OF PHILIP O'GORMAN

I, **PHILIP O'GORMAN**, of the City of Mississauga, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am a Senior Manager in the Special Loans and Advisory Services Group of Royal Bank of Canada ("**RBC**"), with carriage of the RBC accounts of the debtor, Igloo Industries Group Ltd. (the "**Debtor**") and the guarantors, Stanislaw Snieg and Maria Snieg of the debts, obligations and liabilities of the Debtor. As such, I have knowledge of the matters to which I hereinafter depose.
2. Where the information in this affidavit is based upon information and belief, I have indicated the source of my information and belief and do verily believe it to be true.
3. To the extent that any of the information set out in this affidavit is based on my review of RBC's documents, I verily believe the information in such documents to be true.

Background

4. I am swearing this Affidavit in support of an adjournment of the consolidation, stay extension and ancillary relief orders sought by the Debtor, Mr. Snieg and Mrs. Sneig (collectively the "**Debtors**") in their motion returnable on March 20, 2024.

5. Further RBC intends to serve and file its own motion to terminate and lift the stay against the Debtors.

Short Service and Motion to Terminate and Lift Stay

6. RBC was short served with the Debtors' motion record and the first report of Albert Gelman Inc. in its capacity as proposal trustee (the "**Proposal Trustee**").

7. On Sunday, March 17, 2024, at 8:16 p.m. RBC's lawyers advised the lawyers for the Debtors and advised the Proposal Trustee that it had not received any materials for the motion returnable March 20, 2024. In response, it was discovered that both the lawyers for the Debtors and the Proposal Trustee had, inadvertently, the incorrect email address for RBC's lawyers, Rachel Moses, a partner with Fogler, Rubinoff LLP. The email address for Ms. Moses is rmoses@foglers.com and the Debtors' lawyers and Proposal Trustee sent their materials to rmoses@fogler.com (missing the "s").

8. The Debtors' lawyers and Proposal Trustee served their motion materials after 8:18 p.m. on Sunday, March 17, 2024.

9. I received the materials on Monday, March 18, 2024 and there is insufficient time to consider the impact of the relief sought by the Debtors.

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10. As a compromise to the short service, RBC offered to consent to a stay extension of 10 days with the balance of the relief, and further stay extension, to be heard at the end of March, 2024. This would also provide time for RBC to serve and file its motion materials to terminate and lift the stay.

Events since Special Loans

11. The accounts of the Debtor were transferred to SLAS in October, 2023 due to the Debtor's inability to meet the covenants and conditions contained in the credit agreement. A copy of the Transition Letter is attached as **Exhibit "A"**.

12. I, together with Tom Magnowsky (an RBC representative), met with Mr. Snieg, Maria Snieg, Sanjay Vadera and Amir Ullah on October 10, 2023 at the Debtor's offices to discuss the transition to SLAS and RBC's concerns.

13. I sent out an information request to the Debtor on October 11, 2023 which was not satisfactorily addressed and as a result, the Bank requested that the Debtor consent to the engagement of msi Spergel inc. as consultant.

14. msi Spergel inc. is a licenced insolvency trustee. On December 19, 2023, the Debtor consented to the appointment of msi Spergel inc. as consultant (the "**Consultant**") to evaluate RBC's security position, including reviewing the Debtor's 13-week cash flow forecast, obtaining an appraisal of the inventory and reviewing the Debtor's go forward annual financial projections. A copy of the signed engagement letter is attached as **Exhibit "B"**.

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15. On February 12, 2024, RBC issued payment demands and a notice to enforce security pursuant to section 244 of the Bankruptcy and Insolvency Act (the "**Section 244 Notice**") against the Debtors, as applicable. The payment demands and Section 244 Notice are located at Exhibit "R" to the Affidavit of Stanislaw Snieg sworn March 14, 2024. The amount owing under the Section 244 Notice as at February 9, 2024 was \$6,526,870.52 not including i) the lease facility, ii) legal fees or iii) professional fees of the Consultant.

16. The Debtors filed their notice of intention to Make a Proposal on February 21, 2024 ("**NOI**"), one day before the expiry of the payment demands and Section 244 Notice.

17. The amount owing by the Debtor to RBC as at March 19, 2024 is \$6,610,141.84 not including i) the lease facility, ii) legal fees or iii) professional fees of the Consultant.

18. At the time of the payment demands, and still a concern today, is the value of the Debtor's inventory. The materials filed by the Debtors and the Proposal Trustee do not demonstrate that it has a viable proposal that will result in RBC being repaid in full. Instead, it appears that the Debtor is and will continue to sell its inventory, which is fully secured by RBC's General Security Agreement dated November 29, 2022 in order to generate cash to fund the operations of the Debtor without seeing RBC repaid.

19. Additional concerns include, but are not limited, to the following:

- a) it appears that a substantial portion of the Debtor's total debt is made up of the secured debt owed to RBC and to Business Development Bank of Canada ("**BDC**"). The Debtor's 13-week cash flow forecast indicates that no payments will

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be made to the secured creditors, RBC and BDC, during the 13-weeks while the Debtor utilizes the assets subject to RBC and BDC's security to fund its operations including payment of professional fees of \$150,000;

b) it appears that the Debtor will be selling in the US under an entity wholly owned by Mr. Snieg (an insolvent person) utilizing the inventory of the Debtor. RBC's information from the Debtor is that it has been trying to setup the US distribution since at least October 2022¹ but as at the date of the first report of the Proposal Trustee there is zero sales reported in the US. Further, there is no indication as to how and when the Debtor will be paid for the inventory it ships to the US for the benefit of the Debtor's US affiliate corporation, NDG North America, LLC ("**NDG**"). There appears to be a suggestion that NDG will pay a 30% markup on the inventory sold in the US however the Debtor is yet to see the return on the initial \$900,000 (as outlined at paragraph 10 of the Affidavit of Mr. Snieg) of inventory transferred to the US entity; and

c) statements in the Affidavit of Mr. Snieg, including but not limited to:

¹ Based on a RBC credit application dated October 17, 2022 it confirms that the Debtor was intending to go into the US market. A further credit application in January, 2023 notes that the Debtor is seeking additional security for the expansion and a temporary limit was approved by RBC on May 30, 2023 due to "the Debtor experiencing cash flow shortfall due to the following reasons: 1) US Expansion Sales slower than anticipated, pending orders in Pipeline which have not yet materialized due to price negotiations".

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- a. at paragraph 9, "NDG has not, to date, begun making sales, but will begin active operations in March 2024" – as of the date of my Affidavit, it is now March 19, 2024;
- b. at paragraph 11, RBC has always expressed serious concerns to the Debtor, the Proposal Trustee and counsel to the Debtor about the sale of inventory to NDG. RBC has been consistent that no inventory can be sold or transferred to NDG without payment in full to the Debtor to pay down the indebtedness owed to RBC;
- c. at paragraph 18, the statement that the Operating Line was frozen on February 12, 2024 is incorrect. The Operating Line was at its authorized limit. Temporary Accommodations (TARs) were approved allowing the Operating Line to revolve up to \$6.5 million from January 7, 2024 to February 8, 2024 and from February 14, 2024 to February 23, 2024. Visa card ending in "9528" was cancelled on February 23, 2024 as it was in excess position and the other Visa card was also cancelled for non-utilization as at February 23, 2024;
- d. failure of Mr. Snieg to address the fact that he agreed in or about January 2024 to provide additional security to RBC in support of the credit facilities to the Debtor, together with Mrs. Snieg, in the form of an increased collateral mortgage against 2881 20th Sideroad, Beeton, Ontario;
- e. at paragraph 53, the suggestion that the payment demands and the Section 244 Notice did not allege the Debtor was in default. To be clear, the Debtor

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was offside on its covenants to RBC, i.e., priority payable arrears and reporting, and the Operating Line and Visa Facilities are payable on demand and do not require an event of default;

- f. at paragraphs 78 to 82, the suggestion that RBC was advised of the March Auction (as defined in the Affidavit of Mr. Snieg) is incorrect. On a call in February, 2024, Mr. Snieg, advised that the Debtor was considering an auction of its assets. I advised him that this would need to be submitted as part of a proposal for a forbearance. I did not hear anything further from Mr. Snieg about an auction. RBC was only advised of the February Auction after it generated net proceeds of \$300,000 and after the Debtor filed its NOI.

20. Accordingly, RBC is currently preparing its own materials for an order to terminate and lift the stay as it is being materially prejudiced by the stay and it is not likely that the Debtor will be able to make a viable proposal.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on March 19, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

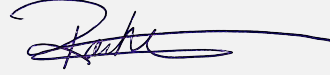


PHILIP O'GORMAN

This is **Exhibit "A"** referred to
in the Affidavit of Philip O'Gorman

Sworn this 19th

day of March, 2024.



.....
A Commissioner for Taking Affidavits

Date: October 5, 2023

To: Igloo Industries Group Ltd
124 Norfinch Drive
Toronto, ON, M3N1X1

Attention: Maria Snieg & Stan Snieg

Re: Royal Bank of Canada (“the Bank”)
Igloo Industries Group Ltd. (“the Company”)

The purpose of this letter is to confirm our recent discussions and your agreement to meet on October 10th at 10:00 am to discuss the Company’s financial situation.

It appears to the Bank that the Company is experiencing financial difficulties. The Bank’s impression is based on :

- 1) the Company’s inability to meet the covenants and conditions which form part of the Company’s agreement with the Bank;
- 2) the recent change in the Company’s financial performance and conditions;

To the extent these difficulties exist, the Company’s risk profile has deteriorated. In light of this the Bank requires specialized expertise to deal with your account. Accordingly, management of your account has been re-assigned to:

Special Loans and Advisory Services
Attention: Philip O’Gorman
20 King Street West, 2nd Floor
Toronto, Ontario
M5H 1C4

Phone: 416-974-3723
Email: philip.ogorman@rbc.com

I will be in attendance at our meeting to formally introduce you to Mr. O’Gorman from Special Loans at which time he will fully explain his role in managing your credit going forward.

As Mr. O’Gorman now has responsibility for your account, all future enquiries and reporting requirements should be directed to his attention.

Due to the higher risk and additional administration now attached to your account the Bank will be reviewing the rates and fees being charged.

Any costs incurred by the Bank on account of its professional advisors will be for the Company’s account and will be charged to the Company’s Current Account from time to time as noted in form 472 that forms part of your loan agreements. We will provide you with copies of these invoices upon request.

We remind you that notwithstanding excesses that may have been permitted in the past, your accounts and loans are to continue to operate and repay as agreed and any cheques or debits presented on accounts will be returned NSF, without notice to you, if such cheques and/or debits may cause an excess.

Please acknowledge this letter as indicated below and return a copy, by email, to Philip O’Gorman at philip.ogorman@rbc.com.

Yours truly,

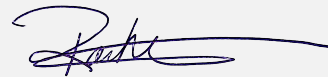
Tom Magnowski
Tom Magnowski
Senior Relationship Manager

cc. Philip O’Gorman
cc: guarantors

This is **Exhibit "B"** referred to
in the Affidavit of Philip O'Gorman

Sworn this 19th

day of March, 2024.



.....
A Commissioner for Taking Affidavits

December 7, 2023

msi Spergel inc.,
200 Yorkland, Suite 1100
Toronto, ON M2J 5C1

Attention: Mukul Manchanda, CPA, CIRP, LIT

Dear Sirs:

Re: IGLOO INDUSTRIES GROUP LTD. (the "Company")

The purpose of this letter is to set out the terms upon which the Royal Bank of Canada (the "**Bank**") will engage msi Spergel inc. ("**Spergel**") to act on the Bank's behalf as consultant (the "**Consultant**") to review and report on the financial and operational performance of the Company and to evaluate the Bank's security position, in accordance with the terms and provisions of this agreement including, but not limited to, the following:

1. Reviewing the current financial position and more recent financial results achieved by the Company;
2. Reviewing the Company's go forward annual financial projections and prepare a monthly projection if necessary;
3. Reviewing the Company's 13-week cash flow forecast;
4. Reviewing any agreements between the Company and the landlord of premises leased by the Company;
5. Obtaining an appraisal of the inventory;
6. Reviewing and analysing the existence and validity of claims against the Company including liens, potential liens, environmental liabilities, practical priorities and the impact of those priority claims on Company assets and the Bank's loan position;
7. Reviewing and analysing the existence and validity of accounts receivable including, but not limited to, a review of customer invoices, sales contracts, long-term supply agreements and any and all documentation to support the basis of reported accounts receivable;
8. Reviewing and investigating all other matters, which may affect in any manner whatsoever the security position of the Bank or the ability of the Bank to recover the indebtedness of the Company to the Bank, including all transactions or dealings with related entities;
9. Providing, based on your findings and in your sole discretion, such recommendations, only to the Bank, as you deem appropriate. For greater certainty, your analysis and recommendation of any issue considered by you in your sole discretion to be relevant to this engagement will not necessarily be subject to the review by the Company.

You are to have no managerial capacity or decision-making responsibilities with respect to the business of the Company. We acknowledge that your review and advice will be based mainly on data supplied by the Company, supplemented by discussions with management. We understand that, although all information gathered will be reviewed for reasonableness, you will not be conducting an audit. Therefore, your work will not necessarily disclose any errors, irregularities or illegal acts, if such exist, on the part of the Company or its officers and employees.

Management of the Company has agreed to provide you with the full co-operation of the Company's employees including full access to facilities, assets and records during normal business hours. Management has indicated that they will answer all questions fully and fairly to the best of their ability and knowledge.

Management has agreed to keep you informed of any matters arising that are relevant to your work and have further confirmed that you are and will remain at liberty to disclose to us any information which you consider relevant to our security and our understanding of the current security position of the Company.

This engagement and your related work should be kept confidential. The explanation that you give to any of the Company's employees who are not aware of your mandate as to the nature of the mandate is a matter for the Company's management to decide and to advise you thereof.

We understand that you will advise us if any situation comes to your attention that would materially affect the terms of this engagement letter.

The Company has accepted responsibility for your fees and expenses incurred in carrying out this engagement, failing which we guarantee their prompt payment and will debit the Company's accounts for such fees and expenses. We understand that your fees will be based on the time expended multiplied by the hourly rates and levels of staff involved. You are hereby authorized to use any of your employees or agents, as you consider necessary in your review of the affairs of the business of the Company.

The engagement of a Consultant shall not operate as a waiver or merger of any rights the Bank has under any agreement with the Company or under any security granted to it for the indebtedness of the Company to the Bank.

Dated at Toronto this 7th day of December 2023

Royal Bank of Canada
Per:



Name: Philip O'Gorman
Title: Senior Manager

The undersigned authorized representative of the Company hereby consents to the terms of this engagement letter and the appointment of Spergel on the basis set out herein.

The Company understands and agrees that, notwithstanding the mandate set out herein, the remedies available to the Bank under the terms of its security with the Company remain in full force and effect and that the Bank can take steps to act on that security at any time.

The Company understands that if the Bank decides to enforce any of the security held by it against the Company's assets, the Consultant, or any person or corporation associated with it may, without the Company's consent, be appointed to act as Receiver and Manager of the Company's assets or as agent of the Bank.


The undersigned acknowledges and agrees that the employees and management of the Company will extend to Spergel unrestricted access to all of the books and records of the Company. During the course of this engagement,

the undersigned acknowledges and agrees that Spergel will take no part in the management of the Company's business, for which the sole responsibility remains with the Company.

The undersigned acknowledges and agrees that the Company will be responsible for the prompt payment of the fees and expenses of Spergel relating to this engagement and that, if such fees and expenses cannot be paid directly, they will be paid by the Bank and added to the Company's indebtedness.

IGLOO INDUSTRIES GROUP LTD.


Per:



Name: Stanislaw Snieg
Title: Owner
I have authority to bind the corporation

msi Spergel inc. hereby consents to this engagement on the basis set out in the letter and agrees to operate within the terms of the engagement.

Per:



Name: Mukul Manchanda, CPA, CIRP, LIT
Title: Managing Partner

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PROCEEDING COMMENCED AT
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