

Court File No.: CV-23-00703534-00CL

**PRE-FILING REPORT OF KPMG INC.,  
IN ITS CAPACITY AS PROPOSED RECEIVER OF**

**DMI Exim Limited**

**JULY 31, 2023**

Court File No.: CV-23-00703534-00CL

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

**HSBC Bank Canada**

**Applicant**

**AND**

**DMI Exim Limited**

**Respondent**

**IN THE MATTER OF section 243(1) of the Bankruptcy and Insolvency Act, RSC 1985, c. B-3, as amended and section 101 of the Courts of Justice Act, RSO 1990, c. C43, as amended**

**PRE-FILING REPORT OF KPMG INC.,  
in its capacity as Proposed Receiver of  
DMI Exim Limited**

**DATED JULY 31, 2023**

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## I. INTRODUCTION

1. KPMG Inc. (“**KPMG**” or the “**Proposed Receiver**”) understands that an application will be made before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) by HSBC Bank Canada (“**HSBC**” or the “**Applicant**”) for an order (the “**Appointment Order**”), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), *inter alia*, appointing KPMG as receiver and manager (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of DMI Exim Limited (“**DMI**”), including, but not limited to, DMI’s lands and premises municipally known as 10 Falconer Dr., Unit 3, Mississauga, Ontario (the “**Real Property**”), acquired for, or used in relation to a business carried on by DMI (collectively, the “**Property**”).
2. This pre-filing report (the “**Report**”) has been prepared by the Proposed Receiver prior to its appointment as Receiver, should this Court grant the Appointment Order, to provide information to the Court for its consideration in respect of the Applicant’s receivership application (the “**Application**”).

## II. PURPOSE OF REPORT

3. The purpose of this Report is to provide this Honourable Court with information pertaining to:
  - (a) Background on DMI, KPMG’s involvement as financial advisor to the Applicant and as trustee in bankruptcy of the estate of DMI;
  - (b) KPMG’s qualifications to act as Receiver pursuant to the proposed Appointment Order;
  - (c) The security opinion prepared by the Proposed Receiver’s independent counsel, Blake, Cassels & Graydon LLP (“**Blakes**”), in respect of the Applicant’s security; and.
  - (d) The funding of the receivership and bankruptcy proceedings.

## III. TERMS OF REFERENCE

4. In preparing this Report and making the comments herein, KPMG has been provided with, or has relied upon certain unaudited, draft, and/or internal financial information, DMI’s records, financial information and projections prepared by DMI and/or the Proposal Trustee (as defined below), discussions with DMI’s management (the “**Management**”) and the Proposal Trustee and information from other third-party sources (collectively, the “**Information**”). It should be noted that all of the

Information was obtained in KPMG's role as financial advisor to the Applicant or KPMG's role as trustee in bankruptcy of the estate of DMI, which roles are discussed below.

5. The Proposed Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Proposed Receiver has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("CAS") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly the Proposed Receiver expresses no opinion or other form of assurance in respect of the Information.
6. The Proposed Receiver has prepared this Report in connection with the Application to be heard on August 1, 2023. This Report should not be relied on for other purposes.
7. Capitalized terms not otherwise defined herein are as defined in the Applicant's application materials, including the Affidavit of Brian Pettit sworn July 28, 2023 (the "**Pettit Affidavit**"). This Report should be read in conjunction with the Pettit Affidavit as certain information contained therein has not been included herein to avoid unnecessary duplication.
8. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

#### **IV. BACKGROUND AND KPMG'S PRIOR INVOLVEMENT WITH DMI**

##### **Overview of DMI's Business**

9. DMI was a global marketer and distributor of physical commodities, including agricultural goods such as chickpeas, lentils, soybeans and other beans, engineered goods and industrial chemicals. Its customers included importers and distributors in Pakistan, India, Ethiopia, Turkey, and the United Arab Emirates.
10. DMI's primary assets are (a) the Real Property; and (b) accounts receivable in the amount of approximately \$47.7 million.
11. Further information with respect to DMI's business and operations is set-out in the Pettit Affidavit. The information contained in this Report represents only a high-level summary of such details to avoid duplication.

### **DMI's BIA Proceedings**

12. On June 19, 2023, DMI filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to the BIA. Grant Thornton Limited was named as proposal trustee (the “**Proposal Trustee**”) in the NOI. Copies of DMI's NOI and Certificate of Filing are attached to the Pettit Affidavit.
13. On July 19, 2023, DMI filed a proposal (the “**Proposal**”) to its unsecured creditors pursuant to the BIA. A copy of the Proposal is attached to the Pettit Affidavit.
14. On July 28, 2023, DMI made an assignment in bankruptcy and KPMG was appointed as trustee in bankruptcy (the “**Bankruptcy Trustee**”) of DMI by the official receiver, subject to affirmation by DMI's creditors of the Bankruptcy Trustee's appointment or substitution of another trustee by the creditors at the first meeting of creditors. The first meeting of creditors is scheduled for August 17, 2023 at 11 am Eastern Standard Time. A copy of the certificate appointing the Bankruptcy Trustee is attached hereto as **Appendix “A”**.

### **KPMG's Prior Involvement with DMI**

15. On June 2, 2023, KPMG was retained by the Applicant as financial advisor (the “**Financial Advisor**”) to the Applicant regarding the Applicant's loans to DMI. Since that time, KPMG's activities, in its capacity as Financial Advisor, have included, *inter alia*:
  - (a) Reviewing DMI's financial situation;
  - (b) Reviewing details relating to DMI's outstanding accounts receivables, including invoices and shipping documents in connection with same;
  - (c) Understanding the status of DMI's collection efforts in relation to the outstanding accounts receivable;
  - (d) Understanding DMI's current and projected cash flow;
  - (e) Discussions with DMI, its counsel, the Proposal Trustee and the Applicant's counsel regarding the NOI and the Proposal; and
  - (f) Planning and preparing for the bankruptcy proceedings and the potential formal receivership proceedings.
16. KPMG has worked closely and co-operatively with Management and the Proposal Trustee since the commencement of KPMG's engagement as Financial Advisor.

17. As discussed above, KPMG was appointed as Bankruptcy Trustee on July 28, 2023. Since its appointment, the Bankruptcy Trustee has been undertaking the customary activities associated with taking control and possession of DMI's premises, assets and book and records.

## V. KPMG'S QUALIFICATIONS TO ACT AS RECEIVER

18. KPMG can provide the following information to the Court regarding its qualifications to act as Receiver in these proceedings:
  - (a) KPMG has extensive knowledge of DMI's business and assets, including the outstanding accounts receivable, which should result in significant time and cost efficiencies in the receivership proceedings;
  - (b) KPMG has worked co-operatively with Management throughout its engagement as Financial Advisor,
  - (c) KPMG is the Bankruptcy Trustee;
  - (d) The KPMG personnel that will be involved with the receivership proceedings, should the Appointment Order be granted by the Court, include those that were involved in KPMG's engagement as Financial Advisor and are involved in KPMG's appointment as Bankruptcy Trustee, and have extensive experience in Court-appointed mandates (including acting as Court-appointed receiver and manager), dealing with accounts receivable collections in foreign jurisdictions, and with realizing on real property assets. The Proposed Receiver and its representatives understand the nature of a Court-appointed role and the importance of being independent while acting in such capacity;
  - (e) KPMG's fee rates are comparable to other firms with similar capabilities that perform similar work; and
  - (f) KPMG is a trustee within the meaning of section 2(1) of the BIA and has provided its consent to act as receiver, attached hereto as **Appendix "B"**, in the receivership proceedings should the Court grant the Appointment Order.
19. Should the Court grant the Applicant's request to make the Appointment Order, the Receiver intends to engage the Applicant's counsel, Thornton Grout Finnigan LLP, as its counsel in the receivership proceedings, as well as Blakes as its independent counsel on legal matters which the Receiver, in its judgment, determines it requires independent advice.

## VI. APPLICANT'S SECURITY

20. As detailed in the Pettit Affidavit, as at July 24, 2023, DMI was indebted to the Applicant in the amounts of approximately USD \$21,652,731.80 and CAD \$520,412.64, respectively, together with interest, costs, and fees, including legal fees and disbursements, incurred by the Applicant to the date of payment, payable pursuant to the applicable loan and security documents (the “**Loan and Security Documents**”). Further details on the amounts owing to the Applicants from DMI and the Applicant's Loan and Security Documents are contained in the Pettit Affidavit.
21. The Receiver has obtained an independent legal opinion from its independent counsel, Blakes, with respect to the validity and enforceability of the security granted in favour of the Applicant under the laws of the Province of Ontario (the “**Security Opinion**”). Blakes has reviewed the Loan and Security Documents, as well as applicable real property searches and personal property security registry searches in Ontario, and, subject to customary qualifications, assumptions and limitations included therein, is of the opinion that the Applicant has:
- (a) a valid, enforceable and first-in-time registered security interest against DMI and the Bankruptcy Trustee with respect to the personal property of DMI<sup>1</sup>;
  - (b) a valid, enforceable and first-in-time registered legal mortgage and charge of the Real Property; and
  - (c) a valid, enforceable and first-in-time registered legal charge and security interest in the rents of the Real Property.
22. A copy of the Security Opinion will be made available to stakeholders, upon request, on appropriate arrangements regarding confidentiality, reliance, and privilege.

## VII. FUNDING OF THE PROCEEDINGS

23. Pursuant to the proposed Appointment Order, the Receiver is at liberty and empowered to borrow from the Applicant in respect of its costs and disbursements, and for the costs and disbursements of KPMG, in its capacity as Bankruptcy Trustee, in each case, including the costs of legal counsel. The amounts of such borrowings shall be secured by the Applicant's existing security over the assets of DMI.

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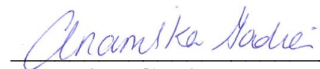
<sup>1</sup> There is only one other *Personal Property Security Act* (Ontario) registration against DMI by BMW Canada Inc. in respect of a motor vehicle over which the Applicant does not assert priority.



All of which is respectfully submitted this 31<sup>st</sup> day of July, 2023.

**KPMG Inc.,  
in its capacity as Proposed Receiver of  
DMI Exim Limited  
and not in its personal or corporate capacity**

Per:



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**Anamika Gadia**  
Senior Vice-President



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**George Bourikas**  
Vice President

# Appendix A



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of: Ontario  
Division No.: 09 - Mississauga  
Court No.: 32-2956516  
Estate No.: 32-2956516

In the Matter of the Bankruptcy of:

**DMI EXIM LIMITED**

Debtor

**KPMG INC.**

Licensed Insolvency Trustee

Ordinary Administration

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Date and time of bankruptcy:	July 28, 2023, 12:00	Security:	\$0.00
Date of trustee appointment:	July 28, 2023		
Meeting of creditors:	August 17, 2023, 11:00 KPMG Inc. Dial: 647-794-1236 ID:93752316# Toronto, Ontario Canada,		
Chair:	Official Receiver		

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CERTIFICATE OF APPOINTMENT - Section 49 of the Act; Rule 85

-- AMENDED --

I, the undersigned, official receiver in and for this bankruptcy district, do hereby certify that:

- the aforementioned debtor, in respect of whom a notice of intention was filed under section 50.4 or a proposal filed under section 62, subsequently filed prior to Court approval, an assignment under section 49 of the *Bankruptcy and Insolvency Act*;
- the aforementioned trustee was duly appointed trustee of the estate of the debtor.

The said trustee is required:

- to provide to me, without delay, security in the aforementioned amount;
- to send to all creditors, within five days after the date of the trustee's appointment, a notice of the bankruptcy; and
- when applicable, to call in the prescribed manner a first meeting of creditors, to be held at the aforementioned time and place or at any other time and place that may be later requested by the official receiver.

Date: July 28, 2023, 17:21

E-File/Dépôt Electronique

Official Receiver

Federal Building - Hamilton, 55 Bay Street N, 9th Floor, Hamilton, Ontario, Canada, L8R3P7, (877)376-9902

**Canada**

# Appendix B

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

**IN THE MATTER OF** section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3,  
as amended and section 101 of the *Courts of Justice Act*, RSO 1990, c. C43, as amended

**B E T W E E N:**

**HSBC BANK CANADA**

Applicant

- and -

**DMI EXIM LIMITED**


Respondent

**CONSENT**

**KPMG INC.** hereby consents to act as Court-appointed Receiver in this proceeding should  
such an Order be granted by the Court.

Dated at Toronto, Ontario, this 27<sup>th</sup> day of July, 2023.

**KPMG INC.**

Per:   
Name: Anamika Gadia  
Title: Senior Vice President

Per:   
Name: George Bourikas  
Title: Vice President

IN THE MATTER OF section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and section 101 of the *Courts of Justice Act*, RSO 1990, c C46, as amended

**HSBC BANK CANADA**

- and -

**DMI EXIM LIMITED**

Applicant

Respondent

Court File No. CV-23-00703534-00CL

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

Proceedings commenced at Toronto, Ontario

**CONSENT**

**THORNTON GROUT FINNIGAN LLP**  
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