

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

APPLICATION UNDER SECTION 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

B E T W E E N

**MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD
SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE
SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY
LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY
LENDING FUND (UMINN) LP)**

Applicant

- and -

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND
TX OPS CANADA CORPORATION**

Respondents

MOTION RECORD OF THE RECEIVER

October 22, 2024

GOODMANS LLP
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver,
FTI Consulting Canada Inc.

TO: THE SERVICE LIST

INDEX

TAB	DOCUMENT	PAGE NO.
1.	Notice of Motion dated October 22, 2024	4
2.	Draft Order (Interim Distribution)	13
3.	Draft Order (Additional Examinations)	19
4.	Seventh Report of the Receiver dated October 22, 2024	25
A.	Fourth Report of the Receiver dated June 18, 2024 (without appendices)	35
B.	Sixth Report of the Receiver dated September 20, 2024 (without appendices)	55
C.	Second Report of the Receiver dated March 27, 2024 (without appendices)	77
D.	Order of Cavanagh J. dated April 3, 2024	91
E.	Endorsement of Cavanagh J. dated April 3, 2024	97

1

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

APPLICATION UNDER SECTION 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

B E T W E E N

MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD
SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE
SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY
LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY
LENDING FUND (UMINN) LP)

Applicant

v.

TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION

Respondents

NOTICE OF MOTION

FTI Consulting Canada Inc. (“**FTI Consulting**”), in its capacity as the Court-appointed receiver and manager (the “**Receiver**”), without security, of substantially all of the assets, undertakings and properties of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd., and TX Ops Canada Corporation (collectively, “**Trade X**” or the “**Debtors**”), as set forth in further detail in the Receivership Order (as defined below), will make a motion before the Honourable Justice Steele of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on November 1, 2024, at 12:00 p.m. (Toronto time), or as soon thereafter as the motion can be heard, at 330 University Avenue, Toronto Ontario.

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

- In writing under subrule 37.12.1 (1);
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference;

at a Zoom link to be made available by the Court and posted to CaseLines in advance of the hearing.

THE MOTION IS FOR:

1. an Order substantially in the form attached at Tab 2 of the Receiver’s Motion Record (the “**Interim Distribution Order**”), *inter alia*, authorizing the Receiver to make an interim distribution of proceeds in the amount of \$1,500,000 (the “**Interim Distribution**”) from the Debtors’ funds being held by the Receiver on behalf of the Debtors to MBL Administrative Agent II LLC, as agent (in such capacity, the “**Agent**”) for Post Road Specialty Lending Fund II LP (f/k/a Man Bridge Lane Specialty Lending Fund II (US) LP) and Post Road Specialty Lending Fund (UMINN) LP(f/k/a Man Bridge Lane Specialty Lending Fund (UMINN) LP) (together, the “**Lenders**”);
2. an Order substantially in the form attached at Tab 3 of the Receiver’s Motion Record (the “**Additional Examinations Order**”) , *inter alia*, granting the Receiver the right to examine, under oath, certain of the Debtors’ current or former officers, directors, employees, independent contractors, suppliers or customers listed in Schedule “A” of the Additional Examinations Order; and
3. such further and other relief as counsel may advise and this Court may deem just.

THE GROUNDS FOR THE MOTION ARE:¹

A. BACKGROUND

4. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) dated December 22, 2023 (the “**Receivership Order**”), the Receiver was appointed as receiver and manager, without security, of the following property (collectively, the “**Property**”) of the Debtors:

- (a) the assets, undertakings and properties of the Debtors (other than Trade X Parent and TX Canada) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof;
- (b) the assets, undertakings and properties of Trade X Parent (other than the shares of 13517985 Canada Inc. (“**Wholesale Express**”)) acquired for, or used in relation to a business carried on by Trade X Parent, including all proceeds thereof; and
- (c) certain assets, undertakings and properties of TX Canada defined as the “TX Canada Collateral” in the Affidavit of Westin Lovy sworn December 4, 2023.

5. The application was brought by the Applicant, as the Agent for the Lenders pursuant to section 243 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**”).

B. INTERIM DISTRIBUTION TO SECURED CREDITORS

6. Since the Receiver’s appointment on December 22, 2023, the Receiver has, among other things, taken steps to secure possession and control over the Property of the Debtors, to realize on certain such Property, and to advance certain claims on behalf of the Debtors for the benefit of their stakeholders.

7. The Receiver has substantially wound-down the business of the Debtors, and continues to, among other things, pursue the collection of certain remaining accounts receivable that, based on the books and records of the Debtors, are outstanding and owing to the Debtors, seek to realize on

¹ Unless otherwise stated herein, capitalized terms used herein and not otherwise defined herein have the meaning given to such terms in the Seventh Report (as defined below).

certain limited remaining assets of the Debtors, and advance its work relating to potential claims the Receiver may seek to assert on behalf of the Debtors for the benefit of their stakeholders (the “**Potential Claims**”).

8. The Receiver is holding approximately \$3 million on behalf of the Debtors. Following consultation with the Applicant, the Receiver believes that it would be appropriate to make the Interim Distribution of \$1,500,000 to the Agent on behalf of the Lenders, and to retain the balance of the amounts to fund the Receiver’s ongoing work regarding the Potential Claims and the administration of these proceedings.

9. The Receiver’s legal counsel conducted a review of the security granted by the Debtors to the Agent and the Lenders (the “**Secured Parties**”), and issued a written opinion to the Receiver regarding the validity and perfection of such security (the “**Security Opinion**”).

10. The Security Opinion concludes that, subject to customary qualifications and assumptions set out therein:

- (a) the Security Agreements create valid security interests in favour of the Secured Parties in the Collateral specified therein to which the Ontario PPSA applies and in which each Obligor has rights to secure the payment and performance of the obligations described therein as being secured thereby; and
- (a) registration has been made in all public offices provided for under Ontario Law where such registration is necessary to perfect the security interest created by the Security Agreements in the Collateral to which the Ontario PPSA applies and in which each Obligor has rights.

11. The current indebtedness owing by the Debtors to the Lenders pursuant to the Credit Agreements is approximately \$18 million (equivalent of approximately US\$13 million), excluding accrued interest.

12. The Receiver believes that it is appropriate in the circumstances for the Court to authorize the Receiver to make the Interim Distribution from the Debtor’s estate to the Agent, on behalf of the Lenders.

C. EXPANDED INVESTIGATIVE POWERS

13. Since its appointment, the Receiver has encountered a number of challenges in connection with the state of the Debtors' books and records, including, among other things:

- (a) the Debtors' books and records are complicated and involve a large number of accounting entries reflecting the transfer of vehicles (and potentially funds) between various Debtors and other parties for purposes that have been unclear to the Receiver;
- (b) the Debtors engaged in a large number of transactions with companies owned or controlled by the Debtors' directors, officers and/or members of their immediate families, that were not fully disclosed to the Receiver; and
- (c) the Receiver received conflicting information from the Debtors and other parties about significant transactions involving the Debtors.

14. The Receiver made efforts to engage with certain of the Debtors' current and former directors, officers, employees and consultants to understand various transactions and issues relating to the Debtors; however, several such individuals refused to meet with the Receiver, or refused to meet with the Receiver unless the Receiver paid for them to hire counsel.

15. The Receiver has also tried to obtain information from third parties (including potential related parties) that have engaged in transactions with the Debtors in order to understand those transactions. The Receiver has received incomplete responses and, in some cases, no response at all.

16. As a result, in late March 2024, the Receiver brought a motion seeking an Order, among other things, granting the Receiver enhanced investigative powers, including the right to examine persons with relevant information under oath and compel the production of relevant documents (the "**Investigative Powers Order**"). On April 3, 2024, the Court granted the Investigative Powers Order with respect to the individuals specified at Schedule "A" of that Investigative Powers Order, which included certain former directors, officers and employees of the Debtors.

17. Since the granting of the Investigative Powers Order, in connection with the Receiver's ongoing investigations and forensic review efforts, with a view to assessing and determining which Potential Claims the Receiver may seek to pursue on behalf of the Debtors, the Receiver has identified the following additional individuals (the "**Additional Examined Persons**") which the Receiver believes may have relevant information in respect of the Debtors and their business:

- (a) Luciano Butera, the Debtors' former Executive Vice President and Chief Operating Officer;
- (b) Patrick Leung, the Debtors' former Chief Financial Officer;
- (c) Brent Sawadsky, the Debtors' former Chief Financial Officer;
- (d) Tara Davidson, the Debtors' former Vice President of Business Development;
- (e) Philip Mittleman, former Director of Trade X Parent;
- (f) Norman Koenigsberg, former Director of Trade X Parent; and
- (g) Stephen Zhou, the principal of a key customer of and supplier to Techlantic.

18. The Receiver is seeking the Additional Examinations Order, on substantially the same terms as the Investigative Powers Order, to grant the Receiver the same rights to examine such Additional Examined Persons under oath.

19. The Receiver believes that in the circumstances, the requested relief is just and reasonable, and will assist the Receiver to continue to advance these proceedings in a reasonable and expedient manner for the benefit of the Debtors' stakeholders.

20. The Receiver believes that the Additional Examination Order will enhance the Debtors' ability to identify and assess Potential Claims and, ultimately, maximize stakeholder recovery.

21. The Applicant supports the requested Orders and the use of funds available to the Debtors after the Interim Distribution is paid (assuming the Interim Distribution is approved) to investigate and (if advisable) pursue the Potential Claims.

22. The provisions of the BIA and CJA.
23. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
24. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Seventh Report of the Receiver dated October 22, 2024 (the “**Seventh Report**”); and
- (b) such further and other evidence as the parties may submit and this Court may allow.

DATE: October 22, 2024

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver,
FTI Consulting Canada Inc.

Applicant Respondents

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

Proceeding commenced at Toronto

NOTICE OF MOTION

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver,
FTI Consulting Canada Inc.

2

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

THE HONOURABLE) FRIDAY, THE 1st
)
JUSTICE STEELE) DAY OF NOVEMBER, 2024
)

APPLICATION UNDER SECTION 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

B E T W E E N

MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY LENDING FUND (UMINN) LP)

Applicant

v.

TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC., TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX OPS CANADA CORPORATION

Respondents

INTERIM DISTRIBUTION ORDER

THIS MOTION made by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”), without security, of substantially all of the assets, undertakings and properties of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. and TX Ops Canada Corporation (collectively, the “**Debtors**”) for an order (this “**Order**”), *inter alia*, approving an interim distribution to the Agent (as defined below), was heard this day by videoconference via Zoom in Toronto, Ontario;

ON READING the Notice of Motion of the Receiver dated October 22, 2024, the Seventh Report of the Receiver dated October 22, 2024 (the “**Seventh Report**”), and on hearing the submissions of counsel for the Receiver, and such other counsel as were present and wished to be heard, and on reading the affidavit of service, filed;

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that, unless otherwise stated herein, capitalized terms used herein but not otherwise defined herein, have the meaning given to such terms in the Seventh Report.

INTERIM DISTRIBUTION

3. **THIS COURT ORDERS** that the Receiver is hereby authorized, for and on behalf of the Debtors, to make an interim distribution of \$1,500,000 from the Debtors’ funds being held by the Receiver on behalf of the Debtors (the “**Interim Distribution**”) to MBL Administrative Agent II LLC, as agent (in such capacity, the “**Agent**”) for Post Road Specialty Lending Fund II LP (f/k/a Man Bridge Lane Specialty Lending Fund II (US) LP) and Post Road Specialty Lending Fund (UMINN) LP(f/k/a Man Bridge Lane Specialty Lending Fund (UMINN) LP).
4. **THIS COURT ORDERS** that the Interim Distribution shall be a payment to the Agent in respect of the Debtors’ obligations under the Credit Agreements, for application by the Agent in accordance with the provisions of the Credit Agreement and applicable law.
5. **THIS COURT ORDERS** that the Receiver shall be entitled to deduct and withhold from the Interim Distribution such amounts as may be required to be deducted or withheld under any applicable law, and to remit such amounts to the appropriate governmental authority or other person entitled thereto as may be required by such law. To the extent that amounts are so withheld or deducted and remitted to the appropriate governmental authority or other person, such withheld or deducted amounts shall be treated for all purposes as having been paid pursuant to this Order to

such person as the remainder of the Interim Distribution in respect of which such withholding or deduction was made.

6. **THIS COURT ORDERS** that the Receiver is hereby authorized to take all reasonably necessary steps and actions to effect the Interim Distribution in accordance with the provisions of this Order and shall not incur any liability as a result of making the Interim Distribution.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings or the termination of these proceedings;
- (b) any application for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the “**BIA**”) or other applicable legislation in respect of the Debtors and any bankruptcy or receivership order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Debtors; and
- (d) any provisions of any federal or provincial legislation,

the Interim Distribution shall be made free and clear of any and all security interests (whether contractual, statutory, or otherwise), mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and the Interim Distribution shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Debtors and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS** that the Interim Distribution shall not constitute a “distribution” by the Receiver (or any director, officer, employee, agent or other representative of the Receiver), and the Receiver shall not constitute a “legal representative”, “representative” or a “responsible representative” of the Debtors or “other person” for purposes of Section 159 of the *Income Tax*

Act (Canada), Section 117 of the *Taxation Act*, 2007 (Ontario), Section 270 of the *Excise Tax Act* (Canada), Sections 46 and 86 of the *Employment Insurance Act* (Canada), Section 22 of the *Retail Sales Tax Act* (Ontario), Section 107 of the *Corporations Tax Act* (Ontario), or any other similar federal, provincial, state or territorial tax legislation (collectively, the “**Statutes**”), and the Receiver in causing or assisting the Debtors to make the Interim Distribution in accordance with this Order is not “distributing”, nor shall it be considered to have “distributed”, such funds for the purposes of the Statutes, and the Receiver shall not incur any liability under the Statutes for causing or assisting the Debtors in making the Interim Distribution in accordance with this Order or failing to withhold amounts, ordered or permitted hereunder, and the Receiver shall not have any liability for any of the Debtors’ tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised and discharged from any claims against the Receiver under or pursuant to the Statutes or otherwise at law arising as a result of the Interim Distribution contemplated in this Order, and any claims of such nature are hereby forever barred.

GENERAL

9. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions with respect to any matters arising from or under this Order.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

Proceeding commenced at Toronto

ORDER

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittini Tee LSO No. 85001P
btee@goodmans.ca

Lawyers for the Receiver,
FTI Consulting Canada Inc.

3

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

THE HONOURABLE) FRIDAY, THE 1ST
)
JUSTICE STEELE) DAY OF NOVEMBER, 2024
)

APPLICATION UNDER SECTION 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

B E T W E E N

MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY LENDING FUND (UMINN) LP)

Applicant

v.

TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC., TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX OPS CANADA CORPORATION

Respondents

**ORDER
(Additional Examinations)**

THIS MOTION made by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”), without security, of substantially all of the assets, undertakings and properties of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. and TX Ops Canada Corporation (collectively,

the “**Debtors**”) for an order (this “**Order**”), *inter alia*, expanding certain investigative powers of the Receiver, was heard this day by videoconference via Zoom in Toronto, Ontario;

ON READING the Notice of Motion of the Receiver dated October 22, 2024, the Seventh Report of the Receiver dated October 22, 2024 (the “**Seventh Report**”), and on hearing the submissions of counsel for the Receiver, and such other counsel as were present and wished to be heard, and on reading the affidavit of service, filed;

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that, unless otherwise stated herein, capitalized terms used herein but not otherwise defined herein, have the meaning given to such terms in the Seventh Report

ADDITIONAL EXAMINATIONS

3. **THIS COURT ORDERS** that the Receiver has the right to examine, under oath, any of the persons that are listed in Schedule “A” hereto, as such Schedule may be supplemented by further Order of this Court (collectively, the “**Additional Examined Persons**” and each an “**Additional Examined Person**”).
4. **THIS COURT ORDERS** that Additional Examined Persons are required to produce documents, including, without limitation, agreements, correspondence, invoices, bank statements and other financial records, whether in paper, electronic form or otherwise, requested by the Receiver, acting reasonably, relating to the Debtors’ dealings with them or with entities that they or members of their immediate families own or control.
5. **THIS COURT ORDERS** that Additional Examined Persons are required to provide, on request of the Receiver, any personal electronic device (each, a “**Device**”) to the Receiver that was used to conduct the Debtors’ business; provided, however, that in the event that privileged

information (other than privileged information belonging to the Debtors) is stored on the Device, then the information on the Device shall be preserved but not examined until a protocol for identifying privileged information is agreed to by the Receiver and the Additional Examined Person or established by the Court.

GENERAL

6. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions with respect to any matters arising from or under this Order.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

SCHEDULE “A”

- Luciano Butera
- Patrick Leung
- Tara Davidson
- Philip Mittleman
- Norman Koenigsberg
- Brent Sawadsky
- Stephen Zhou

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

Proceeding commenced at Toronto

**ORDER
(Additional Examinations)**

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Lawyers for the Receiver,
FTI Consulting Canada Inc.

4

Court File No. CV-23-00710413-00CL

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION**

**SEVENTH REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

October 22, 2024

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

APPLICATION UNDER SECTION 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

B E T W E E N

**MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD
SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE
SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY
LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY
LENDING FUND (UMINN) LP)**

Applicant

v.

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION**

Respondents

**SEVENTH REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

TABLE OF CONTENTS

A. INTRODUCTION AND PURPOSE 1
B. TERMS OF REFERENCE 2
C. PROPOSED INTERIM DISTRIBUTION 2
D. EXPANDED INVESTIGATIVE POWERS 4

A. INTRODUCTION AND PURPOSE

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 22, 2023 (the “**Receivership Order**”), FTI Consulting Canada Inc. was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, of the following property (collectively, the “**Property**”) of Trade X Group of Companies Inc. (“**Trade X Parent**”), 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. (“**Techlantic**”) and TX Ops Canada Corporation (“**TX Canada**”) (collectively, “**Trade X**” or the “**Debtors**”):
 - (a) the assets, undertakings and properties of the Debtors (other than Trade X Parent and TX Canada) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof;
 - (b) the assets, undertakings and properties of Trade X Parent (other than the shares of 13517985 Canada Inc. (“**Wholesale Express**”)) acquired for, or used in relation to a business carried on by Trade X Parent, including all proceeds thereof; and
 - (c) certain assets, undertakings and properties of TX Canada defined as the “TX Canada Collateral” in the Affidavit of Westin Lovy sworn December 4, 2023.
2. The application was brought by MBL Administrative Agent II LLC (the “**Agent**” or the “**Applicant**”) as agent for Post Road Specialty Lending Fund II LP (f/k/a Man Bridge Lane Specialty Lending Fund II (US) LP), and Post Road Specialty Lending Fund (UMINN) LP (f/k/a Man Bridge Lane Specialty Lending Fund (UMINN) LP) (together, the “**Lenders**”) pursuant to section 243 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.
3. The purpose of this Seventh Report of the Receiver (the “**Seventh Report**”) is to provide information to the Court with respect to the Receiver’s motion for (a) an Order approving an interim distribution to the Agent (the “**Interim Distribution Order**”), and (b) an Order

expanding certain investigative powers of the Receiver (the “**Additional Examinations Order**”).

B. TERMS OF REFERENCE

4. In preparing this Seventh Report and making the comments herein, the Receiver has been provided with and has relied upon certain unaudited, draft and/or internal financial information, the motion materials filed in respect of this proceeding, the Debtors’ books and records, and discussions with certain employees and former employees of the Debtors (collectively, the “**Information**”). Future oriented financial information relied upon in the Seventh Report is based on assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material.
5. The Receiver has not audited or otherwise verified the accuracy or completeness of the Information in a manner that would, wholly or partially, comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
6. The Receiver has prepared this Seventh Report solely for the use of the Court and the stakeholders in these proceedings and will make a copy of the Seventh Report, and related documents, available on the Receiver’s website at <http://cfcanda.fticonsulting.com/TradeX/>.
7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.
8. Unless otherwise stated herein, capitalized terms not defined in this Seventh Report have the meaning ascribed to them in the Receivership Order.

C. PROPOSED INTERIM DISTRIBUTION

9. As discussed in the Fourth Report of the Receiver dated June 18, 2024 (the “**Fourth Report**”) and the Sixth Report of the Receiver dated September 20, 2024 (the “**Sixth Report**”), copies of which are attached hereto (without appendices) as Appendix “A” and Appendix “B”, respectively, since the Receiver’s appointment on December 22, 2023, the

Receiver has, among other things, taken steps to secure possession and control over the Property of the Debtors, to realize on certain such Property, and to advance certain claims on behalf of the Debtors for the benefit of their stakeholders. Such matters are not repeated in detail herein.

10. As at the date hereof, the Receiver has substantially wound-down the business of the Debtors, and continues to, among other things, pursue the collection of certain remaining accounts receivable that, based on the books and records of the Debtors, are outstanding and owing to the Debtors, seek to realize on certain limited remaining assets of the Debtors, and advance its work relating to potential claims the Receiver may seek to assert on behalf of the Debtors for the benefit of their stakeholders (the “**Potential Claims**”).
11. As at the date hereof, the Receiver is holding approximately \$3 million on behalf of the Debtors. Following consultation with the Applicant, the Receiver believes that it would be appropriate to distribute \$1.5 million (the “**Interim Distribution**”) to the Applicant, in its capacity as the Agent, and to retain the balance of the amounts to fund the Receiver’s ongoing work regarding the Potential Claims and the administration of these proceedings.
12. As described in the Fourth Report, at the request of the Receiver, Goodmans LLP, counsel to the Receiver, conducted a review of the security granted by the Debtors to the Agent and the Lenders (the “**Secured Parties**”), and issued a written opinion to the Receiver regarding the validity and perfection of such security (the “**Security Opinion**”).
13. The Security Opinion concludes that, subject to customary qualifications and assumptions set out therein:
 - (a) the Security Agreements (as defined in the Security Opinion) create valid security interests in favour of the Secured Parties in the Collateral¹ specified therein to which the Ontario PPSA applies and in which each Obligor² has rights to secure

¹ “**Collateral**” means all of the property purported to be charged under any Security Agreement and to which the *Personal Property Security Act* (Ontario) (the “**Ontario PPSA**”) applies.

² “**Obligors**” mean, collectively, Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. and TX OPS Canada Corporation.

the payment and performance of the obligations described therein as being secured thereby; and

- (b) registration has been made in all public offices provided for under Ontario Law where such registration is necessary to perfect the security interest created by the Security Agreements in the Collateral to which the Ontario PPSA applies and in which each Obligor has rights.

14. The current indebtedness owing by the Debtors to the Lenders pursuant to the senior secured revolving credit agreement dated February 5, 2021, and the senior secured revolving credit agreement dated September 27, 2021 (as amended, collectively, the “**Credit Agreements**”) is approximately \$18 million (equivalent of approximately US\$13 million), excluding accrued interest. Accordingly, following the proposed Interim Distribution, the outstanding indebtedness owing by the Debtors to the Lenders would be over \$16.5 million.

D. EXPANDED INVESTIGATIVE POWERS

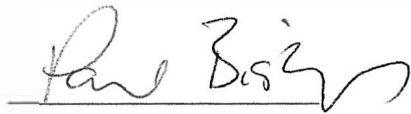
15. As discussed in the Second Report of the Receiver dated March 2, 2024 (the “**Second Report**”), a copy of which is attached hereto (without appendices) as Appendix “C”, and in the Sixth Report, the Receiver encountered a number of challenges in connection with the state of the Debtors’ books and records, including, among other things:
- (a) the Debtors’ books and records are complicated and involve a large number of accounting entries reflecting the transfer of vehicles (and potentially funds) between various Debtors and other parties for purposes that have been unclear to the Receiver;
 - (b) the Debtors engaged in a large number of transactions with companies owned or controlled by the Debtors’ directors, officers and/or members of their immediate families, that were not fully disclosed to the Receiver; and
 - (c) the Receiver received conflicting information from the Debtors and other parties about significant transactions involving the Debtors.

16. The Receiver made efforts to engage with certain of the Debtors' current and former directors, officers, employees and consultants to understand various transactions and issues relating to the Debtors; however, several such individuals refused to meet with the Receiver, or refused to meet with the Receiver unless the Receiver paid for them to hire counsel. The Receiver has also tried to obtain information from third parties (including potential related parties) that have engaged in transactions with the Debtors in order to understand those transactions. The Receiver has received incomplete responses and, in some cases, no response at all.
17. As a result, in late March 2024, the Receiver brought a motion seeking an Order, among other things, granting the Receiver enhanced investigative powers, including the right to examine persons with relevant information under oath and compel the production of relevant documents (the "**Investigative Powers Order**"). On April 3, 2024, the Court granted the Investigative Powers Order with respect to the individuals specified at Schedule "A" of the Investigative Powers Order, which included certain former directors, officers and employees of the Debtors. A copy of the Investigative Powers Order is attached hereto as Appendix "D", and a copy of the Endorsement of Justice Cavanagh issued in connection therewith is attached as Appendix "E".
18. The Receiver has to date examined one of the individuals set forth in the Investigative Powers Order and met with one of the other individuals set out in the Investigative Powers Order (without prejudice to the right to conduct an examination under oath at a later date). The Receiver is also in the process of scheduling additional examinations pursuant to the Investigative Powers Order.
19. In addition, since the granting of the Investigative Powers Order, in connection with the Receiver's ongoing investigations and forensic review efforts, with a view to assessing and determining which Potential Claims the Receiver may seek to pursue on behalf of the Debtors, the Receiver has identified the following additional individuals (the "**Additional Examined Persons**") which the Receiver believes may have relevant information in respect of the Debtors and their business:

- (a) Luciano Butera, the Debtors' former Executive Vice President and Chief Operating Officer;
 - (b) Patrick Leung, the Debtors' former Chief Financial Officer;
 - (c) Brent Sawadsky, the Debtors' former Chief Financial Officer;
 - (d) Tara Davidson, the Debtors' former Vice President of Business Development;
 - (e) Philip Mittleman, former Director of Trade X Parent;
 - (f) Norman Koenigsberg, former Director of Trade X Parent; and
 - (g) Stephen Zhou, the principal of a key customer of and supplier to Techlantic.
20. The Receiver is seeking the Additional Examinations Order, on substantially the same terms as the Investigative Powers Order, to grant the Receiver the same rights to examine such Additional Examined Persons under oath. The Receiver believes that in the circumstances, the requested relief is just and reasonable, and will assist the Receiver to continue to advance these proceedings in a reasonable and expedient manner for the benefit of the Debtors' stakeholders.
21. The Receiver believes that the Additional Examination Order will enhance the Debtors' ability to identify and assess Potential Claims and, ultimately, maximize stakeholder recovery.
22. The Receiver has, through counsel, commenced reaching out to the Additional Examined Persons (based on available contact information) to seek to schedule examinations, and intends to give notice to each of the Additional Examined Persons of its motion seeking the Additional Examination Order.
23. The Receiver has confirmed with the Applicant, the Debtors' senior secured creditor, that the Applicant supports the requested Orders and the use of funds available to the Debtors after the Interim Distribution is paid (assuming the Interim Distribution is approved) to investigate and (if advisable) pursue the Potential Claims.

24. The Receiver respectfully submits this Seventh Report to the Court.

FTI Consulting Canada Inc.,
solely in its capacity as Court-appointed Receiver of certain
property of Trade X Group of Companies Inc., 12771888 Canada
Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP
Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital
Corp., Techlantic LTD., and TX OPS Canada Corporation, and not
in its personal or corporate capacity

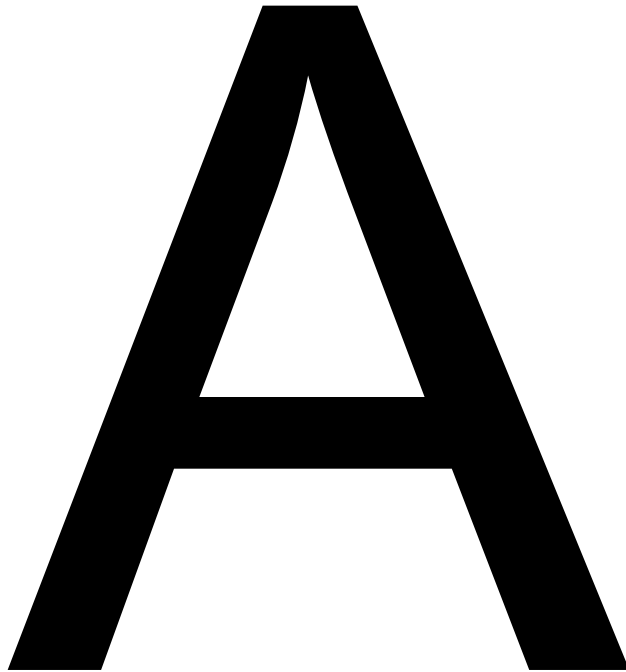


Paul Bishop
Senior Managing Director



Kamran Hamidi
Managing Director

1411-8320-1039



Court File No. CV-23-00710413-00CL

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION**

**FOURTH INTERIM REPORT OF FTI CONSULTING CANADA INC., AS
COURT-APPOINTED RECEIVER
(Subsection 246(2) of the *Bankruptcy and Insolvency Act*)**

June 18, 2024

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

APPLICATION UNDER SECTION 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

B E T W E E N

**MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD
SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE
SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY
LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY
LENDING FUND (UMINN) LP)**

Applicant

v.

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION**

Respondents

**FOURTH INTERIM REPORT OF FTI CONSULTING CANADA INC., AS
COURT-APPOINTED RECEIVER
(Subsection 246(2) of the *Bankruptcy and Insolvency Act*)**

TABLE OF CONTENTS

A. INTRODUCTION AND PURPOSE 1
B. TERMS OF REFERENCE 2
C. SUMMARY OF THE RECEIVER’S ACTIVITIES SINCE THE RECEIVERSHIP DATE 3
D. RECEIPTS & DISBURSEMENTS FOR THE PERIOD TO MAY 31, 2024..... 14
E. ONGOING ACTIVITIES IN THE RECEIVERSHIP 15

A. INTRODUCTION AND PURPOSE

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 22, 2023 (the “**Receivership Order**”), FTI Consulting Canada Inc. (“**FTI Consulting**”) was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, of the following property (collectively the “**Property**”) of Trade X Group of Companies Inc. (“**Trade X Parent**”), 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. (“**Techlantic**”) and TX Ops Canada Corporation (“**TX Canada**”) (collectively, “**Trade X**” or the “**Debtors**”):
 - (a) the assets, undertakings and properties of the Debtors (other than Trade X Parent and TX Canada) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof;
 - (b) the assets, undertakings and properties of Trade X Parent (other than the shares of 13517985 Canada Inc. (“**Wholesale Express**”)) acquired for, or used in relation to a business carried on by Trade X Parent, including all proceeds thereof; and
 - (c) certain assets, undertakings and properties of TX Canada defined as the “TX Canada Collateral” in the Affidavit of Westin Lovy sworn December 4, 2023.

2. The application was brought by MBL Administrative Agent II LLC (the “**Agent**” or the “**Applicant**”) as agent for Post Road Specialty Lending Fund II LP (f/k/a Man Bridge Lane Specialty Lending Fund II (US) LP), and Post Road Specialty Lending Fund (UMINN) LP (f/k/a Man Bridge Lane Specialty Lending Fund (UMINN) LP) (together, the “**Lenders**”) pursuant to section 243 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, and shall be referred to herein as the “**Receivership**”.

3. This report is the Fourth Interim Report of the Receiver (the “**Fourth Report**”) prepared pursuant to section 246(2) of the BIA for the period from December 22, 2023 (the

“**Receivership Date**”) to June 18, 2024. The purpose of this Fourth Report is to provide information the Court on the following:

- (a) the activities of the Receiver since the Receivership Date;
- (b) the receipts and disbursements of the Receiver for the period from December 22, 2023 to May 31, 2024; and
- (c) information about the anticipated next steps and activities of the Receiver in connection with the Receivership.

B. TERMS OF REFERENCE

- 4. In preparing this Fourth Report and making the comments herein, the Receiver has been provided with and has relied upon certain unaudited, draft and/or internal financial information, the motion materials filed in respect of this proceeding, the Debtors’ books and records, and discussions with certain employees and former employees of the Debtors (collectively, the “**Information**”). Future oriented financial information relied upon in the Fourth Report is based on assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material.
- 5. The Receiver has not audited or otherwise verified the accuracy or completeness of the Information in a manner that would, wholly or partially, comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
- 6. The Receiver has prepared this Fourth Report solely for the use of the Court and the stakeholders in these proceedings and will make a copy of the Fourth Report, and related documents, available on the Receiver’s website at <http://cfcanada.fticonsulting.com/TradeX/>.
- 7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

8. Unless otherwise stated herein, capitalized terms not defined in this Fourth Report have the meaning ascribed to them in the Receivership Order.

C. SUMMARY OF THE RECEIVER’S ACTIVITIES SINCE THE RECEIVERSHIP DATE

Control of and Realization on the Property

9. From and after the Receivership Date, the Receiver took steps to secure possession and control over the Property, including the proceeds, receipts and disbursements arising out of or from the Property. These steps included, but were not limited to, the following:
- (a) Transfer of Funds to the Receiver’s Accounts: The Receiver worked closely with the Royal Bank of Canada (“**RBC**”) on the transfer of funds from the Debtors’ bank accounts at RBC (the “**RBC Accounts**”) to the Receiver’s trust account established in respect of the Debtors (the “**Receiver’s Trust Account**”). The Receiver requested closure of the RBC Accounts on or about April 17, 2024. The Receiver is also continuing to work with TX OPS Indiana Limited (a U.S. non-Debtor subsidiary of Trade-X) and Tradexpress Auto Nigeria Ltd. (a Nigerian non-Debtor subsidiary of Trade X) to recover funds in accounts at Zenith Bank in Nigeria, which funds the Receiver understands are proceeds of the Debtors’ Property, and thus form part of the Property.
 - (b) Collection of Accounts Receivable: The Receiver issued notices to domestic and foreign receivable parties for the collection of outstanding amounts owing to the Debtors, based on the books and records of the Debtors. The Receiver has collected funds from one party and deposited such amounts in the Receiver’s Trust Account.
 - (c) Sale of Inventory: The Receiver managed the sale of two vehicles in Canada and coordinated the sale of 12 vehicles in foreign jurisdictions to customers. The Receiver collected the proceeds from such inventory sales and deposited such proceeds into the Receiver’s Trust Account. In addition, at the commencement of the Receivership, the books and records of the Debtors indicated there were 40 vehicles among the Debtors’ inventory. The Receiver reviewed and traced

payments in respect of each of such vehicles, confirming such vehicles had been sold and paid for prior to the Receivership.

- (d) Return of Deposits: The Receiver issued notices to parties that, based on the books and records of the Debtors, appear to be holding various deposit amounts previously funded by the Debtors. Certain of these deposits were returned by the applicable parties to the Receiver, and the Receiver deposited such funds into the Receiver's Trust Account.
- (e) Tax Refunds: The Receiver has actively worked with the Canada Revenue Agency (the "CRA") on the filing of HST returns, identification of priority tax claims, and the reconciliation of HST tax refunds. The Receiver is awaiting the release of approximately \$200,000 of HST tax refunds by the CRA after completion of the audit.
- (f) Books and Records: The Receiver secured an electronic backup of the books and records of the Debtors.
- (g) Operating Costs: The Receiver has continued to pay, on behalf of the Debtors, for certain operating costs relating to the Debtors for services that are required to wind down the estate. These services include insurance renewal costs, technology and cloud hosting services, storage fees for vehicles and certain other assets, commissions paid to brokers to assist in the sale of vehicles, and certain other costs.
- (h) Closure of Vendor Accounts: The Receiver has reached out to various vendors of the Debtors, based on the books and records of the Debtors, to close any open accounts relating to the Debtors.
- (i) Sale of Business and Assets: The Receiver placed a notice in the Financial Post on February 1 and February 6, 2024 and in the Globe and Mail newspaper on February 7, 2024, soliciting interest in the assets and business of Trade X and Techlantic. The Receiver also reached out to a potential interested party to solicit interest in the sale of Trade X's technology platform and intellectual property, which party had previously expressed an interest in acquiring the technology platform prior to the

Receivership. The Receiver received limited interest or inquiries to its notices, none of which have resulted in any viable offers for any assets or the businesses of the Debtors.

- (j) Office Equipment/Furniture: The Receiver is aware of two separate storage spaces that hold office equipment and furniture of the Debtors. The Receiver has access to one of the two facilities and is working to dispose of certain IT equipment while maintaining the books and records at the storage site. The proceeds from the sale of such equipment are not expected to be material. The Receiver is also aware that certain of the Debtors' office furniture and equipment were transferred to a second storage facility (under the personal account of the Debtors' founder, Ryan Davidson) when the head office location was vacated on or around December 1, 2023, prior to the Receivership. The Receiver is advancing its efforts to access to this facility. The estimated realizable value of the furniture and equipment is not expected to be material.

Employee Matters

10. At the Receivership Date, the Debtors employed 16 individuals. The employment of 14 individuals has been terminated since the Receivership Date (two terminations on December 29, 2023; two terminations on January 12, 2024; one termination on January 19, 2024; one termination on January 26, 2024; two terminations on February 9, 2024; three terminations on March 1, 2024 and three terminations on April 19, 2024). As at the date of this Fourth Report, there are two active employees of TX Canada remaining.
11. The Receiver assisted in the resumption of ADP payroll processing, which had been ceased by the Debtors prior to the Receivership Date (with the last pre-Receivership payroll having been processed on or about October 6, 2023). The Receiver has continued to make regular bi-weekly payroll payments to active employees.
12. The Receiver has made the required filings under the *Wage Earner Protection Program Act* (“WEPPA”). As at the date of this Fourth Report, the Receiver has provided WEPPA

packages to 37 former employees, and has received 36 proof of claims that have been submitted to Service Canada for processing.

Notice to Creditors

13. On or before January 2, 2024, the Receiver caused to be sent to the Superintendent of Bankruptcy and the known creditors of each of the Debtors as at the Receivership Date:
 - (a) a notice of the Receiver's appointment in the prescribed form in accordance with section 245(1)(b) of the BIA; and
 - (b) a copy of the Receiver's statement prepared pursuant to Section 246 of the BIA.

Website and Receiver Contacts

14. The Receiver has established a website at <http://cfcanada.fticonsulting.com/TradeX/> at which the Receiver posts copies of court orders, motion materials and reports filed in the Receivership. In addition, the Receiver has created a dedicated email address, TradeX@fticonsulting.com, and dedicated telephone numbers, 416-649-8060 and 1-833-656-3978, at which the Receiver can be contacted.

Stakeholder Inquiries and Communications

15. The Receiver has and continues to respond to various stakeholder inquiries in connection with the Receivership. The Receiver has, among other things, received numerous queries from parties that claim to be investors of Trade X and/or related entities in various capacities. As of the date of this Fourth Report, the Receiver has gathered certain information relating to 34 parties who appear to have invested in Trade X or Trade X related entities. The Receiver continues to review such matters.
16. The Receiver has also continued regular communications with the Applicant in connection with matters relating to the Receivership.

Receiver's Investigations, Forensic Review, and Litigation Matters

17. The investigations, forensic review and litigation matters that have been advanced by the Receiver since the commencement of the Receivership are discussed in detail in the First Report of the Receiver dated February 1, 2024 (the “**First Report**”), the First Supplemental Report to the First Report of the Receiver dated April 3, 2024 (the “**Supplement to the First Report**”), the Second Report of the Receiver dated March 27, 2024 (the “**Second Report**”), and the Third Report of the Receiver dated May 17, 2024 (the “**Third Report**”). Copies of the First Report, the Supplement to the First Report, the Second Report and the Third Report (collectively, the “**Prior Reports**”) are attached hereto, without appendices, as Appendix “A”, “B”, “C” and “D”, respectively. Certain of such activities are briefly set out below and otherwise the activities of the Receiver described in the Prior Reports are not repeated herein. This section of the Fourth Report should be read in conjunction with the Prior Reports.
18. The Receiver is continuing to advance its work relating to the various investigations, forensic review and litigation matters and will provide further updates in due course, as appropriate, in future reports of the Receiver.

Motions Regarding the Techlantic Funds

19. As discussed in the First Report, on or about January 3, 2024, the Receiver learned that 1309767 Ontario Ltd. (“**130 Ontario**”) and 2601658 Ontario Ltd. (“**260 Ontario**”, and together with 130 Ontario, the “**Van Essen Companies**”) received proceeds from the sale of Property totaling approximately \$1.7 million (the “**Techlantic Funds**”) and purported to apply those proceeds to repay an alleged debt owed by Techlantic to the Van Essen Companies (the “**Purported Set-Off**”). At the time of the First Report, the Receiver was not, at that stage, in a position to reach a conclusion with respect to entitlement to the Techlantic Funds, which assessment required further review of evidence. The Receiver's primary concern, at that time, was to preserve the Techlantic Funds so that they could ultimately be paid to the appropriate party. Given the Van Essen Companies' refusal to pay the Techlantic Funds to the Receiver (without prejudice to their claims), the Receiver sought to bring a motion for an Order directing the Van Essen Companies to pay the

Techlantic Funds to the Receiver (as subsequently amended, the “**First Motion**”). The Receiver was of the view that, among other things, the Purported Set-Off was prohibited by the interim Order granted by the Court in these proceedings on December 11, 2023 (the “**Interim Order**”).

20. As discussed in the Supplement to the First Report, the Van Essen Companies served a cross-motion (the “**Van Essen Cross-Motion**”) seeking a final determination that the Van Essen Companies are entitled to the Techlantic Funds and that the Purported Set-Off was a valid transaction. The Supplement to the First Report sets out information relevant to the First Motion and the Van Essen Cross-Motion that was discovered by the Receiver after the First Report was served, including the basis for the Receiver’s conclusion that Techlantic and the Van Essen Companies were not dealing at arm’s length and that the Purported Set-Off effected a preference.
21. As also discussed in the Supplement to the First Report, based on the continued investigation of the Receiver, the Receiver amended the First Motion to seek (a) a final determination with respect to entitlement to the Techlantic Funds, as opposed to preliminary relief to deliver the Techlantic Funds to the Receiver pending a final determination as initially sought in the First Motion; and (b) a declaration that the Purported Set-Off is void as against the Receiver because it was a preference prohibited by section 95 of the BIA.
22. The First Motion and the Van Essen Cross-Motion were initially scheduled by the Court to be heard on April 3, 2024. The parties subsequently agreed to adjourn the motions, with a new date to be set by the Court. On April 3, 2024, the Court rescheduled the First Motion and the Van Essen Cross-Motion for June 26, 2024. On May 16, 2024, the First Motion and the Van Essen Cross-Motion were further adjourned, at the request of the Van Essen Companies. The First Motion and the Van Essen Cross-Motion were rescheduled for July 26, 2024, to allow for sufficient time between the Van Essen Stay Motion (as defined below) and the First Motion and the Van Essen Cross-Motion.

Motion Regarding Expanded Investigative Powers

23. As discussed in the Second Report, the Receiver encountered a number of challenges in connection with the state of the Debtors' books and records, including:
- (a) the Receiver has received conflicting information from the Debtors and other parties about significant transactions involving the Debtors;
 - (b) the Debtors' books and records are complicated and involve a large number of accounting entries reflecting the transfer of vehicles (and potentially funds) between various Debtors and other parties for purposes that are unclear to the Receiver;
 - (c) the Debtors engaged in a large number of transactions with companies owned or controlled by the Debtors' directors, officer and/or members of their immediate families. The details of these transactions were not fully disclosed to the Receiver, and the Receiver learned important details about the transactions from its review of the Debtors' e-mails; and
 - (d) the Receiver has been contacted by individuals who claim to have invested in the Debtors, but who appear to have paid funds to entities controlled by the Debtors' founder and CEO, Ryan Davidson. The Receiver has been unable to determine whether (and how) these funds were actually provided to the Debtors or used in the Debtors' business.
24. The Receiver has tried to engage with certain of the Debtors' current and former directors, officers, employees and consultants to understand the foregoing transactions. Several such individuals refused to meet with the Receiver, or refused to meet with the Receiver unless the Receiver paid for them to hire counsel.
25. The Receiver has also tried to obtain information from third parties (including potential related parties) that engaged in transactions with the Debtors in order to understand those transactions. The Receiver received incomplete responses and, in some cases, no response at all.

26. In light of the foregoing, the Receiver determined that it required expanded investigative powers in order to understand the Debtors' business and assets (including claims against other parties) that might provide additional recovery for the benefit of the Debtors' creditors. On April 3, 2024, the Receiver sought and obtained from the Court an order (the "**Investigative Powers Order**") which, among other things, enhanced the Receiver's investigative powers, including granting it the right to examine certain specified persons under oath and compel the production of relevant documents. The Investigative Powers Order also authorized (but does not require) the Receiver to assign one or more of the Debtors into bankruptcy in the event that such assignments are necessary or appropriate.

Van Essen Companies' Stay Motion

27. As discussed in the Third Report, for the first time on April 5, 2024, the Van Essen Companies asserted that the Receiver reviewed allegedly privileged documents of the Van Essen Companies (the "**Allegedly Privileged Documents**"). On April 16, 2024, the Van Essen Companies served a motion (the "**Van Essen Stay Motion**") seeking, among other things, (a) an Order striking out all evidence submitted by the Receiver in the First Motion and Van Essen Cross-Motion, (b) an Order granting judgment in the First Motion and Van Essen Cross-Motion in favour of the Van Essen Companies, and (c) an Order staying the rights and claims of the Receiver and Applicant and any related parties, without prejudice to the rights of the Van Essen Companies and Wouter Van Essen. The claims alleged by the Van Essen Companies and the requested relief are set out in further detail in the materials filed by the Van Essen Companies in respect of the Van Essen Stay Motion and are not further summarized herein.
28. The Third Report provided the Receiver's response to the Van Essen Stay Motion. As discussed in the Third Report, since the Van Essen Companies initially raised their concerns about privilege, the Receiver tried to work with the Van Essen Companies to address any legitimate concerns relating to the Allegedly Privileged Documents in the Database (as defined in the Third Report). The Receiver does not believe that the Van Essen Companies should benefit from any inadvertent review of privileged documents that may have occurred, particularly given the Van Essen Companies' use of the Techlantic

Server (as defined in the Third Report) without the Receiver's permission, their delay in raising their privilege concerns, and the fact that the Receiver has not reviewed any privileged documents. As discussed in the Third Report, the Receiver believes that the relief sought by the Van Essen Companies pursuant to the Van Essen Stay Motion is not appropriate, and should not be granted. The Receiver's response to the Van Essen Stay Motion is further supplemented in additional materials filed in response to the Van Essen Stay Motion and not further summarized herein.

29. The Van Essen Stay Motion was initially scheduled for June 11, 2024, and, at the request of the Van Essen Companies, subsequently adjourned by the Court to June 17, 2024. The matter was heard by Justice Cavanagh on June 17, 2024, and is currently under reserve.
30. Based on the concerns raised by the Van Essen Companies regarding Allegedly Privileged Documents being contained in the Database, access to the Database was ceased in full during the period of approximately April 5, 2024 to approximately June 3, 2024. Certain parts of the Database were made available again on or around June 3, 2024 pursuant to an interim agreement with the Van Essen Companies. The Receiver is trying to work with the Van Essen Companies to remove all of the Allegedly Privileged Documents so that the complete Database can be accessed by the Receiver. To date, the Van Essen Companies and the Receiver have not been able to agree to a protocol for removing Allegedly Privileged Documents from the Database and this issue will need to be addressed.

Wholesale Express CCAA Proceedings

31. Wholesale Express is a subsidiary of Trade X, but is not one of the Debtors subject to the Receivership. Separate proceedings under the *Companies' Creditors Arrangement Act* ("CCAA") were commenced in respect of Wholesale Express in Quebec (the "**Wholesale Express CCAA Proceedings**").
32. The Receiver understands that, pursuant to the Wholesale Express CCAA Proceedings, Wholesale Express completed a reverse vesting sale transaction, resulting in 15695724 Canada Inc. ("**ResidualCo 1**") and 15695651 Canada Inc. ("**ResidualCo 2**", and together with ResidualCo 1, the "**Remaining Wholesale Express Debtors**"), being the remaining

debtor companies in the Wholesale Express CCAA Proceedings to which, among other things, the remaining claims not assumed pursuant to the sale transaction were transferred.

Wholesale Express Claims Process

33. The Receiver, on behalf of the Debtors, filed on March 25, 2024, a proof of claim in the Wholesale Express CCAA Proceedings in respect of intercompany claims against Wholesale Express based on the books and records of the Debtors (the “**Trade X Claim**”). On May 30, 2024, the Court-appointed monitor in the Wholesale Express CCAA Proceedings (the “**Wholesale Express Monitor**”) issued a Notice of Disallowance in respect of the Trade X Claim (the “**Notice of Disallowance**”). Based on various discussions and exchange of additional information with the Wholesale Express Monitor, and the review of the Notice of Disallowance, the Receiver determined not to dispute the Notice of Disallowance.

Groupe Grégor Claim

34. The Receiver understands that, based on the books and records of the Debtors, on October 24, 2023, Wholesale Express and Trade X Parent entered into an Assignment of Credit (the “**Groupe Grégor Claim Assignment**”), pursuant to which Wholesale Express assigned to Trade X Parent all of Wholesale Express’ right, title, interest and property into the amount of \$7,920,118, plus interest, owing by Groupe Grégor Inc. (“**Groupe Grégor**”) to Wholesale Express (the “**Groupe Grégor Claim**”).
35. On February 15, 2024, the Wholesale Express Monitor served an application (the “**Groupe Grégor Claim Application**”) seeking:
- (a) an order declaring that the Groupe Grégor Claim Assignment is null and void and may not be set up against the Wholesale Express Monitor; and
 - (b) advice and directions from the Court in the form of an order declaring that any right or claim held by the Wholesale Express against Groupe Grégor, including the claim in the Groupe Grégor Claim referred to in the Groupe Grégor Claim Assignment, is the property of ResidualCo 2.

36. The Receiver is continuing to review the books and records of the Debtors to determine its position on the Groupe Grégor Claim Application. This review had been delayed as a result of matters relating to the Van Essen Stay Motion; more particularly due to the interruption and delay to the Receiver's access to the Receiver's Database (as discussed above), and the resulting delay in the Receiver's ability to review potentially relevant documentation contained therein.
37. The Groupe Grégor Claim Application was scheduled to be heard before the Quebec Superior Court of Justice in the Wholesale Express CCAA Proceedings on June 13, 2024. The Receiver has advised counsel to the Monitor that it has been unable to appropriately respond to the motion as a result of the lack of access to the Database for an extended period of time. The Receiver and the Wholesale Express Monitor agreed to adjourn the hearing date to July 16, 2024, to permit time for the Receiver to review relevant information and respond on the Groupe Grégor Claim Application.

Security Review

38. The current indebtedness owing by the Debtors to the Agent and the Lenders is approximately \$18 million (equivalent of approximately US\$13 million), excluding accrued interest.
39. At the request of the Receiver, Goodmans LLP, counsel to the Receiver (the "**Receiver's Counsel**"), conducted a review of the security granted by the Debtors to the Agent and the Lenders (the "**Secured Parties**"), and issued a written opinion to the Receiver regarding the validity and perfection of the security held by the Agent for the Lenders in respect of the Lenders (the "**Security Opinion**").
40. The Security Opinion concludes that, subject to customary qualifications and assumptions set out therein:
- (a) the Security Agreements (as defined in the Security Opinion) create valid security interests in favour of the Secured Parties in the Collateral¹ specified therein to

¹ "**Collateral**" means all of the property purported to be charged under any Security Agreement and to which the *Personal Property Security Act* (Ontario) (the "**Ontario PPSA**") applies.

which the Ontario PPSA applies and in which each Obligor² has rights to secure the payment and performance of the obligations described therein as being secured thereby; and

- (b) registration has been made in all public offices provided for under Ontario Law where such registration is necessary to perfect the security interest created by the Security Agreements in the Collateral to which the Ontario PPSA applies and in which each Obligor has rights.

D. RECEIPTS & DISBURSEMENTS FOR THE PERIOD TO May 31, 2024

41. The Receiver's receipts and disbursements for the period from December 22, 2023 (the Receivership Date) to May 31, 2024 are summarized in the table below (and further discussed in Section C above):

Category	Total
Receipts	\$ 4,507,421
10000 - Cash in bank	2,512,212
11000 - Sale of assets - other	900
12125 - Accounts receivable	39,716
13350 - Sale of inventory	1,606,625
14157 - HST Refund	237,882
33160 - Bank interest	33,996
48526 - Deposit Refund	48,536
48547 - Return of Payment	27,555
Disbursements	(2,628,139)
60200 - Filing fees paid to Official Receiver	(75)
64080 - Receiver's fees and costs	(1,436,739)
65127 - Legal fees/disbursements	(401,886)
68870 - HST Paid	(261,920)
80650 - Employee Related Costs	(353,422)
81155 - Operating Expense	(174,097)
FX Differences - Internal transfers	(34,203)
Net Cash Flows	\$ 1,845,080
Opening Cash	-
Ending Cash	1,845,080

² "Obligors" mean, collectively, Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. and TX OPS Canada Corporation.

42. Professional fees include the payment of the fees and disbursements incurred by the Receiver in the course of performing its duties in the Receivership, which includes the fees incurred for the services provided by the forensics team at FTI Consulting as part of the Receiver's investigations, and the fees and disbursements of the Receivers' counsel incurred in assisting the Receiver with performing its duties in the Receivership.

E. ONGOING ACTIVITIES IN THE RECEIVERSHIP

43. The Receiver is continuing to advance its mandate pursuant to the Receivership Order. Remaining outstanding matters in the Receivership include:
- (a) realization on remaining Property, including the collection of remaining funds, receivables, deposits and tax refunds, and sale of sundry assets, and further exploring potential interest in the sale of Trade X's technology platform and intellectual property;
 - (b) finalizing the wind-down of the Debtors, including the termination of remaining employees at the appropriate time;
 - (c) addressing certain remaining tax matters with the CRA;
 - (d) advancing and/or responding to the currently outstanding motions in these proceedings, including the First Motion, the Van Essen Cross-Motion and the Groupe Grégor Claim Application;
 - (e) continuing to advance the Receiver's ongoing investigation and forensic review efforts, including the examination of certain key parties pursuant to the Investigative Powers Order; and
 - (f) based on the results of the Receiver's ongoing investigation and forensic review, assessing whether any additional claims ought to be advanced by the Receiver on behalf of the Debtors for the benefit of stakeholders.

44. The Receiver respectfully submits this Fourth Report to the Court.

FTI Consulting Canada Inc.,
solely in its capacity as Court-appointed Receiver of certain
property of Trade X Group of Companies Inc., 12771888 Canada
Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP
Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital
Corp., Techlantic LTD., and TX OPS Canada Corporation, and not
in its personal or corporate capacity



Paul Bishop
Senior Managing Director

1412-1977-8060



Kamran Hamidi
Managing Director

MBL ADMINISTRATIVE AGENT II -and-
LLC

TRADE X GROUP OF COMPANIES
INC. et al

Court File No. CV-23-00710413-00CL

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at Toronto

**FOURTH REPORT OF THE RECEIVER, FTI
CONSULTING CANADA INC.**

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver, FTI Consulting Canada Inc.

B

Court File No. CV-23-00710413-00CL

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION**

**SIXTH REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

September 20, 2024

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

APPLICATION UNDER SECTION 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

B E T W E E N

**MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD
SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE
SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY
LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY
LENDING FUND (UMINN) LP)**

Applicant

v.

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX
OPS CANADA CORPORATION**

Respondents

**SIXTH REPORT OF FTI CONSULTING CANADA INC., AS COURT-
APPOINTED RECEIVER**

TABLE OF CONTENTS

A. INTRODUCTION AND PURPOSE 1
B. TERMS OF REFERENCE 2
C. SUMMARY OF THE RECEIVER’S ACTIVITIES SINCE THE FOURTH REPORT 3
D. RECEIPTS & DISBURSEMENTS FOR THE PERIOD TO AUGUST 31, 2024 8
E. SUMMARY OF PROFESSIONAL FEES..... 8
F. ONGOING ACTIVITIES IN THE RECEIVERSHIP 11

A. INTRODUCTION AND PURPOSE

1. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 22, 2023 (the “**Receivership Order**”), FTI Consulting Canada Inc. (“**FTI Consulting**”) was appointed as receiver and manager (in such capacity, the “**Receiver**”), without security, of the following property (collectively, the “**Property**”) of Trade X Group of Companies Inc. (“**Trade X Parent**”), 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. (“**Techlantic**”) and TX Ops Canada Corporation (“**TX Canada**”) (collectively, “**Trade X**” or the “**Debtors**”):
 - (a) the assets, undertakings and properties of the Debtors (other than Trade X Parent and TX Canada) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof;
 - (b) the assets, undertakings and properties of Trade X Parent (other than the shares of 13517985 Canada Inc. (“**Wholesale Express**”)) acquired for, or used in relation to a business carried on by Trade X Parent, including all proceeds thereof; and
 - (c) certain assets, undertakings and properties of TX Canada defined as the “TX Canada Collateral” in the Affidavit of Westin Lovy sworn December 4, 2023.
2. The application was brought by MBL Administrative Agent II LLC (the “**Agent**” or the “**Applicant**”) as agent for Post Road Specialty Lending Fund II LP (f/k/a Man Bridge Lane Specialty Lending Fund II (US) LP), and Post Road Specialty Lending Fund (UMINN) LP (f/k/a Man Bridge Lane Specialty Lending Fund (UMINN) LP) (together, the “**Lenders**”) pursuant to section 243 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, and shall be referred to herein as the “**Receivership**”.
3. The purpose of this Sixth Report of the Receiver (the “**Sixth Report**”) is to provide information to the Court on the following:

- (a) the activities of the Receiver since the Fourth Report of the Receiver dated June 18, 2024 (the “**Fourth Report**”);
- (b) the receipts and disbursements of the Receiver for the period from June 1, 2024 to August 31, 2024;
- (c) the fees and disbursements of the Receiver, and its counsel, Goodmans LLP (“**Goodmans**”), Lax O’Sullivan Lisus Gottlieb LLP (“**LOLG**”) and Woods LLP (“**Woods**”), from the commencement of the Receivership to on or about August 31, 2024; and
- (d) information about the anticipated next steps and activities of the Receiver in connection with the Receivership.

B. TERMS OF REFERENCE

4. In preparing this Sixth Report and making the comments herein, the Receiver has been provided with and has relied upon certain unaudited, draft and/or internal financial information, the motion materials filed in respect of this proceeding, the Debtors’ books and records, and discussions with certain employees and former employees of the Debtors (collectively, the “**Information**”). Future oriented financial information relied upon in the Sixth Report is based on assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material.
5. The Receiver has not audited or otherwise verified the accuracy or completeness of the Information in a manner that would, wholly or partially, comply with Generally Accepted Auditing Standards (“**GAAS**”) pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
6. The Receiver has prepared this Sixth Report solely for the use of the Court and the stakeholders in these proceedings and will make a copy of the Sixth Report, and related documents, available on the Receiver’s website at <http://cfcanda.fticonsulting.com/TradeX/>.

7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.
8. Unless otherwise stated herein, capitalized terms not defined in this Sixth Report have the meaning ascribed to them in the Receivership Order.

C. SUMMARY OF THE RECEIVER'S ACTIVITIES SINCE THE FOURTH REPORT

Control of and Realization on the Property

9. From and after December 22, 2023 (the "**Receivership Date**"), the Receiver took steps to secure possession and control over the Property, including the proceeds, receipts and disbursements arising out of or from the Property. Since the date of the Fourth Report, these steps included, but were not limited to, the following:
 - (a) Transfer of Funds to the Receiver's Accounts: The Receiver worked with TX OPS Indiana Limited (a U.S. non-Debtor subsidiary of Trade-X) and Tradexpress Auto Nigeria Ltd. (a Nigerian non-Debtor subsidiary of Trade X) to recover the remaining funds in accounts at Zenith Bank in Nigeria, which funds the Receiver understands are proceeds of the Debtors' Property, and thus form part of the Property.
 - (b) Collection of Accounts Receivable: The Receiver is continuing efforts to collect amounts from certain receivable parties owing amounts to the Debtors, based on the books and records of the Debtors.
 - (c) Tax Refunds: The Receiver has actively worked with the Canada Revenue Agency (the "**CRA**") on the filing of HST returns, identification of priority tax claims, and the reconciliation of HST tax refunds. The Receiver deposited the release of approximately \$360,000 of HST tax refunds by the CRA for prior tax reporting periods after completion of the audit and filing of missing HST returns.
 - (d) Operating Costs: The Receiver has continued to pay, on behalf of the Debtors, for certain operating costs relating to the Debtors for services that are required to wind

down the Debtors' business. These services include technology and cloud hosting services, storage fees for certain physical assets, books and records, and certain other costs.

- (e) Sale of Business and Assets: The Receiver received a proposal from a party in connection with the acquisition of the shares of TX Canada. Based on the price offered, and the other terms and conditions, the Receiver determined that proposed offer was not acceptable. The Receiver also consulted the Applicant in respect thereof.
- (f) Office Equipment/Furniture: As discussed in the Fourth Report, the Receiver is aware of two separate storage spaces that hold office equipment and furniture of the Debtors. With regards to one of these facilities, the Receiver is working to dispose of certain IT equipment while maintaining the books and records at the storage site. The proceeds from the sale of such equipment are not expected to be material. With regards to the second facility, which contained certain of the Debtors' office furniture and equipment that were transferred from the head office location when it was vacated on or around December 1, 2023, prior to the Receivership, the Receiver determined, based on the estimated expected realizable value of such furniture and equipment in storage, to abandon the furniture located in the applicable storage locker, to be liquidated by the storage provider.

Employee Matters

10. At the Receivership Date, the Debtors employed 16 individuals. As discussed in the Fourth Report, the employment of 14 individuals had been terminated in the period between the Receivership Date and April 19, 2024. Since the date of the Fourth Report, the employment of the last two active employees of TX Canada was terminated on July 5, 2024.
11. The Receiver has made the required filings under the *Wage Earner Protection Program Act* (“WEPPA”). As at the date of this Sixth Report, the Receiver has provided WEPPA packages to 39 former employees, and has received 38 proof of claims that have been submitted to Service Canada for processing.

Stakeholder Inquiries and Communications

12. The Receiver has and continues to respond to various stakeholder inquiries in connection with the Receivership. The Receiver has also continued regular communications with the Applicant in connection with matters relating to the Receivership.

Receiver's Investigations, Forensic Review, and Litigation Matters

13. The investigations, forensic review and litigation matters that have been advanced by the Receiver since the commencement of the Receivership are discussed in detail in the First Report of the Receiver dated February 1, 2024 (the “**First Report**”), the First Supplemental Report to the First Report of the Receiver dated April 3, 2024 (the “**Supplement to the First Report**”), the Second Report of the Receiver dated March 27, 2024 (the “**Second Report**”), the Third Report of the Receiver dated May 17, 2024 (the “**Third Report**”), the Fourth Report and the Fifth Report of the Receiver dated August 26, 2024 (the “**Fifth Report**”). Copies of the First Report, the Supplement to the First Report, the Second Report, the Third Report, the Fourth Report and the Fifth Report (collectively, the “**Prior Reports**”) are attached hereto, without appendices, as Appendix “A”, “B”, “C”, “D”, “E” and “F”, respectively. Certain of such activities are briefly set out below and otherwise the activities of the Receiver described in the Prior Reports are not repeated herein. This section of the Sixth Report should be read in conjunction with the Prior Reports and capitalized terms used in this section of the Sixth Report and not otherwise defined herein have the meaning ascribed to such terms in the Prior Reports.
14. The Receiver is continuing to advance its work relating to the various investigations, forensic review and litigation matters and will provide further updates in due course, as appropriate, in future reports of the Receiver.

Settlement of the Motions Regarding the Techlantic Funds and the Van Essen Stay Motion

15. As discussed in the Fifth Report, the Receiver reached a settlement with the Van Essen Companies resolving the matters pertaining to the Receiver's First Motion, the Van Essen Cross-Motion and the Van Essen Stay Motion (and the appeal in respect thereof) (the “**Van**

Essen Settlement”). The Van Essen Settlement was approved by this Court on August 29, 2024.

16. On August 30, 2024, the Receiver received the settlement funds of \$1.65 million from the Van Essen Companies pursuant to the Settlement.
17. On September 3, 2024, the Receiver received from the Van Essen Companies a list of documents over which they claim privilege, and has coordinated with the technology personnel of FTI Consulting to remove such documents from the Receiver’s database, as contemplated by the Settlement. Pursuant to the Settlement, the removal of such documents from the database is without prejudice to the Receiver’s right to challenge any privilege claims asserted by the Van Essen Companies.

Wholesale Express CCAA Proceedings and the Groupe Grégor Claim

18. As discussed in the Fourth Report, Wholesale Express is a subsidiary of Trade X, but is not one of the Debtors subject to the Receivership. Separate proceedings under the *Companies' Creditors Arrangement Act* (“**CCAA**”) were commenced in respect of Wholesale Express in Quebec (the “**Wholesale Express CCAA Proceedings**”).
19. The Receiver understands that, pursuant to the Wholesale Express CCAA Proceedings, Wholesale Express completed a reverse vesting sale transaction, resulting in 15695724 Canada Inc. (“**ResidualCo 1**”) and 15695651 Canada Inc. (“**ResidualCo 2**”, and together with ResidualCo 1, the “**Remaining Wholesale Express Debtors**”), being the remaining debtor companies in the Wholesale Express CCAA Proceedings to which, among other things, the remaining claims not assumed pursuant to the sale transaction were transferred.
20. The Receiver also understands that, based on the books and records of the Debtors, on October 24, 2023, Wholesale Express and Trade X Parent entered into an Assignment of Credit (the “**Groupe Grégor Claim Assignment**”), pursuant to which Wholesale Express assigned to Trade X Parent all of Wholesale Express’ right, title, interest and property into the amount of \$7,920,118, plus interest, owing by Groupe Grégor Inc. (“**Groupe Grégor**”) to Wholesale Express (the “**Groupe Grégor Claim**”).

21. On February 15, 2024, the Court-appointed monitor in the Wholesale Express CCAA Proceedings (the “**Wholesale Express Monitor**”) served an application (the “**Groupe Grégor Claim Application**”) seeking:
 - (a) an order declaring that the Groupe Grégor Claim Assignment is null and void and may not be set up against the Wholesale Express Monitor on the basis that it constituted a transfer at undervalue; and
 - (b) advice and directions from the Court in the form of an order declaring that any right or claim held by the Wholesale Express against Groupe Grégor, including the claim in the Groupe Grégor Claim referred to in the Groupe Grégor Claim Assignment, is the property of ResidualCo 2.
22. Based on a review of the Debtors’ books and records and discussions with former employees of the Debtors that were involved in the events at issue, the Receiver’s position is that the Groupe Grégor Claim Assignment was not a transfer at undervalue and the Receiver opposed the relief sought pursuant to the Groupe Grégor Claim Application. The position of the Receiver is set out in more detail in the materials filed in the Wholesale Express CCAA Proceedings in respect of the Groupe Grégor Claim Application and such matters are not repeated in herein.
23. The Groupe Grégor Claim Application was heard before the Quebec Superior Court of Justice (the “**Quebec Court**”) in the Wholesale Express CCAA Proceedings on July 16, 2024. Following submissions by the parties in respect of the Groupe Grégor Claim Application, the Quebec Court determined to adjourn the application until the December 10, 2024, and directed the Wholesale Express Monitor to amend its application and Monitor’s report in respect thereof to also address the question of whether the Groupe Grégor Claim Assignment was a preferential payment, in addition to whether it was a transfer at undervalue. Such amended application and Monitor’s report were filed on September 3, 2024.
24. The Receiver will provide a further update on matters relating to the Groupe Grégor Claim, as appropriate, in future reports of the Receiver.

D. RECEIPTS & DISBURSEMENTS FOR THE PERIOD TO AUGUST 31, 2024

25. The Receiver's receipts and disbursements for the period from the Receivership Date to May 31, 2024 are discussed in the Fourth Report. The Receiver's receipts and disbursements for the period from June 1, 2024 to August 31, 2024, are summarized in the table below (and further discussed in Section C above):

Category	Total
Receipts	\$ 2,313,916
10000 - Cash in bank	133,966
13350 - Sale of inventory	249,750
14157 - HST Refund	245,874
33160 - Bank interest	34,327
48100 - Settlement Agreement	1,650,000
Disbursements	(841,492)
64080 - Receiver's fees and costs	(163,163)
65127 - Legal fees/disbursements	(514,671)
68870 - HST Paid	(85,204)
80650 - Employee Related Costs	(28,235)
81155 - Operating Expense	(50,218)
FX Differences - Internal transfers	2,850
Net Cash Flows	\$ 1,475,274
Opening Cash	1,845,080
Ending Cash	\$ 3,320,354

26. Professional fees include the payment of the fees and disbursements incurred by the Receiver in the course of performing its duties in the Receivership, which includes the fees incurred for the services provided by the forensics team at FTI Consulting as part of the Receiver's investigations, and the fees and disbursements of the Receivers' counsel incurred in assisting the Receiver with performing its duties in the Receivership.

E. SUMMARY OF PROFESSIONAL FEES

27. The fees and disbursements of the Receiver and its counsel are secured by the Receiver's Charge created by the Receivership Order.

28. The Receiver's primary counsel in connection with the Receivership is Goodmans. Given the issues raised in the Van Essen Stay Motion and the need for affidavit evidence to be filed by Goodmans, the Receiver also engaged LOLG to address matters specifically relating to the Van Essen Stay Motion. In addition, the Receiver engaged Woods as local Quebec counsel to assist with matters in the Quebec CCAA proceedings relating to Wholesale Express and the Groupe Grégor Claim. Each of LOLG and Woods assisted, where needed and appropriate, on the applicable limited matters, and the Receiver does not believe that there has been any undue duplication of work.
29. The fees (excluding disbursements and HST) of the Receiver (including the fees of FTI Forensics (as defined below)), Goodmans, LOLG and Woods to on or about August 31, 2024 total \$1,443,641.50, \$835,814.50, \$162,125.00 and \$71,331.00, respectively.
30. Detailed invoices in respect of the fees and disbursements of the Receiver, Goodmans, LOLG and Woods are provided in exhibits to the affidavits (the "**Fee Affidavits**") sworn by representatives of the Receiver, Goodmans, LOLG and Woods attached hereto as Appendices "G", "H", "I" and "J", respectively.
31. The Receiver is of the view that: (i) the invoices of each of Goodmans, LOLG and Woods reflect billings for services performed by each of them consistent with the instructions given by the Receiver; and (ii) the hourly rates charged by each of Goodmans, LOLG and Woods are consistent with the rates charged by law firms practicing in the area of corporate insolvency and restructuring in the Toronto and Montreal markets, as applicable.
32. The Receiver notes that a significant portion of the total professional costs of this proceeding to date were caused by certain key significant challenges, including:
 - (a) As discussed in Prior Reports, the Receiver encountered a number of challenges in connection with the state of the Debtors' books and records, including, among other things:
 - (i) the Debtors' books and records are complicated and involve a large number of accounting entries reflecting the transfer of vehicles (and potentially

funds) between various Debtors and other parties for purposes that have been unclear to the Receiver;

- (ii) the Debtors engaged in a large number of transactions with companies owned or controlled by the Debtors' directors, officer and/or members of their immediate families, that were not fully disclosed to the Receiver;
- (iii) the Receiver has received conflicting information from the Debtors and other parties about significant transactions involving the Debtors; and
- (iv) the Receiver tried to engage with certain of the Debtors' current and former directors, officers, employees and consultants to understand various transactions and issues relating to the Debtors; however several such individuals refused to meet with the Receiver, or refused to meet with the Receiver unless the Receiver paid for them to hire counsel.

The foregoing challenges resulted in (1) the Receiver, in consultation with the Applicant, determining that the assistance of FTI's Forensic and Litigation Consulting group ("**FTI Forensic**") to assist with the Receiver's investigations would be needed and appropriate, and (2) the Receiver needing to obtain a Court order granting the Receiver the right to examine certain individuals under oath.

- (b) As discussed in Prior Reports, the conduct and actions of the Van Essen Companies in these proceedings, including the numerous adjournments and engagement of new and additional counsel at late stages of the various motions, resulted in numerous case conferences and procedural delays in the hearing of the Receiver's motion seeking the return of the Techlantic Funds (which ultimately resulted in the successful Settlement, providing for the payment by the Van Essen Companies of approximately 95% of the amount of the Techlantic Funds that were being sought by the Receiver), and complicated the administration of these proceedings. Such issues all in turn increased associated professional costs in these proceedings.

33. It is the Receiver's view that the fees of the Receiver and its counsel are reasonable and appropriate in the circumstances of this case given, among other things, the numerous difficulties and challenges encountered by the Receiver in these proceedings.

F. ONGOING ACTIVITIES IN THE RECEIVERSHIP

34. The Receiver is continuing to advance its mandate pursuant to the Receivership Order. Remaining outstanding matters in the Receivership include:
- (a) realization on remaining Property, including the collection of remaining receivables, deposits, tax refunds, and sale of sundry assets, and further exploring potential interest in the sale of Trade X's technology platform and intellectual property;
 - (b) finalizing the wind-down of the Debtors' business;
 - (c) addressing certain remaining tax matters with the CRA;
 - (d) advancing the Receiver's response to the amended Groupe Grégor Claim Application;
 - (e) continuing to advance the Receiver's ongoing investigation and forensic review efforts, including the examination of certain key parties pursuant to the Investigative Powers Order; and
 - (f) based on the results of the Receiver's ongoing investigation and forensic review, assessing whether any additional claims ought to be advanced by the Receiver on behalf of the Debtors for the benefit of stakeholders.

35. The Receiver respectfully submits this Sixth Report to the Court.

FTI Consulting Canada Inc.,
solely in its capacity as Court-appointed Receiver of certain
property of Trade X Group of Companies Inc., 12771888 Canada
Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP
Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital
Corp., Techlantic LTD., and TX OPS Canada Corporation, and not
in its personal or corporate capacity



Paul Bishop
Senior Managing Director



Kamran Hamidi
Managing Director

1393-8808-1167

Applicant

Respondents

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

Proceeding commenced at Toronto

SIXTH REPORT OF THE RECEIVER

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

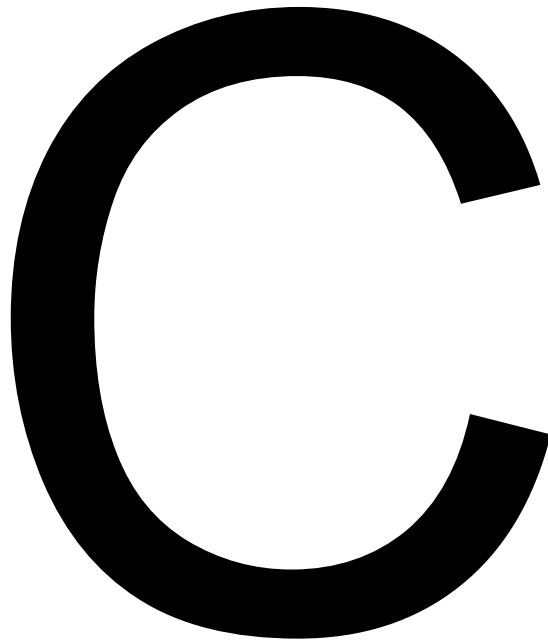
Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver,
FTI Consulting Canada Inc.



Court File No. CV-23-00710413-00CL

**TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND
I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND
TX OPS CANADA CORPORATION**

**SECOND REPORT OF FTI CONSULTING CANADA INC., AS COURT-APPOINTED
RECEIVER**

March 27, 2024

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

APPLICATION UNDER SECTION 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

B E T W E E N

MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY LENDING FUND (UMINN) LP)

Applicant

v.

TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC., TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND I, TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX OPS CANADA CORPORATION

Respondents

TABLE OF CONTENTS

A. Purpose.....3

B. Background.....6

C. The Facilities.....7

D. Appointment of the Receiver.....8

E. Difficulty Understanding the Debtors’ Records.....9

F. Transactions with Techlantic and the Van Essen Companies.....12

G. The Receiver’s Attempts to Gain Clarity in Respect of these Transactions.....17

H. Authority to Assign into Bankruptcy.....17

I. Conclusion.....18

A. PURPOSE

1. This is the Second Report of FTI Consulting Canada Inc. (“**FTI Consulting**”) in its capacity as receiver and manager (the “**Receiver**”), without security, of the following property (collectively the “**Property**”) of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. (“**Techlantic**”) and TX Ops Canada Corporation (collectively, “**Trade X**” or the “**Debtors**”):

- (a) the assets, undertakings and properties of the Debtors (other than Trade X Group of Companies Inc. (“**Trade X Parent**”) and TX OPS Canada Corporation (“**TX Canada**”)) acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof;
- (b) the assets, undertakings and properties of Trade X Parent (other than the shares of 13517985 Canada Inc.) acquired for, or used in relation to a business carried on by Trade X Parent, including all proceeds thereof; and
- (c) certain assets, undertakings and properties of TX Canada defined as the “TX Canada Collateral” in the Affidavit of Westin Lovy sworn December 4, 2023 (the “**Lovy Affidavit**”).

2. The Debtors were primarily involved in operating a business-to-business vehicle trading platform for car dealerships to purchase inventory from or sell inventory to Canada, the United States and other overseas markets. Their operations were carried out by a number of entities.

3. By Order dated December 22, 2023 (the “**Receivership Order**”), the Receiver was appointed and authorized to, among other things, receive and preserve the Property and any proceeds thereof, operate and carry on the business of the Debtors, receive and collect all monies and accounts owing to the Debtors and to exercise all remedies of the Debtors in respect thereof, and to initiate and prosecute any proceedings with respect to the Debtors and the Property.

4. Since its appointment, the Receiver has, among other things, worked to liquidate the Debtors’ remaining vehicle assets and collect amounts owed to the Debtors. That process is substantially complete.

5. To date, the Receiver has recovered approximately \$1.8 million from the sales of remaining vehicles and collection of amounts owed to the Debtors.

6. The Receiver’s attempt to collect on amounts owing to the Debtors has been complicated by the state of the Debtors’ accounting records. Among other things, the Receiver has encountered the following challenges:

- (a) the Receiver has received conflicting information from the Debtors and other parties about significant transactions involving the Debtors;
- (b) the Debtors’ books and records are complicated and involve a large number of accounting entries reflecting the transfer of vehicles (and potentially funds) between various Debtors and other parties for purposes that are unclear to the Receiver at this time;
- (c) the Debtors engaged in a large number of transactions with companies owned or controlled by the Debtors’ directors, officer and/or members of their immediate

families. The details of these transactions were not fully disclosed to the Receiver, and the Receiver learned important details about the transactions from its review of the Debtors' e-mails; and

- (d) the Receiver has been contacted by individuals who claim to have invested in the Debtors, but who appear to have paid funds to entities controlled by the Debtors' founder and CEO, Ryan Davidson. The Receiver has been unable to determine whether (and how) these funds were actually provided to the Debtors or used in the Debtors' business.

7. The Receiver has tried to engage with certain of the Debtors' current and former directors, officers, employees and consultants to understand the foregoing transactions. Several such individuals have refused to meet with the Receiver, or refused to meet with the Receiver unless the Receiver paid for them to hire counsel.

8. The Receiver has also tried to obtain information from third parties (including potential related parties) that have engaged in transactions with the Debtors in order to understand those transactions. The Receiver has received incomplete responses and, in some cases, no response at all.

9. In light of the foregoing, the Receiver has determined that it requires expanded investigative powers in order to understand the Debtors' business and assets (including claims against other parties) that might provide additional recovery for the benefit of the Debtors' creditors. The Receiver served a Notice of Motion dated March 21, 2024 seeking, among other things, enhanced investigative powers, including the right to examine persons with relevant information under oath and compel the production of relevant documents.

10. In addition, the Receiver seeks the authority (but not the requirement) to assign one or more of the Debtors into bankruptcy in the event that such assignments are necessary or appropriate. The Debtors are insolvent and, based on the current facts and circumstances and information available to the Receiver, the Receiver does not believe that there is a realistic prospect of a going concern sale.

11. The Receiver believes that the powers of a trustee in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”) may assist the investigation and ultimate recovery available to the Debtors. It is cognizant, however, of the additional potential administrative expenses associated with a bankruptcy and so it does not seek to make any bankruptcy assignments immediately. Instead, it seeks authority to assign some or all of the Debtors into bankruptcy at a later date if it determines that the assignment is likely to enhance stakeholder recovery.

B. BACKGROUND

12. A number of the Debtors entered into a senior secured revolving credit agreement dated September 27, 2021 (the “**Global Facility**”). MBL Administrative Agent II LLC (“**MBL**”) is the Administrative Agent for the Global Facility on behalf of a syndicate of lenders (the “**Lenders**”). A copy of the Global Facility is attached hereto as Appendix “1”.

13. In addition, a number of Debtors entered into a separate senior secured revolving credit agreement dated February 5, 2021 (the “**Domestic Facility**” and, together with the Global Facility, the “**Facilities**”). MBL is also the administrative agent for a syndicate of Lenders that advanced funds under the Domestic Facility. A copy of the Domestic Facility is attached hereto as Appendix “2”.

14. The Receiver understands that the Lenders are the Debtors' senior secured creditors, with a first ranking security interest over substantially all of the Debtors' assets.¹ Based on the recoveries to date, and the Receiver's assessment of the Debtors' remaining assets, the Lenders are unlikely to recover the full amounts owed to them unless the Receiver is able to successfully investigate and prosecute potential claims available to the Debtors (and subject to the proceeds of such claims being sufficient to satisfy the Lenders' claims). If the Lenders do not recover all amounts owed to them, then the Debtors unsecured creditors and equity claimants are not expected to recover any amounts.

15. In light of the foregoing, the Receiver has, in consultation with MBL on behalf of the Lenders, determined that it is important to conduct a further investigation into the Debtors' affairs to determine what (if any) claims should be pursued.

C. THE FACILITIES

16. In general terms, the Global Facility was intended to fund vehicles sold outside of the United States and the Domestic Facility was intended to fund vehicles sold inside the United States.

17. The Facilities are sophisticated agreements involving a number of related Debtors. In very simple terms, the Lenders advanced funds to purchase specific vehicles and took security over those vehicles or the proceeds earned by selling them. The Facilities are summarized at a very high level below:

- (a) the Debtors acquired vehicles for sale;

¹ Although the Receiver has not yet completed a formal security review, no party has disputed the validity of the Lenders' security.

- (b) the Lenders provided an advance to pay the purchase price for the vehicles (the “**Advance**”);
- (c) the amount available to the Debtors under the Global Facility was based on the collateral owned by the Debtors and listed on a borrowing base from time to time (the “**Borrowing Base**”);
- (d) when the vehicle was sold to an end user, the purchase price was (or should have been) deposited into a dedicated account over which the Lenders have security (the “**Collection Accounts**”).

18. One of the Debtors that is important to the Receiver’s investigation is Techlantic. Techlantic became a “Borrower” within the meaning of the Global Facility by an Amendment No. 1 and Joinder to Senior Secured Revolving Credit Agreement dated December 30, 2021, a copy of which is attached hereto as Appendix “3”.

D. APPOINTMENT OF THE RECEIVER

19. On December 4, 2023, MBL brought an application to appoint FTI Consulting as the Receiver of the Property, pursuant to section 243 of the BIA and section 101 of the *Courts of Justice Act* (Ontario), as amended.

20. MBL alleged that the Debtors had defaulted on their obligations under the Global Facility by, among other things, diverting vehicle sale proceeds totalling approximately \$7 million that should have been deposited into the Collection Accounts. The Lovy Affidavit describing the alleged diversion of funds from the Collection Accounts is attached hereto (without exhibits) as Appendix “4”.

21. The Receiver has not yet independently verified MBL's allegations. It notes, however, that the Debtors did not challenge MBL's evidence.

22. On December 22, 2023, Cavanagh J. issued the Receivership Order appointing FTI Consulting as the Receiver, without security, of the Property.

23. Pursuant to the Receivership Order, the Receiver is empowered to, among other things, receive and preserve the Property and any proceeds thereof, receive and collect all monies and accounts owing to the Debtors and to exercise all remedies of the Debtors in respect thereof, and to initiate and prosecute any proceedings with respect to the Debtors and the Property.

E. DIFFICULTY UNDERSTANDING THE DEBTORS' RECORDS

24. Since the Receiver's appointment on December 22, 2023, the Receiver has worked diligently to receive, preserve, protect and otherwise manage the Debtor's Property in accordance with the Receivership Order. However, it has become clear to the Receiver through these efforts that the Debtors' books and records are, in some instances, not reliable and in other instances very difficult to understand.

25. The Receiver has made inquiries in respect of these issues to representatives of the Debtors, but it has not received satisfactory answers. The Receiver continues to investigate issues involving the Debtors, and is currently aware of a number of issues that it still investigating and in respect of which it requires additional information, including as summarized below.

(i) *Groupe Grégor Claim*

26. The Debtors may have a claim for approximately \$8 million (the "**Groupe Grégor Claim**") against Groupe Grégor Inc. ("**Groupe Grégor**") in connection with the Debtors' purchase

of 13517985 Canada Inc., operating as Wholesale Express (“**Wholesale Express**”) from Groupe Grégor.

27. The Receiver has reviewed the Debtors’ records related to the Groupe Grégor Claim. Its understanding, based on that review, include the following:

- (a) after the Debtors bought Wholesale Express, they were unable to take an immediate assignment of certain permits required to operate its business. To address this issue, Groupe Grégor continued to operate Wholesale Express on behalf of the Debtors and deposit funds generated by Wholesale Express into Groupe Grégor’s bank account;
- (b) the Debtors subsequently alleged that Groupe Grégor did not remit all of the funds generated by Wholesale Express to Wholesale Express;
- (c) separately, Groupe Grégor advanced a claim against the Debtors for approximately \$2.7 million allegedly owed for a working capital adjustment in connection with the Wholesale Express sale (which claim the Receiver understands was being disputed by the Debtors);
- (d) financial statements for both the Debtors and Groupe Grégor indicated that Groupe Grégor owed approximately \$8 million to the Debtors; and
- (e) on October 24, 2023, Wholesale Express assigned the Groupe Grégor Claim to Trade X Parent pursuant to an Assignment of Credit dated October 24, 2023 (the “**Assignment**”).

28. Wholesale Express is currently the subject of separate proceedings pursuant to the *Companies' Creditors Arrangement Act* (the "**Wholesale Express CCAA Proceedings**"), and its Monitor in the Wholesale Express CCAA Proceedings has filed a motion seeking to set-aside the Assignment of the Groupe Grégor Claim as a transfer at undervalue. Such motion is currently scheduled to be heard before the Quebec Superior Court of Justice in the Wholesale Express CCAA Proceedings on June 13, 2024. A copy of the Monitor's Notice of Motion in respect thereof is attached hereto as Appendix "5".

29. The Receiver requires further information about both the Groupe Grégor Claim and the Assignment in order to determine whether, and how, to respond to the Monitor's motion and advance the Groupe Grégor Claim on behalf of the Debtors.

(ii) ***Transactions and transfers involving the Debtors' founder and CEO***

30. The Receiver has also been contacted by certain individuals who claim to have invested funds in the Debtors; however, these individuals advised that they paid funds to a company owned and controlled by Mr. Davidson. The Receiver has been unable to determine why these funds were paid to Mr. Davidson's company and whether they were ever transferred to the Debtors. Correspondence relating to these issues is attached hereto as Appendix "6".

31. The Receiver requires additional and accurate information about the transactions between the Debtors, Mr. Davidson and the companies that Mr. Davidson controlled.

(iii) ***The Debtors' records show potential significant overpayments to Auto Credit Canada, a company controlled by one of the Debtors' former executives***

32. The Receiver understands that Auto Credit Canada is operated by Luciano Butera, a former officer of the Debtors, and owned by Mr. Butera or members of his family.

33. Trade X's records indicate that Trade X made overpayments totalling \$1,535,016 to 1254382 Ontario Ltd o/a Auto Credit Canada ("ACC"). On January 18, 2024, the Receiver wrote to ACC and demanded, pursuant to the Receivership Order, that ACC transfer the amount of the overpayment to the Receiver immediately. This correspondence is attached hereto as Appendix "7".

34. By way of email dated January 26, 2024, and attached as Appendix "8", ACC responded stating that it had not received any overpayments from Trade X, but rather that ACC had provided "floorplan funding" to Trade X, through which Trade X purchased vehicles in the name of ACC. The Receiver has requested documentation of this purported floorplan funding agreement, which documentation has not been provided. This correspondence is attached as hereto Appendix "9".

F. TRANSACTIONS WITH TECHLANTIC AND THE VAN ESSEN COMPANIES

35. The Receiver has served a motion seeking to recover approximately \$1.7 million received by the Van Essen Companies (as defined below), which amounts the Receiver believes were improperly taken by the Van Essen Companies (as discussed below and in the First Report of the Receiver dated February 1, 2024). The Receiver is also currently investigating other transactions involving the same individuals and entities; however, Techlantic's officers, employees and consultants have refused to meet with the Receiver to explain the transactions at issue.

(i) *Techlantic*

36. According to its website, Techlantic was founded in 1983 by Wouter Van Essen ("Wouter"). Wouter's twin brother, Tom Van Essen ("Tom"), joined Techlantic in 1986. A long-time employee, Robin Jones, became a Techlantic shareholder in 2001.

37. Techlantic’s core business, based on a review of its website and its records, was the export of vehicles to foreign markets.

38. In August 2019, Wouter’s son Eric Van Essen (“**Eric**”) became a major Techlantic shareholder. When Techlantic announced Eric’s new status as a “major shareholder” of Techlantic, it confirmed that “Tom and Wouter are still actively involved and likely will be for many years”.

39. Relevant excerpts from Techlantic’s website are attached hereto as Appendix “10”.²

40. Trade X purchased Techlantic in August 2021. After that time, Eric was Techlantic’s Managing Director and had overall responsibility for Techlantic’s business operations. Eric was also a director of Techlantic. Trade X does not appear to have exercised control over Techlantic’s day to day operations. Those operations were overseen by Eric with significant assistance from Wouter.

41. As described below, the Receiver’s review of Techlantic’s records showed that Wouter remained very heavily involved in Techlantic’s business after Trade X bought Techlantic. He continued to be listed as a member of Techlantic’s finance team, and its founder, on the Techlantic website, until the website ceased to operate.

(ii) *The Van Essen Companies*

42. Techlantic engaged in a large number of complicated transactions with two companies 1309767 Ontario Ltd. (“**130 Ontario**”) and 2601658 Ontario Ltd. (“**260 Ontario**”, and together

² Techlantic’s website appears to no longer be operational, but the attached screenshots were access through the internet archive at <https://web.archive.org/>

with 130 Ontario, the “**Van Essen Companies**”) and certain other parties that have long-term business relationships with the Van Essens.

43. The Van Essen Companies had the same staff as Techlantic, and Eric was also an officer and director of Techlantic, however, the Eric and certain of Techlantic’s remaining staff have refused to meet with the Receiver to help it understand the relevant transactions unless the Receiver funded legal counsel for them. Correspondence communicating this position is attached hereto as Appendix “11”.

44. Wouter, through counsel, also declined to meet with the Receiver. Correspondence from Wouter’s counsel is attached hereto as Appendix “12”. Wouter’s counsel has stated in subsequent correspondence that Wouter did not refuse to meet with the Receiver, since he intended to attend his scheduled cross-examination on the Receiver’s motion.

(iii) *Dispute between the Receiver and the Van Essen Companies*

45. Issues between the Receiver and the Van Essens began when the Van Essen Companies received approximately \$1.7 million worth of proceeds from the sale of vehicles owned by Techlantic (the “**Techlantic Funds**”). Instead of paying these funds to Techlantic, the Van Essen Companies kept the funds.

46. Wouter claimed in an e-mail that the Van Essen Companies had set off the Techlantic Funds against a debt allegedly owed by Techlantic as a result of different vehicles sold by the Van Essen Companies to Techlantic in 2022 (the “**Purported Set Off**”).

47. Wouter claims to have executed the Purported Set Off on December 20, 2023, two days before the Receiver was appointed, and nine days after Justice Penny issued an Order dated

December 11, 2023 (the “**Interim Order**”) prohibiting any exercise of rights and remedies against the Debtors.

48. The Receiver has filed a motion, as amended, to recover the Techlantic Funds on the basis that the Purported Set Off was prohibited by the Interim Order and effected a preference contrary to s. 95 of the BIA. The Receiver’s Notice of Motion is attached hereto as Appendix “13”.

49. The Van Essen Companies served a cross-motion claiming that they were entitled to execute the Purported Set Off because they were owed approximately \$1.9 million in connection with vehicles they sold to Techlantic in 2022 (the “**2022 Vehicles**”). The Van Essen Companies’ cross-motion is attached hereto as Appendix “14”.

50. In the course of advancing its motion, the Receiver has discovered a number of important facts relevant to its motion in respect of the Van Essen Companies, including:

- (a) the Van Essen Companies and Techlantic routinely transferred vehicles and funds between them, and generated an enormous (and unusual) amount of accounting entries for individual vehicles in Techlantic’s records;
- (b) the Van Essen Companies and Techlantic shared the same employees and office;
- (c) Eric, who was an officer and director at Techlantic, was also the President of the Van Essen Companies’ parent company and personally advanced some of the funds that the Van Essen Companies used in their dealings with Techlantic;
- (d) Wouter, who Techlantic claims to have engaged as a consultant, appears to have been involved in many aspects of Techlantic’s business and decided when and how

much Techlantic should pay the Van Essen Companies. Wouter also determined when and how much Techlantic should pay its other creditors, including MBL; and

- (e) based on the records reviewed by the Receiver, the Van Essen Companies may have acquired certain of the 2022 Vehicles from certain of the Debtors. The Van Essen Companies then transferred the 2022 Vehicles to Techlantic. Techlantic, in turn, transferred the 2022 Vehicles back to the Debtors that may have previously owned them. The purpose of these circular transactions is unclear.

51. Techlantic's relationship with the Van Essen Companies, and with Techlantic's major customers, is difficult to understand based solely on Techlantic's records and the information provided by Techlantic in writing.

52. The Van Essen Companies, Techlantic, the other Debtors and various customers entered into a large number of transactions with very complex accounting and unclear record keeping. By way of example, two vehicles reviewed by the Receiver were involved in a high number of internal accounting entries, each involving transactions between the Van Essen Companies, Techlantic and other Debtors. The purpose of these transactions, and whether any of them involved the movement of funds, is unclear. A copy of a spreadsheet detailing these transactions is attached hereto as Appendix "15".

53. Among other arguments, the Van Essen Companies have claimed that they provided money to Techlantic as part of a "Liquidity Support Plan". The Receiver notes that section 5.16(g) of Global Facility prohibited the Debtors, including Techlantic, from incurring any debt other than the amounts owing to MBL. Additionally, section 5.16(j) prohibited Techlantic from entering into

any agreement with an affiliate, shareholder or principal, except in certain circumstances, without the consent of MBL.

G. THE RECEIVER'S ATTEMPTS TO GAIN CLARITY IN RESPECT OF THESE TRANSACTIONS

54. The Receiver has reached out to representatives of the Debtors, such as Eric, to clarify the circumstances leading to the above-noted questions and discrepancies. The answers it has received in respect of these inquiries have not been satisfactory and often do not align with other information available to the Receiver.

55. As noted above, in an attempt to further clarify these issues, the Receiver asked to meet with Eric and two additional long-time Techlantic employees. Those meetings were scheduled to take place on March 6, 2024, and initially accepted by Eric and the two employees. However, they were subsequently declined by all three of them on the morning of March 6, 2024.

56. As also noted above, the Receiver has also asked, through counsel, to meet with Wouter to discuss certain issues relating to the Van Essen Companies. Wouter declined, through counsel, to meet with the Receiver. As described above, Wouter's counsel has stated that he intends to attend his scheduled cross-examination.

H. AUTHORITY TO ASSIGN INTO BANKRUPTCY

57. Based on the current facts and circumstances and information available to the Receiver, the Receiver does not at this time believe that there is a realistic prospect of a going concern sale in respect of the Debtors' business. Among other things, the Receiver placed a notice in the Financial Post on February 1 and February 6, 2024 and in the Globe and Mail newspaper on February 7, 2024 soliciting interest in the assets and business of Trade X and Techlantic, a copy

of which is attached hereto as Appendix “16”. The Receiver received limited interest or inquiries to such notices, none of which resulted in any offers for any assets of the Debtors. The Receiver did receive offers for the Techlantic business from Mr. Eric Van Essen, which the Receiver, in consultation with MBL, believed was likely below the liquidation value of the remaining Techlantic assets.

58. As noted above, the Receiver continues to investigate the Debtors’ affairs and evaluate potential claims. As that investigation progresses, the Receiver may determine that the enhanced powers available to a trustee in bankruptcy would facilitate matters and potentially benefit all stakeholders. For clarity, the Receiver has not yet made such a conclusion, and thus at this time only seeks the authority, and not the requirement, to assign one or more of the Debtors into bankruptcy. The Receiver is mindful of the potential additional administrative costs associated with bankruptcy assignments, and prior to proceeding with any potential bankruptcy assignment of any of the Debtors, the Receiver will assess whether such an assignment would likely provide benefits as compared to those available in these receivership proceedings.

I. CONCLUSION

59. The Receiver may be able to recover substantial amounts through commencing actions on behalf of the Debtors in respect of the transactions described herein. However, the Receiver requires additional and accurate information to better assess the viability of these claims and whether it is worthwhile to advance them.

60. The books and records and other information obtained by the Receiver do not appear to be at all times reliable or consistent, and the accounting records of the Debtors are complex and

difficult to interpret absent additional information and assistance from the Debtors' representatives and other parties, a number of whom have refused to meet with the Receiver to date.

61. The Receiver accordingly respectfully requests the relief set forth herein and in the Receiver's Notice of Motion dated March 21, 2024, so that it is able to obtain the additional information it requires to make appropriate assessments on potential additional recoveries that may be available to the Debtors for the benefit of their creditors.

62. Further, the Receiver believes that there is a likelihood that it may, at some point, be necessary or desirable to assign the Debtors' into bankruptcy for the benefit of the creditors as a whole.

Dated this 27th day of March, 2024.

FTI Consulting Canada Inc.,

solely in its capacity as Court-appointed Receiver of certain property of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic LTD., and TX OPS Canada Corporation, and not in its personal or corporate capacity



Paul Bishop
Senior Managing Director



Kamran Hamidi
Managing Director

D



Court File No. CV-23-00710413-00CL

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

THE HONOURABLE MR.) WEDNESDAY, THE 3rd
)
JUSTICE CAVANAGH) DAY OF APRIL, 2024
)

APPLICATION UNDER SECTION 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

B E T W E E N

MBL ADMINISTRATIVE AGENT II LLC, as agent for POST ROAD
SPECIALTY LENDING FUND II LP (f/k/a MAN BRIDGE LANE
SPECIALTY LENDING FUND II (US) LP), and POST ROAD SPECIALTY
LENDING FUND (UMINN) LP (f/k/a MAN BRIDGE LANE SPECIALTY
LENDING FUND (UMINN) LP)

Applicant

v.

TRADE X GROUP OF COMPANIES INC., 12771888 CANADA INC., TVAS INC.,
TRADEXPRESS AUTO CANADA INC., TRADE X FUND GP INC., TRADE X LP FUND I,
TRADE X CONTINENTAL INC., TX CAPITAL CORP., TECHLANTIC LTD. AND TX OPS
CANADA CORPORATION

Respondents

ORDER

THIS MOTION made by FTI Consulting Canada Inc., in its capacity as the Court-appointed receiver and manager (the “**Receiver**”), without security, of substantially all of the assets, undertakings and properties of Trade X Group of Companies Inc., 12771888 Canada Inc., TVAS Inc., Tradexpress Auto Canada Inc., Trade X Fund GP Inc., Trade X LP Fund I, Trade X Continental Inc., TX Capital Corp., Techlantic Ltd. and TX Ops Canada Corporation (collectively, the “**Debtors**”) was heard virtually this day;

ON READING the Receiver's motion record, including the Second Report of the Receiver dated March 27, 2024;

ON HEARING the submissions of counsel for the Receiver and such other counsel and parties as listed on the Counsel Slip, with no one else appearing although duly served as appears from the affidavit of service of Brittnei Tee, filed March 28, 2024.

1. **THIS COURT ORDERS** that the Receiver has the right to examine, under oath, any of the Debtors' current or former officers, directors, employees, independent contractors, suppliers or customers that are listed in Schedule "A" hereto, because they have been served with the Receiver's motion (collectively, the "**Examined Persons**" and each an "**Examined Person**").

2. **THIS COURT ORDERS** that the Receiver may request to conduct a voluntary interview with any of the Debtors' other current or former officers, directors, employees, independent contractors or consultants that has, or are reasonably expected to have, information about any of the Debtors' business, assets and/or property.

3. **THIS COURT ORDERS** that in the event that the Receiver determines that any other of the Debtors customers, suppliers or vendors, or any other persons that have, or are reasonably expected to have, information about any of the Debtors' business, assets and/or property, the Receiver may request to conduct a voluntary interview with such person.

4. **THIS COURT ORDERS** that Examined Persons are required to produce documents, including, without limitation, agreements, correspondence, invoices, bank statements and other financial records, whether in paper, electronic form or otherwise, requested by the Receiver, acting reasonably, relating to the Debtors' dealings with them or with entities that they or members of their immediate families own or control.

5. **THIS COURT ORDERS** that Examined Persons are required to provide, on request of the Receiver, any personal electronic device (each, a "**Device**") to the Receiver that was used to conduct the Debtors' business; provided, however, that in the event that privileged information (other than privileged information belonging to the Debtors) is stored on the Device, then the information on the Device shall be preserved but not examined until a protocol for identifying

privileged information is agreed to by the Receiver and the Examined Person or established by the Court.

6. **THIS COURT ORDERS** that in addition to the powers and authority granted to the Receiver pursuant to the Receivership Order dated December 22, 2023, the Receiver is hereby granted the power and authority, but not the obligation, to:

- (a) file an assignment in bankruptcy on behalf of one or more of the Debtors;
- (b) consent on behalf of one or more of the Debtors to the making of a bankruptcy order against such Debtor(s);
- (c) transfer to the trustee in bankruptcy for the Debtors from the receivership proceeding amounts required to fund the administration of the bankruptcy estate as determined by the Receiver in consultation with the Applicant; and
- (d) take all such steps and actions as the Receiver determines are necessary or appropriate in connection with the matters set forth in (a)-(c) above.

 Digitally signed
by Mr. Justice
Cavanagh

SCHEDULE “A”

- Ryan Davidson
- Eric Van Essen
- June da Costa
- Michelle Ralph
- Eric Gosselin

Applicant Respondents

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

Proceeding commenced at Toronto

ORDER

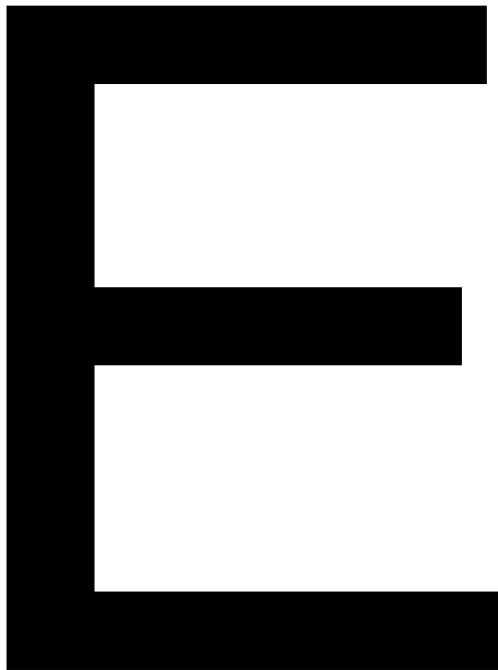
GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittini Tee LSO No. 85001P
btee@goodmans.ca

Lawyers for the Receiver,
FTI Consulting Canada Inc.





ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00710413-00CL

DATE: April 3, 2024

NO. ON LIST: 1

TITLE OF PROCEEDING: MBL ADMINISTRATIVE AGENT II LLC, v. TRADE X GROUP OF COMPANIES INC., et al

BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Natalie Renner	MBL Administrative Agent II LLC	nrenner@dwpv.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Alexis Beale	1309767 Ontario Limited, 2601658 Ontario Ltd. (the "Van Essen Companies")	abeale@rosemountlaw.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Mark Dunn	FTI Consulting Canada Inc, Receiver	mdunn@goodmans.ca
Brittni Tee		btee@goodmans.ca
Kamran Hamidi		kamran.hamidi@fticonsulting.com

ENDORSEMENT OF JUSTICE CAVANAGH:

- [1] There are two matters before me today.
- [2] FTI Consulting Canada Inc. (“FTI Consulting”) in its capacity as court-appointed receiver and manager (“Receiver”) of certain property owned by the Debtors brings a motion for expanded investigative powers. The Receiver seeks these expanded powers so that it can more fully understand certain transactions that the Trade X Group of Companies (the Debtors”) entered into. The Receiver reports that this understanding is required to identify and advance potential claims in order to maximize stakeholder recovery.
- [3] The Receiver reports that its task of identifying and realizing on the Debtors’ assets, including claims the Debtors have (or may have) against third parties (including potential related parties), has been difficult because:
- a. the Debtors’ business involved a very large number of related party transactions (and other transactions) that are difficult to understand based solely on the Debtors’ records;
 - b. third parties have alleged that the Debtors’ books and records are not accurate; and
 - c. some of the Debtors’ key employees have refused to meet with the Receiver unless it pays their legal fees, which the Receiver is not prepared to do based on the circumstances.
- [4] The Receiver has tried to engage with some of the Debtors’ current and former directors, officers, employees and consultants to understand the Debtors’ transactions. Several such individuals have refused to meet with the Receiver or refused to meet with the Receiver unless the Receiver paid for them to hire legal counsel. The Receiver has also tried to obtain information from third parties (including potential related parties) that have engaged in transactions with the Debtors in order to understand those transactions. The Receiver has received incomplete responses and, in some cases, no response at all.
- [5] The Receiver seeks the right to examine persons with knowledge of the Debtors’ business under oath and compel the production of documents relevant to the Debtors’ business. The Receiver also seeks the right (but not the obligation) to assign one or more Debtors into bankruptcy.
- [6] The Receiver’s motion is supported by the Debtors’ senior secured lender and fulcrum creditor. No one appeared to oppose the Receiver’s motion.

[7] The Receiver relies on *Akagi v. Synergy Group (2000) Inc.*, 2015 ONCA 368. In *Akagi*, the Court of Appeal observed that “idea of appointing a receiver or monitor with investigative powers - and sometimes, with only those powers - has emerged in recent years”. The Court of Appeal the held that in some circumstances, the appointment of a receiver to investigate the affairs of a debtor or review certain transactions - including even, in proper circumstances, the affairs of and transactions concerning related non-parties – will be a proper exercise of the court’s “just and convenient” authority under section 101 of the *Courts of Justice Act*.

[8] The Receiver submits that it can only maximize the value of the Debtors’ claims against various parties if it has the best available information about the Debtors’ business. Otherwise, the Receiver may be forced to forgo meritorious claims (because it lacks the information required to advance them) or commence potentially unmeritorious claims (in order to secure the information it requires through the litigation process). The Receiver submits that, in either case, there is a risk to stakeholder recovery.

[9] The Receiver submits that the relief sought is a logical extension of the powers that the Receiver already has. The receivership order requires that any person with documents about the Debtors’ business produce those documents. But, the Receiver reports, information obtained by the Receiver does not appear to be at all times reliable or consistent, and the accounting records of the Debtors are complex and difficult to interpret absent additional information and assistance from the Debtors’ representatives and other parties, a number of whom have refused to meet with the Receiver to date.

[10] In *Akagi*, the Court of Appeal cautioned that investigative powers conferred on a receiver must be carefully tailored to what is required to assist in the recovery of the claimant’s judgment while at the same time protecting the defendant’s interests, and to go no further than necessary to achieve these ends.

[11] The Receiver has served the motion materials on several persons it wishes to examine under oath. None of these persons appeared to oppose the requested expanded powers. I am satisfied that the Receiver has shown that its powers should be expanded to allow it to examine the persons listed in Schedule “A” and to confer additional powers on the Receiver as set out in the requested form of order requiring such persons to produce documents and provide electronic devices used to conduct the Debtors’ business (with protections for privileged information as provided for in the requested form of order).

[12] I do not grant the Receiver broad power to examine other persons (in addition to those listed in Schedule “A” to the requested form of order) who were not served with the motion materials. The Receiver is at liberty to seek additional powers in respect of other persons, on notice to them.

[13] I grant the Receiver’s request to have its power and authority expanded to file an assignment in bankruptcy on behalf of one or more of the Debtors.

[14] I request that the Receiver's counsel provide me with a revised form of order, consistent with this endorsement, to be issued.

[15] The Receiver also requests a hearing date for its motion (and the cross-motion by the Van Essen Companies) for relief that were originally returnable today. The Receiver amended its notice of motion on February 27, 2024 to add a claim for declaratory relief (and certain ancillary relief). Counsel for the Receiver advises that the Receiver's Supplementary Report will be served today.

[16] I am satisfied that the Receiver's motion (and the cross motion, if pursued) should be scheduled for a hearing.

[17] The Receiver's motion (and any cross-motion) are scheduled to be heard on June 27, 2024 for one day, at 10:00 a.m. The hearing will be in person.

[18] Responding materials are due on May 22, 2024. Reply materials, if any, are due on May 31, 2024. Cross-examinations, if any, will be conducted during the week of June 10, 2024. Counsel will agree on dates for factums.

MBL ADMINISTRATIVE AGENT II -and-
LLC

TRADE X GROUP OF COMPANIES
INC. et al

Court File No. CV-23-00710413-00CL

Applicant

Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at Toronto

**SEVENTH REPORT OF THE RECEIVER,
FTI CONSULTING CANADA INC.**

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver, FTI Consulting Canada Inc.

MBL ADMINISTRATIVE AGENT II LLC and TRADE X GROUP OF COMPANIES INC. et al. Court File No. CV-23-00710413-00CL

Applicant

Respondents

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

Proceeding commenced at Toronto

MOTION RECORD

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Mark Dunn LSO No. 55510L
mdunn@goodmans.ca

Caroline Descours LSO No. 58251A
cdescours@goodmans.ca

Brittni Tee LSO No. 85001P
btee@goodmans.ca

Tel: 416.849.6895

Lawyers for the Receiver,
FTI Consulting Canada Inc.