

As a supplement to the endorsement below, the parties will also adhere to the attached Document Review Protocol.

**Justice Markus Koehnen**

Ontario Superior Court of Justice

361 University Ave.

Toronto, Ont.

M5G 1T3

416-327-5284

**Email Endorsement**

The motion currently scheduled for March 17, 2021 for half a day has been extended to a full day to allow time to address additional issues.

The added issues will proceed along the following timetable:

1. **February 12, 2021** - Receiver's report and motion record.
2. **February 26, 2021** – Responding material and cross-motion of Jaimee Lynn Gdak and any material from Clearflow.
3. **March 3, 2021** – Receiver's reply report (if any).
4. **March 8, 2021** – Cross-examinations completed by.
5. **March 12, 2021** – Facta of all parties.
6. **March 17, 2021** – Hearing with Justice Hainey.

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## **Document Review Protocol**

The Receiver has in its possession certain email communications and other electronically stored documents (the “**Documents**”) which were obtained from the computer systems of the Respondents, Trigger Wholesale Inc. (“**Trigger**”) and The En Cadre Group Inc. (“**En Cadre**”). The Receiver proposes to disclose the existence of and disseminate copies of the relevant and non-privileged Documents to the parties. This Court Orders that the Receiver shall do so in accordance with the following protocol:

1. The receiver will, with the assistance and advice of its counsel, perform an electronic search for any Trigger or En Cadre - related Documents to identify potential classes of documents that are arguably privileged:
  - (a) solicitor client privilege: search terms to include elements of Brian Kelly’s name, email address(es), law firm (Kelly & Co); and Paul Grespan’s name, email address(es), law firm (McCarter Grespan);
  - (b) spousal privilege: e-mails between Jaimee Gdak and Mark Gdak in which they are the only parties to the e-mail.
2. The receiver will forward hard drives of the results of its searches:
  - (a) to Lerner’s – the presumptively relevant, non-privileged documents, and the presumptively privileged documents;
  - (b) to Cohen Highley – the presumptively relevant, non-privileged documents, and the presumptively privileged documents; and
  - (c) to Torkin Manes – the presumptively relevant, non-privileged documents.
3. Torkin Manes shall not share the 2(c) documents with any client until the earlier of (a) 15 days after Lerner’s and Cohen Highley receive the hard drives, or (b) Lerner’s and Cohen Highley’s written confirmation that the 2(c) documents prepared by the receiver do not appear to contain privileged communications.
4. In the event that Lerner’s or Cohen Highley advise that either take the position that any document has been mis-categorized, such document shall be excised from Torkin Manes’ set of 2(c) documents (and noted as such by the receiver) and not provided to any client of Torkin Manes unless ultimately agreed or adjudicated to be not privileged.
5. Any document that is agreed or adjudicated to be privileged will be returned to the relevant party or the receiver as appropriate. If a document is produced to Torkin Manes that is ultimately agreed or adjudicated to be privileged, such privilege will not be, or deemed to be, waived; such non-waiver will be retroactive and retrospective.
6. Any document over which there is any disagreement as to privilege will be the subject of a motion.
7. The implementation of, or the participation in, this protocol shall not amount to a waiver, or deemed waiver, of any privilege.