



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-23-00707330-00CL

DATE: December 8, 2023

NO. ON LIST: 4

TITLE OF PROCEEDING: ENLIGHTENED FUNDING CORP. -v- VELOCITY ASSET & CREDIT CORP. et al.

BEFORE: JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

Name of Person Appearing	Name of Party	Contact Info
Aiden Nelms	Enlightened Funding Corporation	nelmsa@bennettjones.com

For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
Michael Rusek	Ontario Motor Vehicle Industry Council (OMVIC)	Michael.rusek@omvic.on.ca
David Dailly		david.dailly@omvic.on.ca
Hugh Waddell	926748 Ontario Ltd OA Clonsilla Auto (Self-Represented)	Hugh@clonsillaautosales.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Derek Harland	Receiver	धारलंद@tgf.ca
Rebecca Kennedy		rkennedy@tgf.ca
Monique Sassi	Nexgear Capital Corporation	msassi@cassels.com
Jeffrey Haylock	Beacon	jhaylock@polleyfaith.com

ENDORSEMENT OF JUSTICE CONWAY:

- [1] **All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of the Receiver dated December 8, 2023.**
- [2] The Receiver was appointed as receiver over the property and assets of the Debtors by order dated October 26, 2023. The appointment over the Dealer was a limited scope one. The Receiver now seeks an amended and restated receivership order (“ARRO”) that expands the scope of the receivership to include all of the Dealer’s property and enhanced investigative powers. The motion is supported by the creditors and OMVIC.
- [3] The Receiver’s First Report outlines serious concerns with the Dealer operations that the Receiver uncovered in the course of its preliminary investigation. These include issues of duplicate funding, irregularities in lease documentation, transfer of Dealer Property following the Receivership Order, and misappropriation of lease proceeds to purchase additional vehicles. The Receiver also details the communications it has had with OMVIC about public harm issues with respect to the non-remittance of customer payments to Canada General Warranty for insurance and warranty products. The Receiver also states that the Dealer has failed to maintain proper business records.
- [4] Mr. Waddell, the principal of the Dealer, attended today and requested an adjournment. He said he only received the materials early this week. He wants an opportunity to consult with counsel and consider the implications of this motion. He does not object to enhanced investigative powers for the Receiver but wants legal advice on the ability of the Receiver to assign the Dealer into bankruptcy.
- [5] After hearing submissions, I said that I would adjourn only the issue of the Receiver’s ability to assign the Dealer into bankruptcy. However, I denied the adjournment of the remainder of the motion, for two reasons. First, although service is short, Mr. Waddell has been aware of the issues raised by the Receiver since November 17, 2023 (the correspondence with him is in the record). Second, and most important, the record raises issues of public harm. Any adjournment could only exacerbate these concerns.
- [6] I am satisfied that it is just and convenient to grant the ARRO in this case. As noted above, the record raises issues of duplicate funding, irregularities in lease documentation, transfer of Dealer Property following the Receivership Order, and misappropriation of lease proceeds to purchase additional vehicles. The appointment of the Receiver is necessary at this stage to preserve, protect, and ultimately realize on the Property subject to the security of secured creditors. Also as noted above, OMVIC has serious concerns about the harm to consumers from unremitted payments to Canada General Warranty.
- [7] I make no factual findings at this point. However, the record satisfies me that the appointment of the Receiver is just and convenient and warranted under the circumstances.

- [8] I required the Receiver's counsel to amend the draft order to remove the powers re assigning the Dealer into bankruptcy. Counsel has now done so. This part of the motion is adjourned to another date to be set at a scheduling appointment before me.
- [9] I have signed the revised ARRO. The approval of activities order is satisfactory to me and I have signed it. Both orders to go as signed by me and attached to this Endorsement. These orders are effective from today's date and are enforceable without the need for entry and filing.

A handwritten signature in blue ink, appearing to read "Conway J.", with a stylized flourish at the end.