



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-21-00663305-00CL

DATE: January 27, 2025

NO. ON LIST: 3

**TITLE OF PROCEEDING: IN THE MATTER OF THE LIQUIDATION AND WINDING UP OF
ONTARIO ELECTRONIC STEWARDSHIP,
DELOITTE RESTRUCTURING INC., LIQUIDATOR**

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant:

Name of Person Appearing	Name of Party	Contact Info
Virginie Gauthier Katherin Yurkovich	Deloitte Restructuring Inc.	virginie.gauthier@gowlingwlg.com kate.yurkovich@gowlingwlg.com

For Defendant, Respondent:

Name of Person Appearing	Name of Party	Contact Info

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Erin Craddock Martin Lin	Resource Productivity & Recovery Authority Deloitte Restructuring Inc.(Liquidator)	craddock@millerthomson.com muslin@deloitte.ca

ENDORSEMENT OF JUSTICE PENNY:

- [1] This motion by the Liquidator, Deloitte, is for orders approving the Liquidator's second report, authorizing the distribution of surplus funds to the Resource Productivity and Recovery Authority and authorizing the distribution to the RPRA of any additional surplus from holdback funds, upon completion of all ancillary matters.
- [2] The Ontario Electronic Stewardship is an industry funding organization previously responsible for managing a waste diversion program for electrical and electronic waste in Ontario. It was governed by *the Waste Diversion Transition Act, 2016*. Under the WDTA, the Minister of the Environment directed OES to develop a plan to wind itself up. This required OES to prepare a wind-up plan under the WDTA. This was done. Deloitte was appointed as the Liquidator by order of this court in June 2021. A claims procedure was also approved by the court. The Liquidator completed the claims procedure and paid out proven claims. Other than obligations that will be satisfied by the proposed holdback, the Liquidator is unaware of any remaining financial obligations of the OES.
- [3] The wind up plan provides that any residual funds remaining after the resolution of OES' financial obligations and completion of the wind-up activities be transferred to RPRA. The Liquidator holds surplus funds totalling approximately \$18.2 million.
- [4] The wind up and the distribution of surplus funds are governed by s. 254(1) of the *Corporations Act* and s. 35 of the WDTA. Surplus funds are to be distributed to the RPRA.
- [5] The Liquidator has acted in accordance with the powers granted to it under the terms of the appointment order and those powers granted to the Liquidator under s. 256(1) of the *Corporations Act*. Its tasks are almost complete. The surplus funds should be distributed and the wind up of OES should be completed.
- [6] The Liquidator believes the quantum of the proposed holdback (\$1 million) is appropriate. The sum is perhaps larger than normal, but this is because the contingencies are more uncertain than normal. Among other things, the timing of the final work out and a motion for a final wind up order involve approvals from both the Minister and the RPRA. The holdback will be applied to amounts owing with respect to currently outstanding and future professional fees of the Liquidator and the Liquidator's counsel and auditors, income tax liability resulting from interest earned on the portion of the surplus funds held in term deposits (if any), and any unanticipated costs that may be incurred by the Liquidator in completing the wind up proceedings. The Liquidator has consulted with RPRA with respect to the proposed holdback and RPRA has no objection to the quantum of the holdback.

[7] The Liquidator's proposal to distribute the surplus funds to the RPRA is consistent with the legislation and with the RPRA's direction. The two-step distribution process, necessary to permit the final tying up of loose ends, is also consistent with the legislation and with the direction of the RPRA. The proposed distributions are approved.

[8] The Liquidator's second report is approved along with the activities described in the report.

[9] Order to issue in the form signed by me this day.

A handwritten signature in blue ink, appearing to read "Penny J.", followed by a period.

Penny J.